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Scientific Article

Interpretation of Law as a Cognitive Process

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ABSTRACT

The interpretation of the law is an essential element of law enforcement by the state authorities and other competent authorities. It is primarily aimed at ensuring the rule of law and the rule of law in society.

Law enforcement is a multilevel complex system, whose peculiar characteristic is the presence of a spatial-temporal hierarchy. The theoretical and legal study of the theory and practice of law enforcement at specific stages of historical development is a crucial direction and an urgent task of legal science because of the special role of space and time in jurisprudence, namely, violation of the principle of their homogeneity in empirical and analytical sciences.

In the historical and hermeneutic sciences, the cognition of social, including legal, phenomena and texts is achieved by understanding and explaining the meaning using the methods and rules of hermeneutics. The critical analysis of theories and concepts is carried out by interpreting texts, which is paramount in the practical implementation of law.

More specifically, the interpretation of law is a complex cognitive process based on the conceptual and categorical apparatus of philosophy and law, covering broad legal reality. Its central task is to clarify the cause-and-effect, spatial-temporal, political-economic, and socio-conditioned connections related to the existence of a person in the state. Subsequently, the paramount is the establishment of the meaning, content, and purpose of the normative legal act

Keywords: methodology of law; legal hermeneutics; interpretation of law; systematic approach; cognition of meaning.

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Научная статья

Толкование права как познавательный процесс

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АННОТАЦИЯ

Толкование права выступает существенным элементом правоприменения как деятельности государственной власти и иных компетентных органов, содержательная сторона которой направлена на обеспечение законности и верховенства права в обществе.

Правоприменение — это многоуровневая сложная система, важной характеристикой которой является наличие пространственно-временной иерархии. Теоретико-правовое исследование теории и практики правоприменения на конкретных этапах исторического развития представляет одно из важных направлений и актуальную задачу правовой науки, обусловленную особой ролью пространства и времени в юриспруденции, а именно нарушением принципа их однородности, имеющего место в эмпирико-аналитических науках.

В историко-герменевтических науках познание социальных и в том числе правовых феноменов и текстов достигается путем понимания и разъяснения смысла в соответствии с методами и правилами герменевтики. Критический анализ возможных теорий и концепций осуществляется с помощью толкования текстов, приобретающего первостепенное значение при практической реализации права.

По сути, толкование права представляет собой сложный познавательный процесс с широким использованием понятийно-категориального аппарата философии и права, охватывающего широкий контекст правовой действительности. При этом центральная задача сводится к уяснению и разъяснению причинно-следственных, пространственно-темпоральных, политико-экономических, социально обусловленных связей в бытии человека в государстве. Тогда главную значимость приобретает установление смысла, содержания и назначения нормативного правового акта как целевого результата при системном подходе к явлению толкования права.

Ключевые слова: методология права; правовая герменевтика; толкование права; системный подход; познание смысла.

Как цитировать

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ЭКО•ВЕКТОР

Law, as a social phenomenon, is practically implemented through the enforcement of rights, serving as a distinct form of legal administration. It constitutes a crucial area of operation for public authorities, tasked with upholding law and order, guided by the principles of the rule of law and the democratization of public life.

Operating within fundamental concepts such as freedom, justice, and equality, the law embodies an active, moral, and wholly transparent system. The main guiding factor in regulating social relations must be a profound understanding of the law, rooted in ideas supported by a strong theoretical foundation and a sociological perspective on the world. Consequently, the theory of law and the state, viewed within the broad context of sociological approaches, should be acknowledged as the indisputable methodological foundation for all branches of legal sciences.

The administration of law constitutes a hierarchically structured, multilevel, and multistage process. Central to this systemic process is the interpretation of legal norms, a complex cognitive process aimed at understanding the meaning and content of the legislator's generally binding will. The exploration of meaning as the profound essence of a phenomenon remains an underexplored facet within the categorical framework of law. Consequently, theoretical and legal research into the theory and practice of law enforcement has emerged as an objective necessity in the evolution of legal thought and the dynamics of the legislative process.

