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## AXIOLOGICAL AND PRAXEOLOGICAL BASIS OF STUDYING THE PHENOMENON OF LAWYER ETHICS

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In the socio-philosophical discourse, the problem of the philosophy of law, the understanding of the value-normative potential of lawyer's ethics is a little-studied phenomenon. The obtained results can form the basis for further study of value-normative aspects of lawyer's ethics as an epistemological and regulatory factor in the judicial process. The conducted research provides tools for understanding and guides the resolution of ethical conflicts in modern legal practice.

The relevance of this study is determined by the fact that the analysis of the phenomenon of lawyer's ethics allows rethinking both the vision of the problems of social philosophy and provides an opportunity to see the knowledge of the values of law as a holistic process. The objective of the article is the analysis of the phenomenon of lawyer ethics within the socio-philosophical discourse on the basis of axiological, anthropological and praxeological determinants. A number of general scientific and special methods were used to achieve the set goal and tasks, the scientific result and the formulation of research conclusions. The use of phenomenological methods made it possible to clarify the ontological foundations of the axiological dimension of legal ethics, and the priority epistemological constants of legal values, praxeological components in understanding the phenomenon of lawyer ethics. We fully share the opinion of those researchers who believe that the content of definitions in this field of knowledge depends on ideology, historical and national context. The conclusions indicate that European liberal values, which were born from bourgeois revolutions and became the basis of many political and legal values that arose as a result of democratic states, are not universal for countries, for example, Asia, Africa. In Europe, there are national-historical differences that are reflected in the complex of legal values of individual states. In this regard, when studying the phenomenon of lawyer ethics, it is necessary to take into account the categories of place (continent, country) and time (historical era).

*Key words:* libertarian concept, socio-legal paradigm, anthropology of law, legal values, social values, axiosphere, praxeosphere.

**Introduction.** Law brings the state closer to human needs, reveals those qualities of the state that reveal its powerful potential in terms of protecting people, society, general, common, and individual interests and values. Law provides an opportunity to reveal all dimensions of human and social security, and freedom as its indispensable expression is one of the real guarantees of security itself. I. Kant's definition of law, according to which law is a set of conditions under which the arbitrariness of one person is compatible with the arbitrariness of another person from the point of view of the general law of freedom, provides every opportunity for its understanding by everyone in the context of ensuring security. Perhaps this concept of law should be the main one in philosophical, scientific reading and in individual perception for the purposes of forming the legal content and legal form of national security [6].

One of such concepts is value-normative legal understanding. The starting points of such legal understanding are the perception of law as a general social value, which has a defining

characteristic of legal normativity. Law as an achievement of culture and civilization opposes arbitrariness, is a symbol of freedom, justice, formal equality, and the contradiction between order and chaos cannot be successfully overcome without law, accordingly, law is not only the personification of order, but also a value that ensures its development, protection and interaction with chaos.

Law is a historically determined, morally justified and religiously verified, legalized value-normative system, designed for universal recognition (legitimization) and appropriate behavior of people, organizations, social communities, in which procedures, formalized decisions and state coercion are used for prevention and resolution conflicts, preservation of social integrity [13, p. 50-51].

An important aspect of the knowledge of values in law and the axiosphere of law as a system is the fact that views of man as the main value dominate in modern philosophy. The level of prevalence of such views is so high that it can be argued that they are one of the postulates of contemporary philosophical-legal and theoretical-legal thought. It should be emphasized that all various theories, where a person or a person is perceived as the main value, have a pronounced anthropological character. All of them have the goal of demonstrating that law is one way or another necessary for man, as it serves his natural well-being.

The socio-philosophical potential of the phenomenon of lawyer ethics determines the need to work in the direction of identifying the value-normative aspects of the lawyer's activity and their modifications in the socio-cultural context [19]. A productive research approach in understanding the specifics of the phenomenon of lawyer ethics in the sociocultural context is axiological. Despite the breadth of views on value, the multiplicity of its interpretations and concepts, in the future work we will proceed from its phenomenological understanding. The transfer of axiological issues into the social sphere today takes place under the sign of the fact that all elements of existence-coexistence are imbued with valuable meaning, and therefore man is its valuable center. Understanding the categories "justice", "truth" in the field of law involves the transfer of the requirements of justice from the moral and social sphere (axiosphere) to the legislative (praxeo-) sphere, where the organization and implementation of justice is carried out.

