

MTMSD 2022**I International Conference «Modern Trends in Governance and Sustainable Development of Socio-economic Systems: from Regional Development to Global Economic Growth»****PHILOSOPHICAL FOUNDATIONS OF LEGAL PERSONALITY
FORMATION AS A SUBJECT**

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Abstract

The article analyzes such categories as “law”, “legal personality”, “legal culture” from the standpoint of their philosophical understanding. In this aspect, the problem of the relationship between law and morality, according to the author, acts as a key criterion for comprehending and understanding the very essence of law, its goals and place in the general field of social relations. Since ancient times, the problem of human rights has been considered as the interaction of two spheres: philosophical and legal. The point of contact between these discourses allows us to draw a line between the legal existence of a person and his ideological meanings. It is the philosophical approach that has historically been predetermining in the formation of the system of law, as the main institution that regulates social relations. Each epoch formed its own concepts of law in accordance with what ideological principles dominated in society at the current moment. But at the head of the system of legal relations there were invariably two key elements of the spiritual sphere of human life - morality and law. Today, in the era of global challenges and civilizational contradictions, the problem of the formation of a legal culture of the individual seems to be one of the topical tasks aimed not only, and not so much, at improving the rule of law as such, but also at the state of spiritual and moral values of modern society in the global sense.

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1. Introduction

The phenomenon of law, legal personality, legal consciousness is certainly not a neoplasm of today, but is rooted deep in history (Abdulaeva et al., 2019). The renewed interest in the problem is a direct consequence of the qualitative changes that at the turn of the millennium affected all areas of social life, including the sphere of legal regulation. Consideration of the problems associated with the categories of law and the formation of a legal personality, we propose to lead through the prism of philosophical understanding. This approach is not accidental: philosophy, as one of the oldest ways of understanding the world, makes it possible to consider processes and phenomena in their dialectics, through the unity and integrity of material and spiritual principles, allowing a person to find the root causes of everything that exists. Since ancient times, philosophy has been considered as a metatheory of law, functioning according to the principle: legal understanding through understanding of the world; the system of legal relations in any state was formed in accordance with the ideological principles prevailing in a particular historical period. In other words, philosophy can be considered the oldest sphere of social knowledge, which later became the fundamental basis of legal knowledge (Abdulaeva, 2019; Gadzhiev, 2021). At a time when jurisprudence did not yet represent a well-formed system of knowledge, did not have an established categorical apparatus and other elements that allow it to be defined as a science, nevertheless, the question of what is the measure of justice, what are the main criteria of justice and legality, is already actively sounded in the controversy of ancient thinkers (Uchitelskaya Gazeta, 2018).

First of all, it is necessary to turn to the formation and development of the main definitions of the field under study. In our case, we assign key importance to such concepts as “legal personality” and “legal culture of personality” (Napalkova, 2019). Despite the fact that issues related to the interpretation of these legal categories have always aroused research interest, today jurisprudence does not have a single, generally accepted interpretation of these concepts. In addition, today the problem is aggravated by the lack of formulations that could adequately correspond to the current realities that have developed in the legal space at the moment. The challenges that society has faced in the 21st century require a new understanding and new approaches to the formation of the concept of “legal personality” - approaches that reflect qualitatively new principles of interaction between a person, society and the state.

2. Problem Statement

The relevance of the stated topic, in our opinion, is beyond doubt, being the obvious result of today’s transformations. The globalizing world of the third millennium, its tendencies, conditions and challenges, more than ever sharply actualize the reflection of the spiritual and moral guidelines of a person (Popov et al., 2022). In the current humanitarian discourse, modern reality is interpreted only as an era of civilization breakdowns, global shifts, crises and contradictions. We are talking about the formation of a new type of society, in which the old meanings have lost their significance, the new ones either have not yet been formed, or take forms, to put it mildly, far from ethical ideals (Starichenko, 2020). The paradigm of absolute, all-consuming rationalism and consumerism that has developed today has embraced all spheres of social life, establishing a new system of existential values - strength, power, competition, wealth, sensual temptations, cynicism, unscrupulousness, and so on. The “new morality”

immerses our contemporary in worldview chaos and maladaptation, in which the spiritual component of his consciousness is emasculated from the very human essence - ideals, beliefs, moral principles, faith.

Such a state of affairs makes many, at least those who are characterized by at least some kind of spiritual reflection, stop and think: where are we going? where to look for new meanings? what goals and ideals to focus on in our difficult time? All these are questions related to the need to find those spiritual supports, value dominants and moral guidelines that are able to stabilize, streamline and improve the entire system of social interactions (Uvarov, 2018).

In this regard, it seems extremely important to refer to one of the significant categories of social life - the legal culture of the individual, as one of the components of the general spiritual culture of society and the spiritual world of a single individual. We believe that in the conditions of global instability, the issue of formation and improvement of the legal culture of the individual and its legal self-awareness is one of the factors that determine both the overall level of effectiveness of the state-legal system of the country, and the state of the spiritual and moral component of society.

