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General theory of future law: definitions, innovative potential

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Abstract: The article actualizes promising ideas that have the innovative potential for the formation of new institutional and functional elements of the law of the future. The legal system is one of the more conservative spheres of public activity. The general theory of law is a constant paradigm oriented to the traditional and fundamental components. However, the rapid development of the socio-cultural space produces challenges and threats, requiring the reaction of the legal environment. The purpose of scientific exploration is to identify specific aspects of the general legal space that require improvement and transformation; as well as to realize the feasibility of using the definition “general theory of law of the future”. The objectives of the article are to analyze contemporary legal concepts and ideas that can actualize transformations in certain segments of jurisprudence in the short-term and long-term strategy. The methodology that was used to achieve the objectives of scientific exploration can be divided into several clusters: general scientific methods, individual scientific methods, special methods of scientific legal discourse. The result of the research is the development of theoretical and methodological settings (dynamism, flexibility, and efficiency), which will be relevant to the legal paradigm in the future. So, the general theory of law has historically proved its effectiveness and relevance for civilizational development and does not require cardinal revolutionary changes, however, it is necessary to transform some legal institutional and functional elements in response to the rapid and permanent changes in the sociocultural space.

Keywords: theory of law, legal system, jurisprudence, legal synergy, innovations in legal space.

Introduction

A general theory of law (in continental legal science discourse) or jurisprudence (in Anglo-American parlance) is the fundamental basis of the legal system in its various manifestations. State legal

systems, international law, institutional clusters of practical jurisprudence - all these segments are fused on the principles of the general theory of law. The peculiarity of jurisprudence is its constancy and conservatism. The probability of revolutionary changes in the legal space is defined as rather low or not allowed at all. Changes in the legal system are implemented in an evolutionary way. The general theory of law, on the other hand, declares the invariability of its principles, which are oriented to the rule of law.

In such circumstances, the question arises - how to carry out reforms, implement innovative transformations, and predict changes and prospects of development in the legal space? The institutional cluster of the legal system involves constant updating of theoretical and methodological and organizational and logistical potential. In the functional cluster of the legal system, it is customary to improve the practice-oriented dimension associated with the modernization of legal institutions. This is how the conditions for innovations in the legal system are formed.

Research Problem

The key problem of scientific exploration is to determine the optimal way to implement innovative development in the general theory of law. On the one hand, interesting is the potential possibility of forming the definition of “the right of the future”. However, such theoretical transformation requires the introduction of qualitatively new elements of the general theory of law, which is not seen as appropriate, because the legal system demonstrates its civilizational socio-cultural relevance and effectiveness, not requiring a new format. Another more appropriate way to transform the general theory of law is to introduce progressive elements into the existing legal paradigm. The aggregate of innovations in the systems of state and global legal environment provide a synergetic effect, due to which the legal system is renewed without violating its fundamental principles, however, responding to socio-cultural challenges and changes.

Research Focus

The main focus of innovative transformations in the general theory of law is focused on changes in the institutional formats of the legal system and its functional purpose. Worldview transformations of legal understanding in society are also important. “The law of the future” is a synergetic combination of the content and format of the legal system in the context of socio-cultural changes. For thousands of years, society has tried to correlate the institutional and functional components of the legal environment, which ensured its simultaneous stability and flexibility. The dilemma: “the law for the individual” or “the individual in the law” entailed the need for clarification of the human-meaning contexts. Since this contradiction has been relevant throughout civilizational development, it is obvious that it will also arise in the future.

Research Aim and Research Questions

The purpose of the scientific exploration is to find out the key aspects concerning the prospects for the development of the general theory of law in the short-term socially oriented and long-term civilizational perspectives. The tasks of the article will concentrate on solving such problems:

- revealing the positive and negative manifestations of the definition of the “law of the future” and the worldview interpretation of the general theory of law in the context of socio-cultural changes;
- potential transformations of the format of the legal system by reorganizing the existing institutional structure in accordance with new social realities;
- innovation of the functional cluster of the legal system using progressive principles and mechanisms.

Research Methodology

General Background

The methodological techniques and tools used in the study can be divided into several clusters:

- general-scientific methods (analysis, classification, forecasting, modeling) that form a general matrix of interpretation of the principles of the theory of law and comprehension of its innovative potential;
- individual-scientific methods (intuitive methods, observation, induction, deduction, verification, evaluation, forecasting, introspection method), allowing to specify of the impact of innovative transformations on the objects and subjects of the legal system;
- methods of scientific legal discourse (legal analysis, legal statistics, legal logic) that ensure the functioning of institutions of the legal system in conditions of both stability and uncertainty of social development;
- philosophical methods (dialectic and synergetic), thanks to which strategic planning of the general theory of law development is worked out with the account of innovation potential.