Legal perspectives on the social world emerge from the processes of civilizational development within society, based on moral and social factors. These perspectives manifest in various theoretical and legal doctrines, concepts, moral norms, and principles of intersubjective interaction. Covering a wide sphere of material and spiritual relations and social and public administration, they unify all cognitive-practical and political-legal belief systems. Their substantive focus lies in ensuring the sustainable functioning of society and the state as entities that exist and are proper [1, pp. 37–44].

Jurisprudence, as a historical-hermeneutic science, possesses a distinct characteristic in which the understanding and explanation of legal phenomena and texts are attained through the application of hermeneutic methods and rules. The cognition of legal concepts involves a critical analysis of potential theories and concepts, predominantly conducted through the interpretation of texts. This interpretative process assumes paramount importance in the practical implementation of the law, becoming an integral element of the law enforcement process and a substantive aspect of the legislative process [2]. Delving into the substantive part of interpretation reveals a complex cognitive process. The validity of the developed conclusions is determined by the structure of the conceptual-categorical framework already employed in the legal norms under discussion, with the involvement of philosophical and legal concepts in the broad context of legal reality.

Interpretation of law essentially involves the elucidation and clarification of cause-and-effect, spatial–temporal, political–economic, and socially determined relationships in the existence of an individual in the state. It is quite justified that the concept of "interpretation of legal norms" includes the concepts of "meaning," "content," and "purpose" [3, p. 83].

Therefore, when interpreting legal norms, ideological approaches assume particular significance. This involves a broad spectrum including general and specific state interests, along with official and unofficial policies, and ideological guidelines of states. Additionally, it considers tactical and strategic goals, addressing all pertinent issues within the existing conditions of the world order. Aligned with the national understanding of global problems and the prognosis of their development, these considerations aim to ensure the stability of the state and enhance its international standing. Consequently, the process of interpreting law transcends mere formalized legal procedures; it constitutes a complex thought process with far-reaching implications for individuals, society, and the state. Each normative legal act, as an expression of the state's will, inevitably reflects the agreed interests of the state, society, and individual, spanning both material and spiritual spheres.

The interests of states are always multipronged and multifaceted. Their primary purpose is to ensure the stability of the state system, preserve and strengthen the constitutional foundations of society, and increase the status of the state on the international stage [4, p. 548], as well as develop the economic and social sphere in the interests of the people [5, p. 763].

Interpretation of the law can be viewed as a distinctive form of intellectual activity undertaken by authorized state bodies, various organizations, institutions, and individuals, all with the common goal of understanding and explaining the meaning of legal norms and the legislator's will [6, p. 138]. Importantly, the will of the legal holder can be established through various forms of law.

Notably, statutory law has roots as ancient as society itself, as evidenced in historical records such as the laws of King Hammurabi and the ancient Indian epic Arthashastra. The significance of this historical context extends beyond the mere existence of legal monuments; it sparks a crucial societal inquiry into the proper application of legal customs and statutory laws, as well as the adequate interpretation of their content. Therefore, the roots of the interpretation of law can be traced back to ancient times.

Thought is fixed in language, which is the material form of the process, and by acquiring transcendental properties, it is analyzed as an object beyond the thought itself. In essence, the objectification of thoughts about reality occurs through language, making it an important characteristic of the cognition process. The object of knowledge, especially legal reality, holds ontological significance. The conscious understanding of this legal reality constitutes the subject of the theory of law, emerging through the cognitive efforts

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of the subject engaged in legal knowledge. Considering the relationship between the concepts of "object" and "subject", it is essential to highlight the dual usage of the latter in modern legal science. First, when an object functions as a kind of being, whether objective or subjective, conscious knowledge about it constitutes the essence of the concept of "subject" (e.g., biology, theory of state, and law). Second, in the study of complex objects, their aspects (properties) and parts are isolated, and the latter is denoted by the term "subject", which, in this case, becomes the object of study.

The development of productive labor is not only meant for the practical use of tools but also for the production of more advanced means of production to replace simple devices. Simultaneously, with the improvement of forms of labor, there exists a process of formation of a special abstract sign system, language, and speech as its material and functional form of existence, based on the need for people to communicate in the process of labor activity, which has a collective nature.

Along with the historical development of productive labor and language, oral and written speech, and the complication of forms of human activity, the epistemological question of understanding and comprehending the meaning of phenomena and objects expressed by linguistic signs has arisen.

