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Legal Genesis: A Conceptual and Methodological Approach

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The study of the conceptual and methodological foundations of legal genesis not only helps to formulate the concept of law, but also to determine the continuity, essence, and functions of jurisprudence. The origin of law shows its deep origins, makes it possible to understand the interaction of objective and subjective factors, projects patterns of legal development.

The purpose of the research is to determine the main directions of legal genesis, taking into account new scientific data, various doctrinal theories, to identify the role of pre-and protolaw, its connection with natural and positive law, to comprehensively consider this process.

Material and methods. *The research material was educational and scientific literature, conceptual approaches of leading pre-revolutionary and modern authors on the problems of legal genesis, anthroposociogenesis, ethnology, ethnography, archeology and history. Main methods: dialectical-materialistic, system analysis, interpretation of law, comparative studies, legal modeling.*

Results and their discussion. *The article attempts to unify the variety of factors of legal genesis in a hypothetical presentation. The origin of law is regarded as a natural evolutionary-revolutionary process in the system of social regulation of the state and society.*

Conclusion. *The variety of factors of legal genesis forms its integral objective picture. The process is mainly due to internal political, economic and humanitarian reasons, the complication of managerial functions, the development of the regulatory system of the producing form of economy. The law arises as a result of the splitting of mononorms and the emergence of new positive-binding rules of behavior due to a different organization of production, distribution and power. Monopolization and democratization of the legal sphere go hand in hand.*

Key words: *primitive society, law, state, legal genesis, archaic law, natural law, positive law, mononorms, judicial process.*

Правогенез: концептуально-методологический подход

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Исследование концептуально-методологических основ правогенеза не только помогает сформулировать понятие права, но и определить преемственность, сущность, функции юриспруденции. Происхождение права показывает его глубинные истоки, позволяет уяснить взаимодействие объективных и субъективных факторов, проектирует закономерности правового развития.

Цель работы – определить основные направления правогенеза с учетом новых научных данных, различных доктринальных теорий, выявить роль пред- и протоправа, его связь с правом естественным и позитивным, комплексно рассмотреть указанный процесс.

Материал и методы. *Материалом исследования послужила учебная и научная литература, концептуальные подходы ведущих дореволюционных и современных авторов по проблемам правогенеза, антропосоциогенеза, этнологии, этнографии, археологии и истории. Главные методы: диалектико-материалистический, системного анализа, толкования права, компаративистики, правового моделирования.*

Результаты и их обсуждение. *В статье предпринята попытка унифицировать многообразие факторов правогенеза в гипотетическом изложении. Происхождение права рассматривается как закономерный эволюционно-революционный процесс в системе социального регулирования государства и общества.*

Заключение. *Многообразие факторов правогенеза формируют его целостную объективную картину. Процесс обусловлен преимущественно внутренними политико-экономическими и гуманитарными причинами, усложнением управленческих функций, развитием нормативно-регулятивной системы производящей формы хозяйства. Право возникает в результате расщепления мононорм и появления новых позитивно-обязывающих правил поведения, обусловленных иной организацией производства, распределения и власти. Монополизация и демократизация правовой сферы идут рука об руку.*

Ключевые слова: *первобытное общество, право, государство, правогенез, архаическое право, естественное право, позитивное право, мононормы, судебный процесс.*

The most important condition for anthroposociogenesis, the formation and development of society and the strengthening of the state is legal genesis (from). Legal genesis (Greek. genesis – birth, origin) is the moment of origin, emergence, the process of formation and development of a qualitatively new regulatory system. This is the process and result of the natural development of means and methods of regulation and protection of a state-organized society. Legal genesis is associated with quantitative accumulations, a break in gradualness and an abrupt transition to a new qualitative state. It is carried out on the basis of certain prerequisites created by the previous development associated with the transformation into a new system integrity. The problem concerns not only the past, the present, but also the future. It leaves its imprint on the essence of the state-legal reality, its functioning and improvement.

