



Subject of Sociology of Law in the Legal Order of Modern Globalized Society

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Abstract: *The state is a social community that represents a multitude of individuals and the interactions between them. From this, we conclude that the state is a legal and a social being.*

Max Weber claimed that the assignment of sociology is “to understand social behavior through interpretation.” Both then and today, the subject of the sociology of law is social behavior.

The legal order encompasses, analyzes, and acts on the actions performed by persons as citizens or bodies of the state who interpret their behavior. The state is a social reality within the legal order because all individuals belonging to the same state constitute a unity, i.e., one state’s population. The population is one of the three basic elements of the state. According to these same constituents, the sociology that studies the state is interested in analyzing that behavior.

This paper will specifically analyze human behavior oriented towards the legal order, the normative character of the state, the problem of society in a globalized world, and the impact of globalization on the legal system through the movement of individuals in legal systems and societies.

1. INTRODUCTION

Modern globalized society is experiencing a rapid flow of noticeable changes at all levels and in all segments. Thus, the legal order causally suffers and implements all the innovations imposed on the everyday life of the modern age, with this type of change necessarily including the adaptation of the entire current legislation to the causes of global cycles.

To know objective law, man, as a rational and intellectual being, has to know under what circumstances, at what time, and for what needs a particular right was created (established). These are laws, primarily natural laws, and various normative systems; they are social (sociological) laws (Lukić, 1995, p.531).

Social behavior as a subject of sociology of law is a permanent process of turmoil and mutual relations. The product of these mutual influences is a set of phenomena and processes that, as such, affect the legal order of a state. Thus, they assign an identity to society, which is undoubtedly a significant factor in creating the overall reality which determines a state through its legal order.

The legal order is a very complex whole; it is a whole in itself, but it is also a part of the world as a supreme whole. As a part of the world, the legal order differs from the universal, natural or general social order. It also differs from the moral, economic, political, or other particular social order (Mitrović, 2015, p. 312).

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2. HUMAN BEHAVIOR AND LEGAL ORDER

Human behavior is an expression of an individual's relationship to the outside world. This relationship must necessarily be defined by legal norms, first, and then by all other forms of behavior. It is this segment that is the basis of the sociology of law.

A person manifests their inner state by specific actions that identify and characterize them as such. If these actions are under the state's legal system, they will be socially acceptable or socially justified. However, any behavior that deviates from the legal system of the space where it manifests is viewed as deviant (which does not have to be, but the legal system through legal norms sets a uniform form of behavior and makes a global unification).

An intelligent being must always regard themselves as legislative in the realm of purposes, and based on will, whether as a member or chief in it. The position of chief cannot maintain only the maximum of their will, but only if they represent a completely independent being without the need and limitation of their power which is adequate to the will (Kant, 2008, p.81).

It is essential to point out that no legal order can be maintained without the political organization of the state and society. In that sense, the individual is a creator within the same state, so it is not free and left to social creation. Hence, human behavior as a form of personal manifestations is not limitless in sociological and legal terms.

From the point of view of sociological observation, a "political" organized group, and especially a "state", cannot be defined based on the content of what it does. There is almost no task that would not be accepted here and thereby a political group. On the other hand, no task could be said to have at all times, even always been exclusively inherent in those organized groups called political, and today states, or which have historically been the forerunners of modern states (Weber, 2014, p.47).

Sociologically, the modern state can be defined exclusively based on "the means of physical violence available to the state." Every time a government or a project communicates without discussion of accepted norms or fully achieves recognized goals, as well as in all cases where it does not need to conform to norms and does not want to pursue specific goals, it will escape criticism and correlative processes of justification (Perelman, 1983, p.46).

What is vital for the sociology of law, and even for the aspect of contemporary analysis in the global world, is precisely the thesis that "Man, even when he is alone, is not alone - because even then, he is part of society." Precisely, such a man, an individual, is the creator of social processes, set as a link between the totality of the human and the totality of the normative.

Progress in the development of the state and law represents a constant increase in the demands placed on individuals. Society is becoming greedier and demanding because every satisfied need carries the germ of a new one. Additionally, every new goal that is added to the previous ones on the list of social goals increases due to the labor force and the money it requires and the contribution required from individuals. Since this contribution must be provided by coercion, it increases the engagement of the social apparatus of coercion for the needs of society (Jering, 1998, p.223).