The doctrinal paradox and the discursive dilemma (Mongin, 2019) are considered as promising methodologies used in interpreting the principles of legal theory. The peculiarity of these two methodologies is their focus on the motivational element of the theory of law in its logical dimension. At the same time, it should be noted the orientation of these methods on the unity of theory and the ordering of interpretative elements, obligatory for jurisprudence, but requiring consistency and balance, which is achieved thanks to the doctrinal paradox and the discursive dilemma.

A progressive format in the functional cluster of the legal system are the characteristics of luck. In particular, the successful litigation function (LSF) forms the theoretical and methodological premises for better coverage of the legal field (Osório & Luppi, 2019).

Sample / Participants / Group

The objects of the study were sociocultural systems, which are units of the legal field. Modern socio-cultural realities form a new priority niche for the general theory of future law. In recent decades, the legal system has identified the human being as a priority factor in its professional orientation. Despite the total globalization of civilizational development, the legal system has responded to these processes by directing additional efforts precisely to protect the individual from the impact of globalization. This approach has been justified up to now, but as the realities and projections of the global sociocultural situation in the world indicate, the legal community will soon be confronted with the issue of global legal problems. Particularly in international law, social developments are stubbornly approaching the observation and need for an appropriate legal response to concepts such as international crimes or crimes against humanity (Torres, 2019).

In addition, the traditionally humanistic principles of modern sociocultural space dictate the primacy of humanity in the general theory of law, which is expressed in the observance of the principles of humanism, equality, and the rule of law.

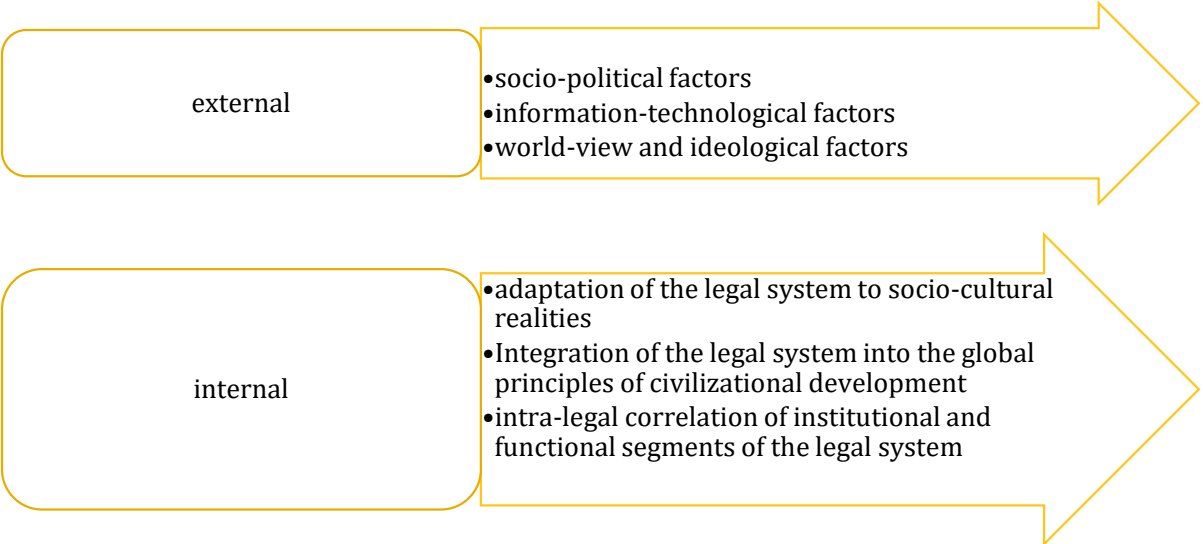
Research Results

The legal sphere, like any other sphere of public activity, requires transformation. However, jurisprudence has its own peculiarities in terms of updating the organization and principles of work. The legal system does not tolerate abrupt changes, because such an approach can unbalance the integral system of the rule of law, which in turn will destroy the normative-regulatory function in society. The result of such transformations can be chaos in society, which will lead to irreparable consequences. Consequently, the integrity and balance of the legal system always remain priority factors in the process of its transformation. The study revealed two factors that affect the innovative transformation of the legal system (see Fig. 1).

Let us consider in detail the elements of the legal system of the future, which can potentially undergo innovative changes. At the same time, we note the relevance of the boundaries of these transformations, which will not violate the integrity of jurisprudence as a sphere of social activity. The

institutional cluster of law is less involved in the need for innovative transformations. When we talk about legal institutions, these are, as a rule, clearly organized structural elements, the reorganization of which is impossible without reformatting the entire legal system.