According to the pre-revolutionary "patriarch" of jurisprudence, Professor N.M. Korkunov (1853–1904), the most difficult question of jurisprudence is to explain how law originally arose and the very idea of law appeared [1, p. 112]. It is also necessary to solve – what came first, the idea of law, or the law itself? Does it arise arbitrarily or consciously, who, what creates it and for what? In accordance with this theory, N.M. Korkunov explained the origin of law either by the dictates of authority, government or contract: "It turns out to be a vicious circle – legal norms are established by contract, and the binding nature of the contract is the historical formation of a legal norm" [Ibid., p. 101]. The contractual establishment of legal norms already presupposes the existence of law. The pre-revolutionary Russian lawyer of the beginning of the XX century, professor of Philosophy of Law I.V. Mikhailovsky (1867–1921), argued that the question of the origin of law had not been solved by science and existed only in the form of hypotheses [2, p. 221]. The teachings on the origin of law usually interact closely with the concepts of the origin of the state, although they contain a lot of specific things. The study of this problem is far from complete. It is genetically related to the understanding of law and the purpose of all jurisprudence.

The purpose of the research is to determine the main directions of legal genesis, taking into account new scientific data, the analysis of doctrinal theories, to identify the role of archaic law, its formation and development, the connection with natural and positive law, a comprehensive consideration of this process.

Material and methods. The research material was educational and scientific literature, conceptual developments of leading pre-revolutionary and modern authors on the problems of legal genesis, anthroposociogenesis, ethnology, ethnography, archeology and history. Main methods: dialectical-materialistic, system analysis, interpretation of law, comparative studies, legal modeling.

Results and their discussion. The process of the origin of law has not received an unambiguous solution among scientists due to its complexity, versatility, remoteness in time, the presence of specific features of geographical, climatic, historical, national, religious, economic, social, political, cultural development. When analyzing this phenomenon, it is necessary to take into account different approaches of the authors, different conditions, circumstances of objective, subjective, natural, state, internal and external order, evolutionary and revolutionary. The process of primary (archaic), secondary, revived emergence of law, natural and positive law should also be borne in mind [3, p. 50–51]. Due to the diversity of law, we can talk about the origin of ideal and positive, natural and artificial law, typical and atypical, traditional and modernized law, earthly and eternal, oral and written law, real and virtual, typewritten and machine-readable law, the law of claims and privileges. It is necessary to clarify the subject of the study mainly by the origin of customary law, which included the law as an act of princely, royal power.

Natural law is desirable, ideal, intuitive, pluralistic, based on human rights and freedoms, their equality from birth, morality, Nature, God. There is no single concept of natural law, its forms and sources. It develops naturally, of course, exists orally, as established and recognized rules of behavior in society, fixed primarily in customs and traditions. It is believed, that it is based on the absolute idea of law, its principles, requirements, the natural order of things, God's will and justice, human nature and his mind. The source of natural law is the hope for a better life, morality, conscience, legal awareness, democratic aspirations, communicative, dialogical environment. The well-known lawyers Jerome Stroynovsky, Kazimir Narbut, Anthony Zagursky (XVIII century) adhered to the natural-legal views on the Belarusian lands. From the standpoint of natural law in the XVI–XVII centuries, the need to embody justice in the laws adopted was justified by F. Skorina, S. Budny, M. Litvin, A. Volan, A. Olizarovsky, etc.

Positive law (Latin positivus – positive) is the norms created or recognized by the state (the world community), having a specific content and form, uniform, binding rules of conduct for the whole society, existing in written (digital) form. The term positive state law was introduced into legal science and practice at the end of the XVI–beginning of the XVII century by the Dutch thinker G. Grotius as opposed to natural and divine law [4, p. 264]. The dualism of natural and positive law is imaginary, because in fact, it presupposes unity, since without the first there is no second and vice versa.

There are theological, patriarchal, natural-legal, historical, normative, psychological, Marxist, dialogical, communicative concepts, etc., which have their pros and cons, activating attention on various aspects of the origin of law. The authors of the theories deduced law from customs, faith, the life of the patriarchal family, natural inalienable human rights, the people's will, the national spirit, the creation of a "peaceful" environment, the state monopoly on the use of force, the psyche of people, class antagonisms, the will of the ruling class, consent, etc.

