

Mechanisms of development of the system of legal subjects

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Abstract. The article represents an attempt to apply methodological principles of the system-wide approach to the problem of legal subjects. The author shows that legal capacity is socially determined. Introducing a concept of environment that comprises exterior subjects, the author examines a number of objective and subjective factors of social reality, which determine qualitative peculiarities of the system of legal subjects of a particular state and characterize social, economic, political and mental determinants influencing on the inclusion of certain legal subjects into the system.

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Introduction

The system of legal subjects as an independent legal phenomenon is composed of a number of persons enjoying legal capacity. Given the fact that legal capacity is a critical formal and legal property of a legal subject and is genetically associated with the norms of objective law, it would be reasonable to suggest that qualitative peculiarities of the system of legal subjects are conditioned by the actual rule of law [1; p.93 and 2; p. 202]. However, despite being convincing, this suggestion does not describe the nature of this phenomenon in full.

In this respect, we should mention that some academic literature implies an idea of social determination of the legal capacity. Thus, Ia. R. Vebers assumes that “it is impossible to consider the essence of legal subject and the ability of citizens to maintain various legal relations, taking into account legal provisions only, even if they are sources of legal capacity” [3; p.11].

Without dwelling on further analysis of all aspects of this extremely difficult problem, we should underline that *subject-forming* based on assigning legal capacity to a person, is not restricted to state and legal reality, but represents complex interconnection of all spheres of social reality.

This fact allows us to conclude that we can gain the objective of revealing peculiarities of the system of legal subjects if we examine the concept of *environment* comprising external objects that contribute to development of the system [4; p. 20] and influence implicitly on shaping its integrative characteristics [5; p. 100-101].

This refers to the fact that if we search for sources of qualitative composition of the given system we are supposed to analyze mechanisms of its development, i.e. to find out most common

conditions of the system-forming environment, which determine its character.

In case of the system of legal subjects consistent of initially natural phenomena, the research should be focused on analysis of social reality factors that determine involvement of particular persons in the system.

Reflecting peculiarities of development of a certain society, these factors influence the system of legal subjects of a particular state, because they are based on universal principles of the mechanism of development of the system of legal subjects.

Main part

Dwelling on the analysis of the mechanism of development of the system of legal subjects, we should underline that it has interdisciplinary character determined by factors that will be described below.

In the first place, factors influencing the system of legal subjects can be divided into social and economical, political and mental, as much as the society is divided into functional subsystems (spheres of social reality).

Relative independence of subsystems within society and their close interconnection with one another determine, on the one hand, qualitative differentiation of relevant factors, and on the other, their close interconnection in the course of development of the system. Accordingly, the factors will be characterized differently within the framework of various science disciplines, this giving no chance to build a complex picture of developing the system of legal subjects.

In the second place, the character of these actions and degree of their influence depend on the nature of the system elements. Therefore any social factor may be unequally interpreted within the

framework of various branches of law – it may become decisive in one case and play secondary part in the other. To form a sober opinion putting together all cases when this factor to some extent can influence development of properties of the system of legal subjects, it essential that cognition should pass over the limits of one branch of law.

The crucial point in cognition of social and economic determinants of the system of legal subjects is to study economic system embracing all social phenomena and processes relevant economic activity of an individual.

This focus of the research allows to make a comprehensive description of economic basis of the system of legal subjects, helping to single out not only specific factors, but their interconnection and interdependence.

However, it seems rather complicated a task to define elements relevant the mechanism of development of the system of legal subjects because of the lack of clear interpretation of the nature of economic system and its elements.

Traditionally, modern economic theory suggests two main approaches explaining organization of economic system – formational and civilizational.

If the first approach is characterized by describing economic system as a combination of industrial power and economic relations, the second approach associates interpretation of the economic system with factors of social and cultural development.

When choosing a model of the economic system that meets the purpose of the present research, we regarded the following. Genetic connection of the system of legal subjects with social networks (elements of the system of legal subjects are participants of social interaction and enjoy legal capacity within a branch of law) places communicative aspect in analysis of its development mechanisms the foreground. This requires that a source of qualitative diversity of the system of legal subjects should be found, mainly in the principles of development of the actual social relations.

As discussed, this determines that this research should focus on formational approach as a way of interpreting economic system of the society centering mostly on the problems of economic relations.

The economic relations, as much as the formational approach, feature stable ties and social interaction in business sphere during distribution, exchange and consumption of benefits and services [6; p. 34]. Modern economic theory supports this conception and features three types of economic

relations: 1) technical and economic; 2) business and economic; 3) social and economic.

If the nature of relations of the first two types raises no controversy in science, the idea of social and economic is confronted to some diversity of opinions.

However, irrespective of the position concerning the matter under discussion, most scholars admit that property relations make crucial point in economical sphere of the society. Thus, E. I. Lebkovich, supporting these widely spread notions, points out that “property is the main segment of economic relations on which all other segments of the economic system are based” [6; p. 52].

It follows from what has been said above that property relations, being the main factor encouraging economic system of the society, determine character and essence of the economic relations of which this system consists. This allows supposing that there should be interdependence between the essence of participants of the mentioned relations and forms of property dominating in a certain historical period of social development. These forms are determined by the achieved level of development of the industrial power [6; p. 48].