Figure 1
Factors of innovative transformations in the legal system



Source: author own development

Since the general legal theory is difficult to transform and reformat into new definitions, transformations in the jurisprudence of the future will be predominantly about institutional and functional clusters. In his study Hunter (2020) identifies five sweeping changes awaiting the legal field in the near future. These are the technologization of legal devices, technologization as an alternative to legal methods, the globalization of the legal system, the increasing accessibility of legal support in society, and the increasing role of ICT in legal practice. Basically, the mentioned transformations have already begun to be actively implemented in today's legal environment. At the same time, in the future, these transformations may become full-fledged elements of the general theory of law.

In particular, an important practically oriented direction of criminological theory is “building a general theory of crime through theoretical verification and theoretical integration” (Wang & Zhuang, 2018). The general theory of crime under a new structure in the future will have an important impact on the principles of general legal theory. The construction of new prospective segments of general crime theory includes:

- worldview-philosophical interpretations of good and evil in human nature;
- dichotomous interpretation of the nature and manifestations of law-abiding and criminal behavior;
- elucidation of the dimensions of the favorable environment for the formation of crime and the unfavorable environment for its spreading.

The application of the latest technologies not only as standard use of ICT in the legal space but also the formation of legal innovative elements forms the overall picture of the future legal paradigm. Understanding coding, programming, artificial intelligence as legal elements is important for the professional activities of legal professionals (McGrath & Contreras, 2020). Innovative technologies

implemented in the legal system are rather ambiguously perceived in society. Insufficient awareness of the potential and specifics of the implementation of scientific and technological tools in the legal system raises doubts about their effectiveness for this industry. However, the practical application of innovative scientific and technological elements confirms their relevance and feasibility of the legal system.

The role of information and communication technologies in the development of all spheres of social activity is constantly and rapidly growing. Increased capacity to perform the fundamental functions of the legal system (controlling, normative and regulatory) thanks to innovative digital technologies contribute to the overall development of the functional cluster of the theory of law. The ability to physically impact (tracking, recording) and intellectually inform (analytic systems, big data sharing) allows the principles of the legal field to be implemented with greater efficiency (Bhattacharjee & Shrivastava, 2018). Consequently, the role of ICT and other technological innovations contributes to the reorientation of this segment from a supporting factor (in modern jurisprudence) to an independent structural unit in the legal picture of the future.

An important aspect of building promising models of the legal system is the correlation of the jurisprudence cluster with other spheres of social activity. One of the key definitions of civilizational development is the formation of principles of the common good (Stojanovic, 2019). Such precepts cannot be realized without an effective legal system. The common good describes the interaction between different spheres of human activity. The general theory of law in this context defines as its tasks not only the construction of the effective legal policy but also the coexistence between law and economics, politics, and other clusters of social activity.

There is a clear need to take into account social transformations in the construction of an updated general theory of law. The social-legal nature has two dimensions:

- the priority of the rights of society over the rights of the individual (the compliant society);
- the priority of individual rights over the rights of society (the society of freedom) (Little, 2021).

Another important flaw characteristic of the contemporary legal environment is the notion of bias (Arena & Ferris, 2018). A theory of the law of the future is designed to overcome all aspects of bias in order to shape a progressive social order.

One of the globalized strategies for the development of society is the doctrine of a “human community with a shared future” (HCSF). It is a Chinese diplomatic program of institutional principles of international and state law in the context of the global transformation of society (Zhang, 2020). Today, there is a certain declarativeness of international law, which in the future (and in the long term and especially in short-term practice) should develop effective application mechanisms for a dynamic response to the globalization legal challenges.

For the full implementation of innovative principles in the legal space of the future, it is necessary to transform the system of legal education as the main source of jurisprudence (Sundquist, 2020). The future of legal education is inextricably linked to the transformation of professional legal competencies. The renewal of legal principles must be comprehensive, so the legal community must be able, through education, self-education, training, or professional development, to receive appropriate skill updates in the new legal paradigm. In addition, the updating of the general theory of law should correlate with the philosophy of law, because this way it is much easier to implement legal transformations in the public consciousness. Legal understanding in society is achieved not only by normative-regulative activity. Awareness at the level of public consciousness of transformations in the legal system greatly accelerates the process of their perception both in society and in individual manifestation.

