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Law and Social Progress

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Abstract- Background: The problems of social progress, the directions of development of the state and law have not lost their relevance since the birth of human civilization. The reason for this study is the need to detect patterns in the genesis of the state and law, to determine the nature of their development. The author sets himself the task of revealing philosophical and legal ideas about the progressive evolutionary development of the state and law, ensuring the well-being and security of the individual and society.

Materials and Methods: Considering the development of the state and law, the author uses the method of state-legal modeling, as well as comparative legal and historical-legal methods that allow assessing the main features of social progress associated with the search and provision of universal values that are supranational in nature.

Results: The uniqueness and uniqueness of each community, caused by natural, cultural, historical, religious and other factors, do not devalue the steady trend of the development of society towards the rationalization of public life, democratization and humanization of political regimes, the expansion of the rights and freedoms of citizens. Modern concepts of law as a special connection of the individual with the state endow the property of universality of human rights, and the legal concepts of freedom, equality and justice underlie their recognition and protection.

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Conclusions: Modern standards of progress are inseparable from the concepts of freedom, equality and justice and can be acquired by society only in conditions of civil consent. Progressive in the genesis of the state and law is the direction of their development, which frees man and society from irrational, based on ideological misconceptions, religious, class and other prejudices, rules of behavior.

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I. INTRODUCTION

The theoretical significance of the problems of civilizational progress in its relation to the socio-political structure of society was reflected in the arguments of ancient thinkers of the Antiquity era. In modern times, this issue has been explored in their works by the theorists of European social and philosophical-legal thought I. Kant, G. Hegel, K. Marx, N. Y. Danilevsky, O. Spengler, A. Toynbee and others. The purpose of this work is to identify criteria for social progress that correspond to modern ideas about what is proper in public life and political and legal reality.

Social progress is understood as a global process based on the achievements of politics, law, science and technology, the development of society from lower to higher states. This process is not linear

and is burdened by various deviations (regression) related to historical, cultural, religious and other circumstances that generate significant unevenness in the cultural, social and technological development of various States and peoples. An inseparable element of social progress is also the development of theoretical and legal knowledge as a progress of ideas, theories and views on the proper structure of society, the state and law. People's ideas about the role and place of the state and law in the political system of society, state-legal processes and phenomena, the deontology of interaction between the state and the individual have a direct impact on culture, economics, spiritual life, well-being and security of society.

II. MATERIALS AND METHODS

Discussions about the methods and tools that the state can use to ensure a high level of social well-being and an optimal state of individuals, social groups and society as a whole (Medvedeva, 2018) require defining criteria for a progressive state and direction of development of the political and legal system.

The concept of well-being, representing a self-assessment of conditions significant to an individual (health, material prosperity, security, etc.), has such a subjective perception and multidimensional character that, having come to the attention of ancient philosophers, it has not received a generally accepted definition to this day (Aristotle, 1983). Social well-being aggregates economic, social, cultural and other factors that determine the absence of risks and threats to normal life and reality satisfying individuals (Shaminov, 2003; Jahoda, 2011). Well-being was the main characteristic of a full-fledged and productive human life at any stage of the historical development of society. If in societies that had no idea of the social purpose of the state, the rule of law and human rights, such reality correlated with the conditions for human survival, then in a society that has adopted modern standards of democracy and a welfare state, it also includes the socio-cultural needs of a person for self-realization.

The concept of progress in the development of the state is inextricably linked with the definition of positions on two conceptual issues of philosophy in general and philosophy of law in particular. The first of them is related to the question of the very possibility of a regular and progressive development of society in general. The second relates to the search for universal values that determine the points of reference on the scale of civilizational development, methods and

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principles of the exercise of state power and the ultimate goal in the existence of the state. The search for answers to these questions was started. Kant, who suggested that the history of mankind has not only a permanent progressive direction, but also a final goal in the form of gaining freedom and a just structure of society (Kant, 1966).

III. RESULTS AND DISCUSSION

History does not know societies and states in which the social and legal reality would be perfect. At the same time, the progress of civilization is undeniable. According to G. Hegel, the progress of the state (and the peak of the historical process) It consists in ensuring freedom through socio-political institutions. The prerequisite for progress is the primacy of philosophical and legal ideas in relation to legal reality. The development of law and the state, following the ideas of the common good, should be subject to theoretical concepts; Philosophical teachings that have elevated man should dispel the inertia of traditionalists, who are satisfied with the existing order (Hegel, 1990).