3. NORMATIVE CHARACTER OF THE STATE

Roughly speaking, the normative character of the state is reflected in the systematization of the legal order of society and the strength of the norm as a social rule contained in a commandment.

Social norms regulate various social relations, so there are different types: politeness, etiquette, decency, tact, fashion, hygiene, etc. However, the most important social norms are ordinary, moral, and religious - their set makes up the normative social system because they exist in parallel with the norms of numerous social organizations and the state as a unique social organization (Mitrović, 2015, p.158).

The normative element is the essential part of the legal order, composed of legal norms and legal acts, as a manifesto of internal (psychic) actions that create legal norms or define the circumstances for their application. A state exists when there is a political apparatus that enables governance (institutions such as parliament or congress and state bodies with officials), the territory it governs, the legal system that supports it, and the ability to use military force to conduct its policies (Giddens, 2001, p.220-221).

Anthony Giddens sees the concept of the state established in this way as necessarily national because he believes that all modern states are national. This attitude is in direct contrast to globalization trends and the influence of global institutions on the country's normative character. Then, the unequivocal question arises, "Is there national globalization, at all?"

The rhetorical phrase thus declared and defined annuls national individuality in the global society, which immediately puts aside the story of the normative character of a state because that character can be exclusively national opus; any supranational character would strive to create national globalization. What does that mean? Sociologically speaking, it means that the world is divided into enlarged colonies. They have retained their national character, and legally speaking, they have been unified through a handful of international agreements, multilateral trade, and other agreements.

The sociology of law encounters a serious challenge here, as it observes and analyzes the social component of the law. Therefore, we do not deny that the reality of social life is effected through a subjective longing and aspiration that, in the natural process of its origin — though it is difficult to expose it precisely because of its endless complications — grows out of the given social circumstances. Law, and a particular way of some social life with it, has in reality always appeared as a result of power; and we are given little justification to predict something else for future times (Stamler, 2001, p.379).

The state is the creator of the normative concept as long as it has sovereignty and territorial integrity elements. The moment it loses these competencies, it experiences auto decadence and becomes subordinated to the stronger tasks.

4. THE PROBLEM OF THE SOCIAL MOVEMENT IN THE GLOBALIZED WORLD FROM THE ASPECT OF THE SOCIOLOGY OF LAW

One of the most complex sociological problems is the movement of society. In this process, everything is in question: whether there is a movement of society at all or the society is not

moving; what movement means; what causes the movement of society; can some regularities or regularities in the movement of society be precisely determined?

Let us look at some of the most general elements of society, such as people production, material production, culture, and similar. We can say that society does not move and does not change because these elements always exist and are always in the same relations.

If we look only at these elements or the relations between them, we will see how they move since the production is always different. If we go into further detail, observing in longer time sections - the movement is more and more pronounced (Lukić, 1995, p.346). The problem of the movement of society in a globalized world is taking place through political globalization.

Along with the course of economic, informational, and other forms of globalization, in almost all parts of the world, there were various forms of connecting states on a regional political basis. This process went the furthest in Europe, but even on this continent, political globalization was not yet a clear and solid institutional form that would be compatible with the flows of economic integration (Mićović, 2001, p.174).

Modern capital flows have contributed to economic migrations, showing a complete escalation in the second decade of the 21st century. Economic migration implies going for work; it is one character of modern sociological trends. The other character is the mobility of factories as a station of production to places (countries) where labor is cheaper.

Both types of social movement in the globalized world give the sociology of law a new hypothesis of studying the legal framework of states and the rights of individuals. This is logical given that globalization is a speedy process; migrations are massive, frequent, and difficult to control. This type of social movement is more of a social danger than a benefit in the modern world.

Recent history shows the hidden intentions of migration processes. From that aspect, we must not leave it a chance that this type of movement of society is just another one of the controlled phenomena. Such processes cause absolute global inequality of society, which will only be manifested in the future. Companies with a steadily growing middle income are fundamentally different from companies in stagnation because the average income growth creates a “space” for the growth of inequality (Milanović, 2016, p.58).