Despite the obvious simplicity of their content, the words "understanding" and "sense", often used in colloquial and official speech, in essence, represent serious epistemological issues not only of linguistic semantics but also of the conceptual-categorical system of philosophy.

According to modern interpretations [7], the category of understanding appears as a universal operation of organizing thinking and means the following:

1) human cognitive ability, assessment of the properties of an unknown object, a fact in a system of established knowledge, and advancement of knowledge;

2) a way to understand the meaning of cultural universals, including the procedures of hermeneutics in determining the meaning of texts and statements;

3) a specific method that determines the characteristics of human existence, the primary mode of existence in the world.

The emergence of new discursive practices and possibilities for their analysis [8] has revealed other forms and levels of understanding that have important methodological significance in legal practice, particularly in law enforcement. Notably, the most significant aspects of the practice of law interpretation include the following:

1. The results of interpretation cannot be identified only with concepts but are expressed in the concept, meaning, and sense of the statement.

2. The identity between reflection and understanding is eliminated.

3. Differences between denotation, meaning, and sense are established.

4. Attention is focused on the study of various forms of expression of meaning, which include theories, texts, various semiotic systems, and works of culture.

5. Clarification of understanding is a productive cognitive activity that involves all human cognitive abilities (imagination, attention, speech, memory, intuition), and it is considered a mutually intentional action of comprehending semantic formations in specific contexts and historical situations.

The culmination of interpretation, as discerned from the aforementioned discussion, revealed not mere concepts but ideas, since understanding presents diversity in a single objective truth, which most fully reveals the essence of a social phenomenon at a given historical-cognitive stage. Therefore, understanding takes precedence over formal knowledge [9].

The category of understanding holds important methodological content, emerging as one of the fundamental methods in historical and hermeneutic sciences [10]. Notably, the method of understanding has rightfully secured its place in the social sciences since the 1920s.

Furthermore, it is pertinent to acknowledge the distinctive role of space and time in the natural sciences and humanities. Natural science disciplines, based on human experience and refined through analytical and mathematical methods, embody the positivist idea. They rely on controlled experience as a criterion for assessing the truth of hypotheses and theoretical conclusions. In contrast, the science of law, situated within the humanities, particularly in historical and hermeneutical knowledge, comprehends the factors of social life through understanding meaning. The interpretation of text guided by the rules of hermeneutics becomes imperative in elucidating the meaning of statements. In the field of law, the criterion of truth is embodied in the interpretation of texts from the standpoint of historicism, the systemic and structural organization of phenomena, effectively transforming historicism into the positivism of the humanities [11, p. 170].

The fundamental difference in methodological frameworks terms from the distinctive importance attributed to the homogeneity of space and time in empirical-analytical sciences. In these sciences, research outcomes remain invariant despite space-time shifts, highlighting the significance of homogeneity. Conversely, the humanities engage with the social world by delving into the understanding of meaning and continually retesting hypotheses, a process aligned with the interpretation of texts [11, p. 173].

A crucial concern in establishing the theoretical validity of interpretative results lies in grappling with the interpretation of the category "meaning", a concept intricately interwoven with hermeneutic science. The concept of meaning, with its diverse constellations in epistemology, the functioning of thinking, and the Hegelian world spirit, draws support from the idea in German classical philosophy concerning the identity of being and thinking. It stands as a polysemantic concept, open to various interpretations, with its complexity and versatility underscored by its study across various scientific fields. Thus,

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in legal hermeneutics, where understanding the text is aimed at establishing the intentions and goals of the legislator, the meaning does not exist in the sign itself, but is an intention as the direction of consciousness of the subject as the author, external to the text of the normative act; however, embodied in it and imparting this act with ontological grounds to exist as a legal phenomenon.

A methodologically sound approach to the interpretation of law allows for a profound exploration of the historically determined meaning and significance of normative legal acts, unveiling their universal value. Therefore, the specific objectives of interpreting law include understanding and elucidating the ontological and praxeological attitudes of the subjects involved in lawmaking. This process can be described within the framework of the concept method, which involves establishing the meaning, sense, and purpose of a specific legal act. Here, the ongoing cognitive process must intricately link to the consideration of the essence of law itself and the historical context and situation.