In the 21st century, despite all the achievements in science, technology and the social sphere, attempts to mythologize mass consciousness are still ongoing (and not unsuccessfully) in some countries. The very possibility of legal progress is called into question, or it is associated with phenomena of the "historical and national archetype", "cultural code", "legal environment", etc. that do not exist in reality. Taking into account such mystified factors based, among others, on religious misconceptions, power dictates, vices in education, lack of information, etc., serves, in essence, the purpose of justifying political and legal systems based on traditional principles of unfreedom, inequality, and injustice that have developed over a long period of time.

Man is irrational by nature. This is explained by the finiteness of human life, which arises and, as a rule, does not stop at the will of man, his defenselessness to dangers and diseases, the imperfection of the human psyche, the complexity (or impossibility) of exhaustive scientific knowledge of the real essence of things and phenomena, forcing resort to transcendental practices. Social reality is also not characterized by rationality: there has always been and continues to be imperfection of the social order, injustice in the distribution of resources and income, social conflicts and wars.

Only collective intelligence as a property of interaction between recognized authorities, the bearers of new ideas, can counteract the irrationality of man and the human community. The joint development of knowledge-based ideas is able to overcome individual cognitive distortions and limit irrationality. Symbiotic intelligence, by expanding the possibilities for interactions between people capable of producing ideas, increases the array of social knowledge. In this

case, a collective solution is more effective than the best of individual solutions (Flew, 2007).

The entire history of human civilization and the development of states represents a movement from an irrational state towards rationality, from an inhumane reality towards humanism. Despite the tragic events of the twentieth century, associated with the world wars and many local conflicts that claimed millions of human lives, humanity's progress from an irrational state to a rational one, from cruelty and inhumanity to humanism is obvious.

This movement is based on the awareness of the rationality of freedom, equality and justice not for selected classes, social strata and groups, but "for all", and is objectified in the political institutions of various states that choose the democratic path of development (Fukuyama, 2007). States whose legal reality consists in moving from slavery to freedom, from discrimination to equality, from chauvinism to internationalism, from the cult of war to nonviolence, from slavery to freedom, from authoritarianism to democracy, from the rule of force to the rule of law, clearly show a clear advantage in the well-being and security of people's lives.

Indicators of the state's progress (average life expectancy and its quality, and the level of income of the population, access to education and medicine, etc.) directly correlate with the real existence of democratic institutions that ensure equal access to government for citizens, and liberal discourse in politics and law. The regressiveness of undemocratic political regimes has been repeatedly and comprehensively proven by human history: states whose law and mechanism do not create conditions for coordinating the interests of various social groups, do not strive for rationality and humanism, but reflect religious, national, class or other segregating essence, are incapable of effective development. Thus, the conditions for the progress of the state and, at the same time, its criteria are: the measure of human freedom, the recognition of the individual's right to a decent life, the protection of citizens, the real ability of citizens to participate in government, the subordination of the state and its political elite to law.

Ideas about progress in the public and individual consciousness are inseparable from assessing the social structure to the extent to which it corresponds to the specified values and the goals derived from them. The measure of a State's progress is the degree to which its legal system perceives values that are considered universal, i.e., of absolute importance to the vast majority of citizens, regardless of time and geographical limits.

A comparative analysis of the main macroeconomic indicators reflecting general trends in the development of states with different political and legal regimes shows that the greatest successes in the economy, which plays a crucial role in the development of society and forms the basis of all social relations, are

achieved by countries in which human rights and freedoms are not only proclaimed the highest value, but also filled with real content.

Values related to the principles of freedom and equality of citizens before the law and aimed at achieving social harmony are highly correlated with the postulates of liberal ideology, which proclaims the supremacy of human rights and advocates minimizing government interference in the life of society and its constituent individuals. Liberal values are based on rationalism, which originates from the philosophy of Socrates, who believed that before people can know the world, they must know themselves (Nersesyants, 1996). Rationalism as a method based on the liberation of the individual and society from a mystified view of reality, including in the political and legal sphere, allows not only to perceive the appearance of things and phenomena, but also to penetrate into their essence.

Rational thinking requires the participation of the mind in the realization of the experience gained. Hence, religious values cannot be recognized as universal. There are thousands of different religions and their denominations on Earth today. All of them, at least, do not show goodwill towards non-believers, and, at worst, they call on their followers to destroy supporters of other views on the world order (Zelenkov, 2007). This is confirmed, for example, by the Arab-Israeli conflict, which has lasted for decades and claimed thousands of lives. It is based not on rational, but on religious reasons, and is essentially a clash between two civilizations at different levels of social and state development. This example also shows that more progressive States are those whose political and legal systems are able to curb the dangerous manifestations of herd (religious and other) instincts of the population.