The origin of law is connected with the development and decomposition of primitive society, in the depths of which its prerequisites are formed. The emergence of law is an indicator of the disintegration of the unity of a primitive society based on traditions, myths, and anthropomorphism. On the other hand, it is an attempt to bind, consolidate society with the help of legal norms that have a public, binding, non–personified, formally equal character for all. Another thing is that this attempt did not lead to success and opposed one part of society to another, the minority to the majority.

The process of the origin of law is, first of all, a process of long-term social evolution and a qualitative revolutionary leap in the system of social regulation associated with both the development of the individual and society. At the same time, the anthropological constants of man (openness to the world, plasticity of the instinctual and intellectual structure) are aimed at adapting, creating, constructing their own nature, which, of course, includes law and the state as factors of stability, order, management, designed for joint life. At the same time, the inner mental life of a person receives an externally expressed (symbolic and social) form of its existence (exteriorization) [5, p. 135].

Among the social factors, scientists distinguish the following: the prohibition of incest; the improvement of marital relations; the development of culture with its rituals; the formation of human consciousness; the establishment of intertribal and new communicative ties [6, p. 5]

The talented pre-revolutionary philosopher V.S. Solovyov (1853–1900) deduced the origin of law from the instinctive ancestral mind, ancestral (folk, tribal) spirit, a custom, a contract aimed at achieving common benefit. According to the author, it is from the meeting of individual freedom and public welfare that law is born [7, p. 6–9, 39]. At the same time, it is impossible to discard both the personalized and collective power interest that moved people when seizing power and formulating rules of behavior. The Russian scientist A.F. Cherdantsev considers that objective (natural) reasons for the origin of are the production of material goods; the production of the person himself; the complication of public management functions; the development of the normative, regulatory system of society, its ideology (taboos, myths, rituals) [8, p. 53–54]. The transition from potestar (public) power to public power played an important role in the origin of law. This required the emergence of a new system of social governance – law, which was able to perform both general social and class (elite) functions in the new conditions. Only the public authority in its legal guise could ensure the economic development of society, the management of the territories of public education, the publication of mandatory regulations for all, the use of public coercion, the protection and expansion of its borders.

According to Professor A.V. Polyakov, the problem of legal genesis is closely related to the process of ethnogenesis (an ethnos is a collective of people with a special internal structure and an original stereotype of behavior that opposes itself to similar collectives). In his communicative theory of law, A.V. Polyakov relies on the teachings of L.N. Gumilev (1912–1992), the creator of the passionary theory of ethnogenesis, who wrote that an ethnos at the time of its origin is a group of similar individuals who adapted a certain landscape region to their needs and at the same time adapted themselves to it.

In order to maintain the achieved ethno-landscape balance, it is necessary that descendants repeat the deeds of their ancestors at least in relation to their surrounding nature. In historical science, this is termed tradition [5, p. 140–141].

The concept of interaction between natural (primeval, primitive, early, archaic, ancient, traditional pre-law, proto-law) and positive law created and conditioned by the state deserves attention. They are related to each other, but not identical. At the same time, natural law appears in the form of customs, rites, rituals and develops earlier, carrying out social regulation in primitive society. Then it is fixed in positive law, relying on the power of the state. The subject of the origin of archaic law relates primarily to legal ethnology.

It is necessary to agree with the position of the Russian professor V.V. Ershov that initially the law appeared as a result of an agreement between people (consensus) in the form of customs in law and contracts containing rules of conduct [9, p. 161].

The primitive system, which lasted hundreds of thousands of years, preceded the stage of statehood and human rights. Social regulation was aimed at limiting antisocial conflictogenic behavior through prohibitions and restrictions within the framework of the “can–can’t” model. The economic basis of primitive society was collective (primary communal) property. A characteristic feature of the community is collectivism, since in conditions of a low level of development of productive forces, a person alone could not survive. Production (hunting, fishing, gathering), management (primitive democracy) and the equalizing distribution of consumer products were collective.