Thus, forms of property and the level of industrial power of the society in general, being objective prerequisites of development of particular social subjects in economic sphere, may be considered as the main determinants of subjects in branches of law that contain norms governing relations concerning production, distribution, exchange and consumption.

Similar provisions were explicitly or implicitly suggested by academicians. Thus, R. O. Khalfina assumed that “any social and economic formation has its own social entities serving as legal subjects” [7; p.129].

Speculating on civil law, S. N. Bratus suggests that successful functioning and production of property relations cannot be reached without individualization of holders (subjects) of these relations as legal subjects. Depending on the existing forms of property, this individualization is expressed in different types of subjects of civil law [8; p. 9].

To support these ideas, we should mention, that the ancient social formations included by a legislator into the system of legal subjects (churches, communities) are results of common household, which was characteristic for the primary societies that existed in times of absolute or undeveloped ownership of the means of production and mostly of the land. The system of legal subjects reflects social corporativity, which in the meantime was determined by collective possession, weak development of industrial power, necessity of uniting forces of many

people, lack of private ownership of the means of production [9].

In additions, we should mention that the unity of all social subsystems makes it possible to suggest the idea of universality of the mentioned facts influencing not only on the subjects of economic relations proper, but the participants of other political processes both explicitly and implicitly.

With regard to political determinants in the mechanism of development of the system of legal subjects, we should mention that to describe a political sphere of the society, a number of categories may be used, each emphasizing certain properties of the object - political life of the society, political system, political structure, political process, etc.

Choosing a definition that could help to embrace all political determinants in the mechanism of development of the system of legal subjects, we should adhere to the communicative approach in its analysis.

From the point of view of the categories that most fully meet the purposes of the research, we find it reasonable to introduce the concept of a *political process*. Describing a dynamic component of political sphere of society, this concept gives a general idea of the peculiarities of political relations and its participants.

The cognitive technique that presupposes analysis of political relations and subjects not separately, but in complex with a phenomenon of a higher order – a political process, allows us to find out the sources of qualitative peculiarities of the system of legal subjects, without breaking actual connections in the political sphere.

With regard to one of the standpoints expressed in academic literature, generalizing different approaches to comprehending the essence of a political process, the latter represents unified action of all subjects of political relations concerning development, alteration, transformation and functioning of the political system mediating the public power [10; p. 1600].

Apart from subjects of political process traditionally defined in its structure (subjects of politics) political interests of these subjects and political activity of people, political relations make bases of the political process.

Modern political science, applying universal interpretation of political relations, associates peculiarities of its basis with political and state power.

The fact that peculiarities of social phenomena directly connected with political power and the character of power in a certain historical period determine peculiarities of developing political relations, allows making the following conclusion -

these factors influence the basis and status of participants of political relations.

Thus, such political factors as political regime, form of government, form of state rule, type of legitimization of state power and political conscience may become quite influential.

Taking into account dialectical interconnection of subjects of political and legal relations, the aforesaid factors can fully be called a political *segment* in the mechanism of developing the system of legal subjects. Most scholars suggest that, “several specific subjects of political and legal activity coincide in some point” [11; p. 84].

However, it would be too simple to consider that the influence of political factors embraces only subjective competence of the branches of public law governing the process of execution of state power. Inclusiveness of political power, i.e. the ability to penetrate practically into all spheres of social life, allows us to believe that the area of determinants is much wider.

Isolation of mental factors in the mechanism of development of the system of legal subjects is determined by the fact that the latter is under the indirect influence of the economic and political determinants, but it has gone through a complex network of isolations, one of the elements being the will and conscience of the legislator, its subjective understanding of the needs, development of certain spheres of social reality.

To grasp the functions of this ideal component in the mechanism of the system of legal subjects, the process “development of subject” may be divided into several parts. The first one includes actions of the objective factors of social reality – property relations, industrial power, political regime, etc. Their mutual activity help to create a participant of all social events, stipulating *the actual person* of the legal subject.

The second stage is formed by the process of assigning a participant of social intercourse a legal form. At this stage the crucial point is legal culture of the society, the achieved level of development of the legislative technique [12 and 13]. The latter mostly determines if the legislator can have a right perception of tendencies in social development, and then reflect them adequately when particular individuals acquire legal capacity and get a legal status.

Applying certain *means* of introducing social subjects into the legal sphere, the legislator creates a final *legal image* of the system of legal subjects.

Conclusion

Thus, mechanism of developing the system of legal subjects under the study represents a set of

objective and subjective factors of social life determining if particular persons may acquire legal capacity. With regard to the division of society into functional subsystems, factors forming the mechanism of development of the system of legal subjects were differentiated as social and economic (form of property and level of development of industrial power of the society), political (political, including state power and phenomena directly connected with it), and mental (legal culture of the society, the level of development of the legislative technique).

The mentioned factors are universal for all systems of legal subjects. Meanwhile, as a result of individual development of a particular state and society they acquire specific features, which serve as a source of qualitative peculiarities of the national system of legal subjects.

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