Discussion

According to Lanneau (2019), the preservation of the moral-values component as a fundamental element of law should be a priority, despite all the innovative transformations of this sphere. Morality

is the basis of law, so the leveling of moral aspects in the principles of the general theory of law is unacceptable. Although trends toward the pragmatization of jurisprudence are increasingly heard in scientific legal discourse. Such admonitions contribute to the reorientation of the principle of “law for man” into the principle of “man in law”. Such definitions are an enabling environment for the legal system in its institutional and functional dimensions.

Synergetic principles in improving the general theory of law form opportunities to avoid excessive pragmatization of the legal system, organically and effectively correlating the human dimension with the fundamental legal constants.

One of the key attitudinal precepts of modernity is pragmatism and a focus on results. Based on such priorities, one of the key indicators of the legal system of the future is the principle of optimization. Under such conditions, pessimism or optimism about legal consciousness is replaced by realistic-pragmatic aspects, the essence of which boils down to the effectiveness of individual elements of jurisprudence or its integrity in the general theoretical dimension.

An important aspect of the future legal system is the observance of the conditions of equality in the legal system. The general theory of law is a fundamental factor that focuses on the general principles of the essence and functioning of law in society or the general process of civilizational development. However, the integrity of the legal paradigm is possible only by taking into account the factors of indirect legal nature. Equality before the law and the rule of law should provide the notion of justice. However, a number of contradictions are formed with this aspect, because a definition is considered, which a priori cannot be legally perfect. Consequently, even mundane issues such as payment levels for legal actors in different communities generate contradictions (McIntyre & Simkovic, 2018).

The concept of interdisciplinarity, synergetic principles of self-organization, and the multicultural approach form the priorities of a worldview sociocultural picture of the future. This approach implies the creation of a variety of environments functioning in a particular sphere of human activity. For example, in education, in addition to full-time education, a distance learning format is actualized; in the economy, in addition to the traditional format of commodity-money relations, innovative clusters of economic activity are activated. When attempting to model the legal system of the future, the introduction of various environments of a legal nature is a prerequisite. In particular, a group of researchers (Deffains et al., 2019) proposed the use of three legal environments in legal practice:

- environment of strict law, which provides for total control and strict implementation of all norms of the legal system;
- soft law environment, which actualizes the format of legal intervention depending on the severity of the consequences of the violation;
- relative legal environment, which is characterized by the dynamism of legal evaluation and legal influence on the legal problem, depending on the external and internal factors affecting this situation.

Such differentiation of legal environments is an innovative approach in jurisprudence. However, despite certain contradictions with the principles of the legal system (in particular, with the principle of completeness of the law and the inevitability of punishment), this organization of the legal field meets the requirements of dynamism of social development, which is a prerequisite for the future. Let us note that for all the structured and organized nature of the modern theory of law, the principle of dynamism is leveled in it, which sooner or later must lead to the realization of the need to transform this segment of the legal system.

One of the promising areas of work in terms of organizing the legal system of the future has become the modeling of legal space. As recent studies have shown, there is much admonition among education applicants and practitioners about the lack of a common understanding of legal space (Turner et al., 2019). Today's legal system is quite cumbersome because it includes a significant number of global, local, and individual components. Note that jurisprudence is only effective in its integrity. No

single legal element or object can be considered alone. The subjects of the legal system face the need to understand the legal element in a global-civilizational, state-regulatory, worldview-cultural understanding. Given the rapid socio-cultural progression, the legal field will only expand. Therefore, the problem of modeling the potential legal field and the innovative elements that will be relevant to it in the future is obvious. The solution to this problem is only possible with the involvement of innovative strategies.

The legal system in the future must function in a dynamic dimension. The traditional established model of jurisprudence's response to socio-cultural challenges is already ineffective. Unless the legal system continues to demonstrate sociocultural flexibility, the ungovernability of the world threatens to become an uncontrollable process (Herbst, 2020). And this already threatens not only the legal system but also civilizational development in the cultural-historical dimension.

Conclusions and Implications

Thus, the universal theory of law during the development of human civilization successfully implemented the regulatory function on a global scale. When modeling the legal system of the future two variants of its transformation are distinguished: cardinal transformations in the legal field and innovative renewal of the legal environment. Analyzing the social and historical mission of the legal system and the constancy and fundamentality of its positioning in the sociocultural space, we note that it is more acceptable to build a general theory of law in the future through innovative updates of its functional and institutional elements.

Forecasting prospective actual principles of the legal system is carried out through the introduction of innovations in theoretical-methodological and practical-legal aspects. The development of short-term programs and long-term strategies for the development of future legal theory should be based on innovative elements that will meet the principles of flexibility, dynamism, and efficiency and correlate with socio-cultural realities and worldview beliefs.

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