**The objective of the article** is analysis of the phenomenon of lawyer ethics within the social-philosophical discourse based on axiological, anthropological and praxeological determinants.

**Research Methods.** The most consistent development of the philosophical understanding of law took place within the framework of the *libertarian concept* of legal understanding, which is based on the interpretation of law as a general form and equal measure of individual freedom. The essence of this type of legal understanding is the distinction between law and law and the interpretation of law as a general form and equal measure of individual freedom. The value of law, according to libertarian-legal axiology, is that law is a general, necessary and universally binding form of expression of such fundamental human values as equality, freedom and justice.

The socio-law paradigm of the perception of legal values testifies that "not political, legal, moral and other ideas, views, ideas and feelings... influence people's activities, but directly their fusion."

One of the new paradigms of legal understanding is anthropology of law and ethnology of law. Within anthropology of law, the theory of values of law occupies one of the leading places. The legal and anthropological interpretation of the diversity of law in its real historical manifestations demonstrates the true value of each of these unique images of law and everything in general.

A number of general scientific and special methods were used to achieve the set goal and tasks, the scientific result and the formulation of research conclusions. The use of phenomenological

methods made it possible to clarify the ontological foundations of the axiological dimension of lawyer ethics, and the priority epistemological constants of values of law, praxeological components in understanding the phenomenon of lawyer ethics.

Given the location of axiology of law issues at the intersection of jurisprudence, philosophy, sociology, and psychology, it is necessary to use interdisciplinary scientific methods when studying it. The theoretical and methodological partnership of the axiology of law with the specified areas of knowledge will contribute to the mutual enrichment of sciences whose common subject is social values.

**Analysis of Recent Research and Publications.** The axiological approach in jurisprudence comes primarily from the developments of axiology, a philosophical direction that began to take shape at the end of the 19th century. thanks to the works of the German philosopher R. G. Lotze, who introduced the concept of "significance" as a specific characteristic of mental content in his analysis of logical and mathematical truths, and used the concept of "values" in a similar sense in aesthetic and ethical contexts. Representatives of the Marburg school of neo-Kantians Hermann Cohen and Moritz Schlick, as well as Friedrich Nietzsche used the concept of "values" as a special category of social philosophy [21]. Today, axiology is a traditional philosophical discipline that investigates "values as the meaning-creating basis of human existence, which provide direction and motivation to human life, activity and specific actions and deeds." According to some researchers, this is a voluminous philosophical doctrine of values (imperatives, ideals, regulations, principles, norms) that analyzes the nature, character, methods, composition of regulation of meaningful positions, orientations, motivations of human activity.

The problems of philosophical praxeology became the subject of research for representatives of the Ukrainian philosophical school. First of all, we should mention S.Husariev, who gives a general picture of legal activity [9]. B.Shevchyk investigates the holotropic principle of praxeology from the standpoint of axiological narratives of economic activity [18]. O. Pavlyshyn, O. Kravchuk and O. Lev study the value orientations of a legal person as a subject of legal activity [14]. O.O. Bandura investigates the issues of epistemology and praxeology of law and their connection with philosophical praxeology \ epistemology [2;3], also considers the dialectical connections of praxeology of law with other sections of the philosophy of law.

**Results and Discussion.** Many thinkers of antiquity considered the issue of value in their writings – Socrates (the first to raise the question of what is good; Plato (considered good as a higher value, which is thought of as good in itself; Aristotle, highlighting the importance of the question of values, noticed that they reflect in itself is the only true world of man. Values crystallize at the junction, in the gap, the splitting of existence into worthy, existing and necessary. At the same time, Aristotle says that the real, existing being is actual, and the proper, desirable and necessary is potential being. Thinker believed that philosophy is called to reflect on what is most valuable. With this reasoning, he begins his famous work "Politics": "Since, as we see, any state is a kind of communication, all communication is organized for the sake of any which Good (because any activity aims at the intended good).

The dialectical-materialist (Marxist) concept considers values as objective phenomena understood from the point of view of the subject's goals, interests, needs, connected with social existence, with the practical activities of people, having an objective, socio-historical character. The essence of the subjective-psychological concept is expressed in the conclusions that it is not the object that has value, but the person who endows it with a property; value is not a property of the object, but a certain mental attitude of the subject towards it, a subjective assessment determined by our internal mental state. In sociological studies that remain within the subjective-psychological concept, value is considered as a special social phenomenon that acts as a criterion

for evaluating the actions of people, objects, and phenomena. Value serves as an objective basis for assessment, a criterion that is fixed in social consciousness and culture, etc. [11].