The postulates of influential secular ideologies that make the "value" of an individual dependent on his belonging to a certain social stratum, class, stratum and do not define as the highest value of any person and his rights cannot be recognized as universal.

Universal values, as well as the achievement of their corresponding goals, are incompatible with any kind of undemocratic political regimes. The degree of discrimination and violence based on gender and race, nationality, belonging to a religion or denomination, social group, worldview and ideology characterize not only the magnitude of the regression of law, but also is an indicator of the degradation of the entire society. Attempts to restrict personal, civil and political freedoms under the pretext of expediency, legality, security, etc. They cannot serve the stated purposes, since they contradict the ontology of law and its deontic logic. Inhumane events related to social and military conflicts that cast doubt on the progressive direction of the development of the state, law and human civilization as a whole, become possible as a result of the destruction of axiological components in the legislation and legal

practice of some states. Public and individual consciousness is the basis of the corresponding legal reality. The denial of the humanitarian character of law, the normative consolidation of false sociological theories is a sign of defects in public legal awareness and legal culture. This inevitably leads to a deep regression of society and the state (Germany, 1933-1945), threatening not only serious social upheavals, but also global catastrophes. Axiological rationality, expressed through universal basic values mediated by the natural law concept of legal understanding, does not come to the fore in everyday legal activity. However, at critical moments in human history, it becomes in demand and becomes dominant (the Nuremberg trials of 1945-1949).

The history of the development of various states and political systems shows that the more traditional the legal system is and tends to reflect on political, ideological, religious or other similar dogmas, the less success a society has on the path of social progress, stability, security and social harmony (Antonchenko, 2022; Antonchenko, 2023). The degree of political, civil, socio-economic freedoms and cultural rights is directly reflected in the level of development of the sphere of innovative scientific and practical achievements. Social freedom and social progress create a powerful impetus in the development of science and technology, the introduction of advanced innovative solutions in everyday life. It is obvious that the methods of exercising political power, the attitude of the state towards the recognition and observance of human rights and freedoms, and political freedoms directly affect the entire range of indicators of society's development, determining not only the progress of social institutions, but also technical and technological progress.

The development of the State is inseparable from the evolution of law. These processes are dialectically related: they have mutual influence and are mutually conditioned. Progress in the development of law is primarily related to the humanization of legislation, law enforcement and the entire legal reality. The classics of social and political-legal thought, who compiled philosophical teachings on personality, society, state, law and morality for mankind, saw progress in fair civil governance based on unconditional respect for the individual, individual rights and law in general. The categorical imperative of I. Kant's deontic moral philosophy (Kant, 1995), which is a way of assessing the motives of an act, essentially boils down to a well-known everyday rule: "Behave towards others the way you want others to behave towards you." At the same time, it took centuries for this simple formula, which defines the moral foundations of law and the state, to become the property of European public consciousness and the political and legal activities of states.

There is a widespread opinion in legal science that a unified understanding of the progress of law is

hardly possible due to fundamental differences between the models of development of legal relations (Soviet, socialist, Western liberal, fascist, etc.), different doctrinal approaches to values, and differences in the social and spiritual "lining" of statehood (Mordovtsev A. Yu. and others, 2018). Proponents of such a denial are right, but only in a narrow sense: legal progress within the framework of a single political system and from the point of view of a separate society (social group, stratum) may indeed have significant differences and even a negative sign (i.e., be a regression) in comparison with the ideas of "progressive" in other states.

Critics of the general civilizational and universal understanding of the progress of law do not miss the opportunity to refer to the law of Nazi Germany, which, according to German lawyers of that time, was assessed as a "qualitative breakthrough in power relations" because it brought obvious positive changes in the system of power and government. The collapse of the Third Reich, however, only confirms the principle of the existence of universal values and rights: – universal values (life, health, freedom, equality, security) objectively exist; – their existence cannot be limited to a single state, party, political system, class, and ideology; – the progressivity of law is determined by the degree to which legal norms correspond to universal values. It is no coincidence that the controversial intellectual legacy of Karl Schmitt, one of the most prominent critics of liberal democratic ideas, is linked to his service to the Nazi regime (Guzikova, 2015).