3. Research Questions

The theme of the relationship between law and philosophy is obviously indicated by the context of our study. Today, when social development is undergoing large-scale transformations in all areas, and, in particular, in the field of legal relations, the issue of developing the concept of a legal personality is of particular importance (Ustyuzhanina, 2018). Hence, it seems logical to us to consider the category of “legal personality” in its evolutionary development, extrapolating all the experience of mankind accumulated in this area to the situation of today’s social development. Such an analytical retrospective gives us a chance to take a critical look at the ideas of our predecessors and assess the applicability of these ideas in modern realities.

4. Purpose of the Study

The review of sources made it possible to conduct a theoretical analysis of such concepts as “legal personality”, “philosophy of law”. The clarification of definitions made it possible to carry out a meaningful understanding of the phenomena under study and to determine the conceptual foundations for the formation of a personality as a subject of legal activity through the prism of philosophical reflection.

5. Research Methods

The object of research is a legal personality.

- i. The subject of the research is the study of the conceptual foundations of the formation of a legal personality in the philosophical aspect.
- ii. The research methodology reflects the basic principles of general scientific approaches to knowledge: dialectical, logical, philosophical.
- iii. The dialectical principle of cognition allows us to consider the transformation of a legal personality in the context of digitalization as a natural, dynamic process due to the complex interaction of traditional (pre-digital) and innovative mechanisms of legal regulation.

- iv. The principles of a systematic approach are implemented in considering law as an integral part of social development, and therefore, digitalization is a natural set of transformations in a single area that closely interacts with all other structures of the overall system.

The philosophical approach allows us to comprehend the changes that have occurred in the understanding of law and man as a subject of law in history, starting with the ancient Greek thinkers.

6. Findings

The very concept of “legal personality” was formed in science relatively recently, at the turn of the 19th-20th centuries, when at the junction of the legal and philosophical spheres of knowledge, the need to single out the concept of a legal person was clearly identified as a necessary condition for the development of a legal state based on the principles of humanity, freedom personality and democracy (Ministry of Education of Russia, 2019). The essence of the legal personality is most fully reflected in the interpretation of Kistyakovskiy, who understood it as a person who would be disciplined by law and order, endowed with all rights and successfully using them (Popov et al., 2022). The author’s interpretation clearly shows an attempt to present to the public the nature and content of a man of a new, post-industrial type.

At the same time, many other researchers are actively considering the problems of interaction between man and society, the interaction of the individual with the social environment, the concept of “socialization of the individual” is introduced, which includes the entire range of the individual’s mastery of social experience - knowledge, norms, distribution of social functions. In this context, it is the period of the beginning of the twentieth century that is indicative, as it combines the entirety and synthesis of philosophy, jurisprudence and sociology (Shakhgiraev & ZubairaeV, 2021). The entire array of knowledge that had developed by that period laid the foundation for its practical implementation and the formation of those patterns on which the mediation of human behavior in the legal space is based.

However, returning to the history of the issue, we note that the conceptual foundations for the formation of personality as a subject of legal activity are laid down in antiquity (Murtazova, 2021). Already in ancient Greece and Rome, thinkers clearly traced the connection between the justice of the law and the natural principles of human behavior (Shakhgiraev, 2019).

The system of ancient views on the relationship between man and law was based on two major regulators: law and morality (morality). These two elements of the spiritual culture of the individual are the main mechanisms that mediate the existence of a person and his interaction with society. Possessing one common feature - normativity, both law and morality provide one of the significant functions of social life - the regulation of individual behavior. These interrelated value-normative regulatory systems have mostly the same object of influence - human behavior, but the nature of concepts and their regulatory mechanisms are different (Starichenko, 2020). Law implies a system of mandatory general social, state principles and rules that unite a single expression of the will of various communities and act as a regulator of freedom and responsibility for their actions. Law reflects the external side of the control of human behavior, based on the coercive, restrictive principle of permissibility.

Morality, on the other hand, is based on the mechanism of the individual’s internal self-control, the totality of his value attitudes and moral guidelines, which are associated with such universal categories as

honesty, justice, conscience, honor, kindness (Vorontsova et al., 2019). Guided by such beliefs, a person builds his own worldview paradigm, which is reflected in his relationship with society and the state and determines the degree of morality of his actions and deeds. In other words, unlike law (as an external objective regulator), morality is a system of internal self-control, a set of internal subjective reflection and moral positions of an individual.