The existing division of labor was due to natural and age-related characteristics. Since there was no excess surplus product, there was no accumulation of wealth in the hands of one group of the population. There was no inequality and exploitation. The whole life was aimed at preserving the whole collective, the genus.

Man was a “group” natural being. Group values held together a holistic way of life. Ancient thinking was magical, artistic and imaginative. The average life expectancy in the Ancient and Middle Stone Age was 26 years; in the Paleolithic and Mesolithic era, people lived to the age of over 30 years, in the Bronze Age, the number of people who crossed a fairly low threshold of old age did not reach 2% [10, p. 43, 66]. Causes: diseases, famine, natural disasters, conflicts, death on the hunt. However, the birth rate was also very high.

Unfortunately, the ancient man, the subject of primitive culture, is often represented as a wild and primitive being, unable to think logically and deprived of his own “I”. However, this is not a correct representation. He was characterized by collectivism, spiritual universalism and religiosity, moderation and the ability to self-sacrifice. It is their absence in modern man (as well as egocentrism, ingratitude, arrogance, loss of conscience) that leads civilization to destruction. The American ethnographer R. Barton, who studied the life of the Filipino Infugao tribe in the field, noted the high level of mental development of the people of this tribe, who had to know hundreds of gods with their functions, preferences, remember rituals, magic and myths. And since they have no books and records, they must have a memory more excellent than that of a white man. Therefore, many Infugao know their ancestors for 10 and 15 generations, as well as siblings of their ancestors. The Soviet and Russian archaeologist B.A. Rybakov (1908–2001), studying ancient Russian paganism, wrote that a simple rural magician should know and remember all the rituals, conspiracies, ritual songs, be able to calculate the calendar dates of magical actions, know the healing properties of herbs. In terms of the amount of knowledge, he is approaching a modern professor of ethnography [Ibid., p. 66–68].

A characteristic feature of primitive society was the syncretism (unity, non-separateness) of man and society, the individual and the genus, material and ideal, natural and supernatural. If at the beginning we are talking about a natural unconscious collectivity, then it turns into a collective one based on social experience, traditions, myths, rituals, knowledge [Ibid., p. 45, 58].

The forms of expression of social norms were myths, customs, traditions, rites and rituals. The forms and methods were traditional, conservative, turned to the “sacred” experience of the ancestors, preserved for centuries. The past dominated the present. This gave reason to I. Kant to declare that "the dead control the living." Since the society was based on traditions, it was called traditional. The old people were the bearers of traditions, information about the past. Old age was considered synonymous with experience, wisdom, and was endowed with high authority. Hence respect, veneration of elders, gerontocracy and patriarchy.

According to the collector of Australian myths, ethnographer W. McConnell, the main function of the myth is a set of "good and bad" examples. Man in myths was perceived as a part of nature. Hence, the characteristic feature of this society is anthropomorphism, which meant humanization, spiritualization of nature, endowing it with physical and spiritual qualities of a person, their integrity and unity. There is a hypothesis of the religious origin of social norms and law. Religion is based on the recognition by man of the activity of a supernatural agent – the souls of ancestors, deities, demons, to whom they turn for protection, help, etc. Religion was perceived as a propitiation and pacification of forces above man. Magic is based on the activity of the person himself, who is able to benefit or harm people with the help of supernatural forces ("white" and "black" magic) [Ibid., p. 66, 77]. It was the religious norm that regulated many types of social relations and subsequently created the spiritual basis of legal norms and (or) acted with them in parallel.

The problem of archaic normatics is debatable. Some authors talk about customs (pre-law), magico-religious phenomena (vows, spells, curses), morality; others (in particular, the Soviet and Russian historian, ethnographer, professor A.I. Pershits) argue that primitive society was regulated by mononorms. They combined structural-organizational, moral-ethical and religious-mythological aspects, synthesized all spheres of potestar-social relations [Ibid., p. 155].