The depravity of the ancient formula *Auctoritas, non veritas facit legem*¹ is confirmed by the whole human history. The overbearing assertion of criminal (from the point of view of natural law) values; their consolidation in legislation; propaganda, appropriately influencing public awareness of justice – all this determines the criminality of the goals of state development, as well as the means and methods of achieving them. Ultimately, this leads to the collapse of the political system, the destruction of the state, which, in turn, generates extremely negative consequences for society and incalculable disasters for citizens.

The progress of law is reasonably understood as the development of the legal system, which, by qualitatively improving the legal reality, serves the interests of achieving new socially significant goals (Barsukov, 2004; Malko and others, 2013). Humanity first discovered these goals in the era of the European Enlightenment, which questioned the existing order of power and traditional institutions. Thus, the revision of the role of religion in Western European culture in the 18th century, which has always been one of the most influential factors in the public consciousness, gave a powerful impetus not only to scientific, philosophical and

social thought, but also to social and technological progress.

Later they were formulated in the trinity of "freedom – equality – fraternity", which became the motto of the Great French Revolution. The ideas of liberalism, which oppose clericalism and absolute power, proclaiming the highest value of the rights and freedoms of every person from the oppression of the state, religion and traditions, are universal and, therefore, undoubtedly progressive. A law based on these ideas, giving them the properties of formal certainty and guarantee by the State, will also be progressive. Libertarianism of the twentieth century (V. S. Nersesyants, V. A. Chetvernin et al.), continuing the traditions of classical liberalism, formulated a modern approach to understanding law, linking it with values and goals: "law as formal equality", "law as freedom", "law as justice" (Nersesyants, 1997). Speaking of law, it should be understood that it itself, as such, is evidence of progress. The dialectical interrelation of natural law and positivist doctrines of legal understanding is an instrument of progressive transformation of public life. From this point of view, non-progressive law is not law, just as positive law, in isolation from its objective legal essence, can be illegal. This approach to the progress of law sets a vector for improving legislation that can be considered progressive: everything that frees a person from oppression, increases the level of his well-being and security is progressive. This conclusion is valid in any society, regardless of the specific conditions: national characteristics, historical situation, general and legal culture, and other factors.

IV. CONCLUSION

Civilizational processes follow a certain pattern that influences the development of society, the life and worldview of people. Political power, constitutionalizing law as a special institutional phenomenon, determines a certain political regime; its nature has a direct impact on the well-being of individuals and society. The state of law and order, legal awareness and legal culture. Despite the negative social transformations that have taken place in the history of mankind and have occurred in recent times, related to violence, wars, arbitrary rule, ideological and religious misconceptions, the development of the state and law has a progressive character.

Within the framework of a social system, it is possible to achieve the individual well-being of one person or an insignificant group of people, but this situation is typical of hierarchical societies of the past, characterized by social inequality, lack of civil and political freedoms. General social well-being is possible with mutual consideration of individual and public interests, achievable only in a social rule-of-law state that ensures openness in the relationship between the individual and the political system (Bukina, 2015).

¹ "It is not truth that creates the law, but power"

Modern standards of progress are inseparable from the concepts of freedom, equality and justice and can be acquired by society only in conditions of civil consent. Progressive in the genesis of the state and law is the direction of their development, which frees people and society from irrational rules of behavior based on ideological misconceptions, religious, class and other prejudices. Perfect public administration does not exist either in theory or in practice.; The progress of the political and legal system is a constant process of freeing an individual from unnecessary measures of state coercion, while simultaneously and permanently seeking social consensus based on multiculturalism and pluralism. In a progressive state, it is universal values based on rational ideas that determine the goals of state-legal construction and the essence of government institutions, and influence legislation and law enforcement. The universality of values and the degree of rationality of ideas are tested by the socio-economic achievements of the state, which underlie the well-being of its citizens. Since human rights and freedoms are universal values, the state of legal reality, according to their recognition and protection by the state, characterizes the level of its development and indicates a certain degree of its political, legal and social progress (regression).

True law is always progressive. The right to freedom, equality and justice, embodied in the form of law, is a condition for the harmonious development of society and the stability of the state; legislation that does not express the desire to achieve these goals is neither legal nor, moreover, progressive. The history of mankind's existence shows that civilization develops in a directed way: from a state in which a person was a resource for achieving goals set by powerful elites to a position in which he is "the measure of all things" (Volkova, 2019). The function of a progressive state is to ensure this direction of development of society.

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