The use of the concept of "value" in a moral sense resonates with I. Kant. Values in his interpretation are what matters, significance in the moral world of obligation and freedom. Such an a priori world of the proper is constructed by Kant in separation and opposition to "being" (actually, worldly empirical phenomena), where cause-and-effect relationships and necessity prevail, "in fact, it is about the normative and regulative value of values that represent, a priori imperatives of the mind – goals, requirements, formulas of what is proper. Those categorical imperatives that Kant formulates in relation to morality and law are also connected with this normativity [10]. Kant believed that the legal life of people should be derived from the basic law of morality, in the center of which is the concept of freedom, therefore the legal consciousness of citizens should contain the values of proper and obligations to fulfill legal provisions as a moral law.

Followers of I. Kant [20] developed Kantian ideas about the normative and regulatory significance of values and goals in the sphere of not only morality, but also science, art, and culture in general: "Yes, the neo-Kantian Windelband interpreted values as norms of culture and , in addition to the values of truth, goodness and beauty, recognized such values – the benefits of human culture as art, religion, science and law" [20, p 490]. Proponents of objective-idealist philosophy (Hegel and his followers) believe that being is a value. At the same time, being means "not empirical reality, but true being, i.e. objective mind, idea, meaning of being, being in the mode of obligation and, therefore, value significance" [20, p. 490].

It would be appropriate to mention the axiological aspects of positive understanding of law from the standpoint of O. Comte, who is considered the founder of positivism and sociology as a science. At the head of his teaching, Comte puts the empirical method of research, and questioned the value of the generalizing philosophical method of knowledge. He saw the future development of science along branch lines capable of enriching humanity with empirical data. Adhering to this logic, Comte saw jurisprudence as a science exclusively of positive law, and wrote that the only right that every person has is the right to fulfill his duty. Only in this way can politics really be subordinated to morality.

At the same time, the axiological approach is traditionally used in comparative jurisprudence. In particular, the widely recognized classification of legal families takes into account legal and technical features of law, as well as the influence of culture, religion, and ideology on it [7, p. 1298-1315; 12, p. 233-243]. Very often today, such criteria of legal families as the origin and evolution of the legal system, the originality of legal thinking, and the special concept of legal style are pointed out.

Today, interest in the problems of axiology is due to the events that took place at the turn of the century, which led to the transformation of social consciousness, a change in the value paradigm of thinking, a new positioning of a person in the plane of contributions "man – society – state".

The cognitive potential of the axiological approach to law and law-making for all countries of the post-Soviet space, including Ukraine, is expressed in overcoming the narrowness of normativism and statism, a one-sided approach to law, which consisted in the determining conditionality of the processes of law genesis by state will. A situation inevitably arises when the role of law is claimed by any system of norms sanctioned by state power, and the role of the state by any organized community that needs legitimization and practices organized violence [15, p. 116].

The value aspect of law is important not only in "extreme cases", when the social organization of society, obeying the ideology condemned by humanity (racism, fascism, etc.),

goes beyond any framework of law, but also when determining the priorities of social life, taking into account the legal sphere. The concept of value is studied within the framework of philosophy, psychology, cultural studies, sociology, political science and a number of other humanities. However, due to the complexity of this phenomenon, no general view on it has been developed, so the idea of the essential properties of this phenomenon is quite debatable.

Historically, value can be understood as the design of such a universal form, which is modified in the conditions of civilization, opening before it new horizons every time [17, p. 707]. At the same time, it should be emphasized that the orientation to benefit (that is, the near future) creates the ultimate stability of the communal form of existence, but thanks to the minimal diversity of culture and the almost complete absence of personal self-awareness. On the contrary, orientation to value (that is, to the very ability to project the distant future) creates a limitless diversity of culture and sufficient freedom of personal self-determination [17, p. 708-709].