5. THE IMPACT OF GLOBALIZATION ON THE LEGAL SYSTEM

The state's legal system is inextricably linked to the territory, population, and government of the same state; in fact, one does not exist without the other. As a class organization of government, the state implements the legal order precisely according to the legal system according to which it is organized. This interdependence is reflected on both the micro and macro levels. That is, every legal norm has an impact on the identity of a company and vice versa.

In a globalized society, national legislation is forced to adapt to global legal trends, which does not always imply the involvement of the national interest (it should, but in practice, it is not so). Globalization and greater mobility of capital in the second half of the twentieth century have increased, if not through frequency, then, through the transparency of financial crises in the world.

Let us mention the crises that have affected less industrialized countries around the world; they are most strikingly related to the South American continent, e.g. The Mexican, Brazilian, and especially Argentine crises. We can also mention the Yugoslav crisis from the beginning of the nineties and the East Asian and Russian crises from the end of the nineties of the last century. One of the most striking ones was the crisis of the European monetary system in 1992 (Grbić, 2008, p.9).

Social and economic crises manifest their consequences on the global population, which is the effect of a globalized society, because in this case, “everyone feels everything”. Often, the legal system is powerless in such situations. As we said, it protects the nation-state and gives it full sovereignty in economic, monetary, and all other aspects necessary for the state’s stable work (functioning).

Dissatisfaction with globalization is palpable in developed countries. It was not the only force, but it was such a powerful force that even if there were no technological changes or progress, it allowed the replacement of unskilled employees with machines.

Globalization itself could be and probably is, more difficult for a large number of unskilled workers. Therefore, globalization is more than trade - it is also the movement of capital, people and ideas across borders (Stiglitz, 2018, p.62). As its bad side is becoming more and more pronounced, globalization is being given a negative framework. However, this type of presentation certainly gives a clearer picture of globalization’s positives and negatives. What is more, it is undoubtedly a severe blow for the nation-state that directly reflects on the legal system.

6. CONCLUSION

The subject of the sociology of law in modern society is the same as in the traditional one, in which it emerged as a scientific discipline. But, society is not the same.

In this paper, special attention was paid to presenting those features of modern society where a retrospective of society’s movement and development comes into play. We have also built this paper referring to 18th and 19th-century sociology of law thinkers and those who deal with this topic today through the prism of modern social trends. The purpose of this paper is a comparative presentation of the social movement and the example of the legal order in general.

Globalization as a phenomenon is increasingly showing its ugly sides, which is reasonably expected because every world concept has its lifespan, and so do globalist trends. The topic covered can be subsumed under both philosophical and legal, but also under the sociological field. Here, the facts are explicitly presented, proving that the subject of sociology of law, both at its inception and today, is the same way that society suffers justified changes. The most important capital in the world is the human resource - humankind. In all phases of change and influence, humankind is the bearer, the creator, and he only suffers the consequences of human creations.

REFERENCES

- Giddens, E., (2001). *Sociology*. Podgorica, Montenegro: CID
 Grbić, V., (2008). *Globalization and sustainable development*. Belgrade, Serbia: Megatrend University
 Jering, R. F., (1998). *The goal is right*. Podgorica, Montenegro: CID

- Kant, I., (2008). The foundation of the metaphysics of morality. Belgrade, Serbia: Dereta
- Lukić, R. D., (1995). The system of the philosophy of law. Belgrade, Serbia: Institute for Textbooks and Teaching Aids Belgrade and Belgrade Publishing and Graphic Institute
- Lukić, R. D., (1995). Fundamentals of sociology. Belgrade, Serbia: Institute for Textbooks and Teaching Aids Belgrade and Belgrade Publishing and Graphic Institute
- Mićović, V., (2001). Globalization and the new world order. Belgrade, Serbia: Whose press
- Milanović, B., (2016). Global inequality. Novi Sad, Serbia: Akademska knjiga
- Mitrović, D. M., (2015). Introduction to law. Belgrade, Serbia: Faculty of Law, University of Belgrade
- Stamler, R., (2001). Economy and law. Podgorica, Montenegro: CID
- Stiglitz, J., (2018). Globalization and its contradictions. Belgrade, Serbia: Miba Books
- Weber, M., (2014). Country. Novi Sad, Serbia: Mediterranean Publishing