The theme of the relationship between law and morality received its first development in the works of ancient thinkers. It is they who own the first research on legal ideology, closely related to the ethical side of being. The Roman legislators formulated the thesis: “The law recommends what is approved by custom”, i.e. conditioned by morality (Fedorov, 2013). Applying this postulate to practice, we understand that the tabooing of certain actions should be mediated by their moral assessment. Another ancient postulate: “Custom is the best interpreter of the law”, indicates that the ancient legislation in its development was largely dictated by moral and ethical categories.

Most of the philosophers of antiquity differed in deeply social positions regarding law enforcement. Thus, Democritus spoke out that the law is necessary for those citizens who have immature, unformed morality and are not able, due to their vices, to refrain from illegal behavior. The concepts of rationalistic law are described in the writings of Socrates, and continued by Plato and Aristotle. Their judgments were based on the need for the coincidence of the moral, reasonable and legal. In addition, in Plato, we find the development of the theme of human needs and abilities. In the understanding of the thinker, the rule of law should be arranged in such a way that the law meets the needs of people, and society responds to it with its abilities. Any state of the state - prosperity or decline - according to Plato must be mediated by law (Klishina et al., 2017). “Law is the definition of reason” - this postulate becomes a starting point in the development of the philosophy of law. All subsequent development of legal science took place in accordance with the ideas of Socrates, Plato, Aristotle, in which law becomes the main criterion of justice and equality. The concept of justice will later become the core of all normative and legal guidelines of society (Ustyuzhanina, 2018).

The further formation of law, already in the Middle Ages, acquires features characteristic of absolutism, when, under the conditions of unlimited domination of power, a system of rigidly censored and regulated relations between a person and the state is established (Taranova et al., 2021). Citizens easily gave any claims to their natural rights into the hands of an unlimited monarchy, wanting in return only the protection of life and property. This trend in the understanding of law led to destructive consequences in relation to the concepts of freedom, equality and justice, and the main principles of medieval justice were prohibition and accusation.

It should be noted that on the example of two epochs - antiquity and the Middle Ages, we clearly trace the principle of legal understanding through worldview. Here, we see that law, as a dynamic and flexible system, adapts to socio-historical conditions. This is a reflection of the philosophical understanding of the problem of legal relations: law always grows out of the moral and ethical attitudes of the dominant era.

Further, having passed the stage of medieval deformation, the understanding of law found its new reflection in the controversy of progressive thinkers of the Enlightenment. Voltaire, Diderot, Montesquieu, Rousseau and other liberal-minded philosophers put the idea of legal liberalism on the

agenda (Shmatko et al., 2016). The concept of enlightenment views, in essence, returned us to ancient law in the sense that it revived the theory of a humane and democratic approach to jurisprudence. Montesquieu and Voltaire wrote about the need for the dominance of natural human rights - the desire to live in a peaceful, humane society based on justice and equality (Podkolzina, Belousov, et al., 2021). The main legal thought during the Enlightenment declares that the law should contain not so much prohibitions as permissions, civil society should develop on the voluntary observance of laws by citizens, without coercive outside influence, but at the behest of internal moral motives. According to these ideas, a person must fully possess inalienable rights, but be responsible to society for all his actions, just as the state is responsible to the people, providing them with guarantees (Uvarov, 2018).

Of particular importance in the context of the philosophical understanding of law in the Enlightenment is the ethical concept of I. Kant. His judgments occupy one of the significant places in the development of the ideas of the rights of the individual. Kant considers ethics and law as two phenomena having a similar genesis, both of them originate in the practical mind of a person and both strive for the same goal - freedom, which follows from the theory of natural human rights. According to Kant, law is a set of conditions that limit the arbitrariness of one person in relation to other people through the mechanisms of the universal law of freedom. Following the ancient predecessors, I. Kant compares morality and law, where the former is the internal regulator of human actions, and the latter is external. In his comparison of morality and law, Kant places law on the lowest level of morality, a necessary minimum that mediates the permissive behavior of an individual (Podkolzina, Gladilin, et al., 2021). The author considers the highest manifestation of ethics to be the free will and self-awareness of a person, in which a person is able to independently, without coercion, observe moral principles and rules of conduct, without restrictive and coercive influence from law and power. Kant called this degree of moral maturity moral independence (Napalkova, 2019).

In the era of the New Age, a completely new legal paradigm begins to take shape, based on the principles of guaranteeing personal freedom and autonomy, which in essence marked the beginning of the formation of a new type of state system - democratic. The ideas of humanism and justice become the basis of a new worldview in the legal sphere (Podkolzina, Taranova, et al., 2021). According to these principles, public legal understanding is also being transformed: ideas about such relations in society that are regulated by laws based on human nature (natural rights) come to the fore. The ideology of law that prevailed at that time allowed a person to finally feel freedom in various sectors of legal relations: contractual, economic, personal. The new legal concept stimulated the personal initiatives of citizens, liberated their activity, made it possible to develop personal potential in the field of economy, creativity, entrepreneurship, which in no way contributed to the promotion of the ideas of a civil society based on the principles of personal autonomy and freedom of socio-economic development (Elbuzdukaeva et al., 2019).