Historical and civilizational "dimensions" help to understand the concrete-historical nature of values. Values are only an expression of the general attitudes of one's time, and therefore every time has its own absolutes. Therefore, the value can be understood as the setting of a particular historical era, as a direction of interest inherent in it. The typology of value hierarchies depending on the predominance of certain legal values includes: statist (dominance of the value of the state and equalization), liberal (priority of the value of freedom), utilitarian (primary perception of instrumental values), balanced (legal values harmoniously interact, appearing in their formal legal expression). We are supporters of the concept that states that the state determines the hierarchy of legal values. Recognition of value is primarily a legal act, the essence of which is the transfer of legal phenomena from the moral sphere (axiosphere) to the legal (praxeosphere). Thus, law is effective and real when it carries recognized values, that is, values that act not only at the level of external imposition, but become an internal moral imperative of each individual person.

Among theoretical and legal studies, we find an attempt to identify and generalize various values that are formed in the process of social development in the works of some authors, in particular those who single out the values of human civilization (universal). In historical retrospect, we can offer the following list of values, given that not all of them were recognized at the same time, and some replaced each other: preservation of the eternal and reasonable order established by higher forces; justice; virtue; welfare; security; equality; freedom; common good; personal good; national interest; class interest; democracy; solidarity; utility; progress, etc [4]. But you can disagree with these authors, because truth and justice *are not values*, they reflect objectivity, cleansed of subjective refraction. Truth is axiologically neutral. Benefit (usefulness), the category is also *not axiological, but praxeological*. Opinions about these categories are controversial. The values of the law appear as natural and public goods that are protected and provided by the law due to their significance and usefulness for man and society.

A key role in this context is played by the relationship between value and truth in law, to which O.O. Bandura devoted his works, everything true is equally true, and everything valuable is valuable in its own way. Due to this feature, considerations about value cannot be characterized by the same degree of unconditionality and irrevocability that is characteristic of theoretical truths. On the contrary, in the world of values there is always a certain subordination as a set of relations between them [1, p. 66].

The opinion of the neo-Contian philosopher H. Rickert that "the essence of values is in their significance, not in their actuality." The value itself, as he emphasizes, cannot be material or spiritual, it can be a carrier of value. Comparing the concept of "value" with the concepts of "goal", "ideal", the philosopher noted that the latter characterize the process of activity formally,

technologically, and value – "meaningfully, ideologically" [16, p. 295-232]. Therefore, law values include such categories as *orderliness, stability, and conservatism*.

Legal values determine the content of the "legal" category, and therefore their presence in almost every type of legal understanding is not accidental. Contrasting the philosophical understanding of law based on the recognition of legal values with the legal understanding of law, which is based on only one value – the state, which acts as the only source of power and law, and the violation of the law is equated with a crime against the state, determines the methodological status of "legal" in these two concepts.

It is important to state that life as a value should be understood not in an existential, but in a transcendental sense – as the life of the world, as well as world integrity. Preservation of the world is a problem that is a step higher than the preservation of an individual's life. It is not surprising that it is the person-centric paradigm of modern thinking that becomes the key obstacle on the way to solving the global problems of humanity, which, by and large, can be reduced to the problem of preserving life in its diversity, integrity and development [8].

The axiosphere of international law a priori strives for globalization, internationalization, and this is where international law finds its justification, since it should by its very nature be such a law that the concrete-civilizational aspects are minimized, and the influence of local interests should be the least. The axiosphere of international law aims to be the axiosphere of all humanity.

At the same time, it is important to determine how globalization affects law: it forms transnational law and international law, which was discussed, whether it brings about changes in national law in the way of convergence or acculturation, whether it changes legal doctrine, forms the latest legal ideology and thus affects legal awareness or limited to the adjustment of behavioral acts of social subjects? There is no single answer to the questions posed, just as there is no single system of influence of globalization transformations on the social environment in nature. Globalization processes are unpredictable and generate corresponding globalization risks. Such globalization risks, however, concern sociality to a lesser extent, and nation-states and national legal systems to a greater extent. The specified risks increase as nation-states change their primary characteristics.

But when studying the axiosphere of law, for example, the Middle East, the hierarchy of local values will be significantly different from the global ones. According to this approach, stability over time will be recognized as the main criterion of value. That which has more stability is more valuable because it shows the strength of its being regardless of the circumstances.