In the realm of legal hermeneutics, "sense" as a philosophical category denotes the external essence of a phenomenon, determining its place within a broader integrity and transforming the possibility of its implementation into a necessity according to the ontological order of phenomena.

A perspective [12] asserts that meaning does not solely belong to the external world of objects or the internal world of cognition subjects. Instead, it represents a unique "third world" that arises through the interplay between these two worlds. Therefore, in legal hermeneutics, the meaning of a phenomenon and object can only be achieved if the processes of interpretation reveal the spiritual world of the subject of interpretation. This involves an understanding of their perception of the profound essence of law, the internal connections of a legal act, and the facts of a particular case.

The category of meaning introduces the part–whole relationship into the interpretive process. Given rise to the so-called hermeneutic circle. In legal interpretation, this signifies that the meaning of a word must be ascertained based on the entities of the normative legal act, viewed as the complete text. Simultaneously, the normative legal act itself, as a form of integrity, can be regarded as a composition of its constituent parts.

In the early 20th century, the Russian philosopher Gustav Shpet accorded importance to the phenomenological approach in studying social phenomena. He emphasized, "I consider <...> social being. How to reach it? Behind the shell of words and logical expressions that close the objective meaning to us, we remove another cover of the objectified sign, and only there we capture some genuine intimacy and the fullness of being in it <...> In the direct unity of understanding, we discover the true unity of meaning and the concrete integrity of what is manifested in the sign as an object" [13, p. 208].

This provision concerning the internal connection between meaning and object opens up a promising path for understanding the meaning of a phenomenon [14, p. 5–6]. The activity of the mind, exceeding metaphysical ideas and taking the phenomenological concept of Hegel and Husserl as its tool, indicates the search for the meaning of a phenomenon in the content of the subject and "contains the rule for revealing a thing in its actual existence" [13, p. 208]. Then, the meaning of the specific should be sought within the framework of a holistic approach to the phenomenon in the dialectic of the relationship between the whole and the part.

When defining the concept of meaning from a pragmatic point of view, this phenomenon is assessed from the viewpoint of the activity. In this case, the meaning becomes a value and is perceived in everyday consciousness as a characteristic of significance and usefulness in life.

The meaning depends on the essence of knowledge about the subject, attitude toward it, value assessment, functional purpose of the subject, goal setting, and is revealed in the context of a life situation. These concepts can be considered as constituent components of meaning. Then, an understanding is achieved that the interpretation of law in the process of law enforcement must necessarily be based on an appropriate doctrinal basis.

Legal doctrine stands as a constituent element within any legal system, representing an aspect of the application of the deductive method in law. The actual implementation of the law lies in general legal doctrines that encompass all achievements of the national legal system. These doctrines reflect the level of legal culture, the state of legal science, national legal traditions, and the overall scientific potential of society within specific historical conditions. Much like any scientific thought, legal doctrine must meet the demands of the time. It constitutes the conceptual basis of the legal order and methodology. A tool that ensures the empirical development of law by enriching legal doctrines is the judicial doctrine [15].

Using the principle of historicism when interpreting the law, the law enforcer not only expands his/her understanding of the interpreted norm but also determines what is crucial in the way it should be interpreted at a given point in time, considering the variability of the language of the law.

Classical methods of legal understanding, recognized in Russian scientific doctrine, predetermine the need to correlate the meanings of the norm obtained by the court when interpreting a particular legal act.

In Russian law, a comprehensive approach to the interpretation process is used, incorporating various methods that are considered collectively. This systematic approach is crucial for achieving the most comprehensive disclosure of the content of a legal act concerning a specific legal fact. The interpretation of law, being a cognitive activity of the subject, possesses a value-targeted nature.

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An important aspect of scientific cognition of nature and society consists of the widespread use of the so-called systems analysis, defined in a narrow sense as a means of making decisions within the required final results, and identified in a broad meaning with the "systems approach", which is "a direction in the methodology of special scientific cognition and social practice that is based on the study of objects as systems", and possesses its due place in legal science [16].

D.A. Kerimov emphasized the complexity of legal matter and gave the following definition of the systematicity of law: "The systematicity of law is an objective association (connection) according to the substantive characteristics of certain legal parts, a structurally ordered integral unity that has relative independence, stability, and autonomy of functioning" [17].