Later, in the philosophical and legal space, the concept of "socialization" appears, introduced by O. Comte and reflecting the degree of adaptation of a person to the environment and the effectiveness of his interaction with society. In connection with the establishment of a new situation of development, with the expansion of human rights and freedoms, in the conditions of the formation of civil society, the need

to expand the legal competencies of citizens and the formation of such a skill as legal culture is actualized.

This need has not lost its relevance, and on the contrary, it has become more and more in demand even today, in the era of global changes and civilizational crises.

Today's legal system proclaims humanity and ensuring the rights and freedoms of the individual as its main principle. Guided by these principles, the content essence of modern legislation is formed, which is actually enshrined in international legal documents (Sugaipova & Gapurov, 2018).

It becomes obvious that the freedom, equality and fraternity proclaimed by democracy are becoming a new conceptual base that forms a new social category - a legal personality. As noted by B.A. Kistyakovsky, a legal personality is the result of the institutional freedom of a person and his independence from state power (Podkolzina, Belousov, et al., 2021). Objectively, the very possibility of forming a legal personality is determined by the process of forming a legal civil society. The conditions of the modern legal space themselves imply the involvement of a person in political and legal processes, necessitate a tolerant and respectful attitude towards the rights of others and an understanding of one's own measure of responsibility for one's actions. This is a qualitatively new type of interaction between a person and the state, radically different from the previously existing models of legal relations - totalitarian, paternalistic, etc.

"Legal personality", as a recently formed philosophical and legal category, reveals before us a person of a new society – open to the world, adapted to reality in terms of mutual respect and mutual trust, recognizing one's own rights and obligations, and respecting the rights and obligations of others. Such characteristics allow a person to be a subject of law who has individuality, autonomy, a high level of legal awareness, the skills of accumulating the theoretical and practical experience of past generations, which together shows us a highly developed person with moral potential, able to function effectively in society, occupying a certain position in it and fulfilling a social role (Podkolzina, Gladilin, et al., 2021).

A qualitative indicator of the legal sphere of any state is another concept that is closely associated with the legal personality, this is the legal culture. It is considered both in the context of personal belonging (the legal culture of the individual), and at the level of society as a whole. We will not dwell on numerous interpretations of the concept, since no established definitions have been developed today, and there are still quite significant terminological discrepancies and contradictions. In accordance with the context of our study, we note that the philosophical and legal understanding of legal culture requires further in-depth research in the field of social conditioning of legal relations, the legal mentality, and the search for grounds for the formation of a legal culture of the individual.

One of the obstacles to the formation and development of legal culture is such a phenomenon as legal nihilism. This is by no means a newly formed neoplasm, and not a purely Russian "product". This problem is widely covered in the Western philosophy of law, especially brightly in the works of F. Nietzsche, whose legal teaching is literally permeated with the ideas of nihilism. Not the point. It is much more important to understand that in modern conditions, within the framework of the existence of a civil society, legal nihilism is a destabilizing factor leading to legal lawlessness, social destruction, infringement of human rights and freedoms (Agarkova et al., 2016).

Of course, this phenomenon did not appear from scratch, and has a completely social nature, due to a whole range of reasons. Nihilists from law proclaim the idea that any right is the will of power, power is right. Such conclusions have a very reasonable origin: socio-economic upheavals, social tensions, bureaucratic lawlessness, civil strife and the collapse of the usual way of life, and much more. As we can see, today there are more than enough reasons for the flourishing of legal nihilism.

7. Conclusion

Overcoming legal nihilism is seen only in the formation of a high level of human legal culture through the development of legal competencies, legal education, which should be comprehensive and systemic. And in this process, the leading role, in our opinion, again belongs to the philosophical understanding of the problem. Judge for yourself, the main source of legal culture and a mature legal personality is law, its knowledge and application by a person in social relations. But, paradoxically, being the main instrument of justice and legality, the essence of law does not find a meaningful interpretation in legal science. Answers to questions related to the ontology of law, with the understanding of the concepts of justice, morality, values, we find only in the philosophical categorical apparatus.

A person interacting in society will always be the point of intersection of philosophical and legal tasks. These spheres of humanitarian knowledge are historically and essentially connected with each other, as areas of knowledge of man, his nature and being. Of course, both philosophy and law have a number of their own, specialized, narrow tasks. But the need to explore legal aspects through the prism of philosophical categories has a deep history, and many judgments of ancient thinkers do not lose their relevance today, in the era of civilizational transformations and global fractures.

The rapid complication of modern life requires constant renewal and philosophical and legal understanding of globalizing processes. Together with the global world, a new legal culture is also being born, requiring the formation of a new philosophical and legal paradigm, conceptually corresponding to the realities of the 21st century.

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