For example, within the framework of the axiological approach in the study of Islamic law, the relationship between law and religion acquires a special resonance. Islam as a religion in general and Islamic law as its law-regulatory component in particular have their own system of values. The norms of Islamic law are aimed at their advocacy, protection and provision of normative regulation. One of the most difficult issues in Islamic law today is the death penalty for apostasy. This norm is widely discussed at the international level in the context of human rights issues. Understanding this norm, in our opinion, is directly related to the understanding of the fact that, from the point of view of Muslims, the value system of Islam is meant to be an unchanging system of coordinates. Next in the system of the hierarchy of values of Islam, which are protected by Islamic law, is human life. Islamic law provides for the death penalty as a form of punishment. At the same time, justice is administered in the name of Allah. The norms of Islamic law regarding the application of the death penalty are established exclusively by the Qur'an and the Sunnah and are not subject to revision. The conditions of their use are strictly regulated. In the Islamic theocentric legal tradition, any legal norm is based on the orders of religion and performs the function of protecting one or

another religious value [5, p. 38-40]. Therefore, legal values are proper legal phenomena that determine the content, purpose and essence of law, which are at its core and act as means of understanding and explaining legal reality.

**Conclusions.** Thus, the world of law appears as a world of values, which the subject learns and masters to the best of his abilities. Value orientations direct a person into the sea of legal facts, initiate his cognitive activity. The variability of the types of legal understanding determines the lack of universality of many basic concepts of the axiology of law. We fully share the opinion of those researchers who believe that the content of definitions in this field of knowledge depends on ideology, historical and national context.

It would be fair to say that if law is historical, then legal values also bear the imprint of their era. In addition, legal theory and social philosophy are Eurocentric, the multiculturalism of the world is not taken into account when discussing many basic definitions of legal axiology. At the same time, it is quite obvious that European liberal values, which were born from bourgeois revolutions and became the basis of many political and legal values that arose as a result of democratic states, are not universal for the countries of Asia and Africa. In Europe, there are national-historical differences that are reflected in the complex of legal values of individual states. In this regard, when investigating the phenomenon of the axiosphere of law, it is necessary to take into account the categories of place (continent, country) and time (historical era). The theoretical significance of the results obtained in this study is determined by the fact that they allow rethinking as a vision of the problems of philosophy, and provide an opportunity to see the knowledge of the values of law as a holistic process.

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## **АКСІОЛОГІЧНІ ТА ПРАКСЕОЛОГІЧНІ ЗАСАДИ ДОСЛІДЖЕННЯ ФЕНОМЕНУ АДВОКАТСЬКОЇ ЕТИКИ**

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У соціально-філософському дискурсі проблематика філософії права, осмислення ціннісно-нормативного потенціалу адвокатської етики є мало досліджуваним явищем. Отримані результати можуть скласти основу для подальшого вивчення ціннісно-нормативних аспектів адвокатської етики як гносеологічного так і регулятивного чинника у процесі судочинства. Проведене дослідження дає інструменти осмислення й орієнтує на вирішення етичних колізій в сучасній адвокатській діяльності.

Актуальність даного дослідження визначається тим, що аналіз феномену адвокатської етики дозволяє переосмислити як бачення проблем соціальної філософії, так і дає можливість бачити пізнання цінностей права як цілісного процесу. Метою статті є аналіз феномену адвокатської етики в соціально-філософському дискурсі на основі аксіологічних, антропологічних та праксеологічних детермінант. Для досягнення поставленої мети та завдань, наукового результату та формулювання висновків дослідження використано низку загальнонаукових та спеціальних методів. Застосування феноменологічних методів дало змогу з'ясувати онтологічні основи аксіологічного виміру юридичної етики, пріоритетні епістемологічні константи правових цінностей, праксеологічні компоненти в розумінні феномену адвокатської етики. Ми цілком поділяємо думку тих дослідників, які вважають, що зміст дефініцій у цій галузі знань залежить від ідеології, історичного та національного контексту.

Висновки свідчать про те, що європейські ліберальні цінності, які народилися з буржуазних революцій і стали основою багатьох політико-правових цінностей, що виникли внаслідок демократичних держав, не є універсальними для країн, наприклад, Азії, Африки. В Європі існують національно-історичні відмінності, які відображаються на комплексі правових цінностей окремих держав. У зв'язку з цим при вивченні феномену адвокатської етики необхідно враховувати категорії місця (континент, країна) і часу (історична епоха).

*Ключові слова:* лібертарна концепція, соціально-правова парадигма, антропологія права, правові цінності, соціальні цінності, аксіосфера, праксеосфера.