A holistic, systematic approach to the interpretation of legal norms enables us to delve deeply into their fundamental nature, the historically determined meaning and significance of the norms, and to clarify their universal human value. Thus, the task of interpretation is the elucidation and clarification of the ontological, praxeological, and axiological attitudes of the legislator. This procedure can be described in terms of the meaning, sense, and purpose of a legal norm.

Notably, a method for interpreting law in legal practice is teleological (target) interpretation. This method, which was denied in legal practice in Soviet times, like the scientific direction of teleology itself, at the present stage of development of law is included in the practice of law enforcement.

It is noteworthy that the concept of goal is one of the universal categories of philosophy and refers to the aspiration of the subject toward a certain real thing, as well as the final result toward which the process is consciously intended. This concept is inextricably linked with the implementation of the subject's activities and represents an anticipation in the mental process of the results of his activities and the methods of their implementation. At the same time, the main motives of human actions, based on reflected needs and turned into goals, determine human activity, organizing it into a certain system of sequential actions. Therefore, it is quite justified to consider the goal as the driving force and one of the main factors in the formation of reality in German classical philosophy.

The process of developing goals by a subject is based on the expediency of certain actions leading to previously expected results, i.e., the correspondence of fully completed states to their mentally assumed model. Consequently, expediency can be considered as an immanent characteristic of the inherent interactions of an object in itself and as a relationship between an object and a subject. In Marxism, the concept of expediency assumes goal-setting as an essential element of the thought process and objective-productive work, which embraces spiritual and creatively transformative forms of activity.

The category of purpose in its correlation with law as a social phenomenon appears in two aspects.

First, it can be considered as a "goal in law", when, following linguistic norms, the concept of a goal, having received specific content and its specific reality, becomes an internal attribute of law, aimed at understanding the association and relationships of elements of law, their meanings, and trends in the development of the legal system in its sociohistorical conditioning.

Second, the category of goal can be correlated with the external manifestation of law in the context of the social relations it regulates, characterizing law as one of the functional elements that organize and direct social life. In this case, the goal inherent in the content of normative legal documents, which mainly provides qualitative certainty of a particular legal system, serves as the initial criterion for the validity and effectiveness of the social purpose of the law. It is appropriate to mention the "purpose of law" in the manner of Iering's positivism in the implementation of law.

The following remark is required. In Russian jurisprudence, the concept of "goal in law" is widely used in the strict sense as a specifically expected result of the activity being performed. In this case, the emphasis is not on the ontological essence of law but on its functional role. The primary goal of the law is the practical implementation of law and strict compliance with the requirements of regulatory legal acts. In essence, such an interpretation becomes identical to the goal of law, it determines the goal specified by the legislator in a normative legal act, which involves the achievement of a specific socially significant result in improving a certain area of social relations. This understanding of the legal goal is crucial for judicial authorities in the purposive interpretation of law to understand the meaning of a legal norm [2; 15].

Thus, the law should undoubtedly be interpreted with a holistic approach to legal phenomena. The legal system of society in ontological terms, in its origin and content, is objective. Concurrently, in cognitive activity, the identification of the whole and part by the subjects of law enforcement is subjective. Therefore, determining the integrity of legal phenomena when interpreting law is ambiguous. It is acceptable in law enforcement practice to use the principle of systematic law from the point of view of both the entire legal system and the system of law, as well as a specific system that unites a set of homogeneous legal norms, which then acquire characteristics of something special within the legal system framework. This special aspect reveals the relationship between the individual and the general, discloses the relationship between the part and the whole in the process of interpretation, and, being included in a broader integrity, acquires new qualities and thereby contributes to a deeper understanding of the meaning of the generally binding will of the legislator embedded in the rule of law. An important factor is that the interpretation of law is a cognitive and creative process that not only uses

existing legal knowledge and ideas but also creates new knowledge in the process of mental activity. Therefore, it is essential to consider the known types of interpretation, which are systematized primarily for epistemological purposes, as an integral system that, according to the phenomenological concept, will expand the functionality of various types of interpretation in understanding and explaining the meaning of a legal norm.

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