Mononorms are unified, merged, undifferentiated norms of morality, pre-law, religion, customs, traditions that regulate the life of primitive society. They expressed the collective interests of the clan and tribe, were regulated by customs, not fixed in writing, provided mainly by force of habit, imitation (imitation); they considered prohibition (taboo) the leading way of influence, reflected the inseparability of rights and duties, as well as the unity of material and ideal, real and religious, rational and irrational.

The mononorms of primitive society regulated the appropriating economy and the potestar form of power. They were distinguished by concreteness, objectivity and casuistry, and aimed at human survival in difficult natural conditions, the preservation of the whole. However, mononorms constrained the individual initiative of the members of the genus, acted in the form of strict, indisputable rules. They ensured the biological existence of a "group" person.

However, not all scientists agree with this. According to Professor G.F. Shershenevich (1863–1912), the law did not appear as a result of the differentiation of mononorms and due to the emergence of the court as an authority, it appeared from the general mass of social rules [11, p. 114–115]. It seems that archaic law was formed largely spontaneously in the form of rights and obligations, sanctions, a special dispute resolution procedure (fights, trials by ordeal or God's judgement, the institution of an oath or vow, reconciliation of the parties, the institution of blood feud, payment of compensation, institutions of hostages, intermediaries, etc.) Court, normativity, contract, coercion, institution mutual hostage-taking, exogamous marriage were prerequisites for the formation of law. Leaders, their children, and close relatives were taken hostage. For example, in Egypt, under Amenhotep II (1450–1425 BC), 232 sons and 323 daughters of local nobles were taken out of Asia to ensure the obedience of their fathers. Then the institution of hostage-taking was turned into the institution of dynastic marriages [12, p. 12–13].

The origins of law appear in the transition period from mononormatics regulating and protecting public, group interests to legal customs that protected the private property interests of the individual from the claims of the clan and community. The origins of the law lie in the pre-legal procedure ("fictitious altercation" when the parties loudly expressed their opinion in public; public smoking of the "peace pipe" with the leader; a deadly fight with the "champion"); settlement of disputes and conflicts by mediators authorized by the society, and then by permanent courts. "Neolithic" courts as the source of law dealt with criminal, property-commercial, family-marriage disputes, inheritance issues, etc. The procedures were mainly aimed at resolving the constant conflicts around the emerging private property. The land, property, criminal, family norms were established. The judges were elders, chiefs, shamans, priests, authoritative people specially authorized by the community or tribe. The law comes from legal proceedings [13, p. 37–43]. Professor A.B. Vengerov's point of view appears convincing when he states that law arises both by splitting "mononorm" into norms of law and morality, and by the emergence of new, positively binding rules conditioned by the organization of agriculture, cattle breeding and handicrafts (sowing, crop care, harvesting, distribution, hunting, fishing) [14, p. 58].

A sharp climate change at the end of the Upper Paleolithic (12 thousand years ago), which, according to the latest scientific data, occurred due to the fall of a giant meteorite, led to the extinction of megafauna. Settled tribal communities began to break up into small wandering groups, as a result of which the clan largely weakened its regulatory and controlling functions. The mobilization of all productive forces associated with gigantic natural and climatic changes led to the Neolithic revolution, which marked a colossal technological, economic, cultural and social breakthrough [Ibid. p. 50–67]. The transition from the appropriating economy to the producing one – cattle breeding and agriculture – made it possible to receive a regular surplus product. In the new economic and social conditions, the family could already survive on its own, which weakened the family ties. There is a rapid population growth, a new institution of marriage, property and inheritance is being formed. The ancient principle of universal participation in government (primitive democracy) is replaced by the principle of proportional representation, the special role of the council of the clan, phratry, tribe. The emerging socio-economic relations required new, more mobile social regulators. The transition from mononorm to legal customs is underway. Mononorms are divided into moral norms (regulating mainly intra-tribal relations) and legal customs that consolidate into a system of customary law aimed at preventing intra-social conflicts, primarily intra-communal and intra-tribal. Millions of years of evolution, improvement of tools, forms of community, family and marriage relations led to the formation of a tribal community that united a group of relatives with a common origin, common economic activities, common places of residence and burial. All this was held together by joint rituals.

The development of productive forces, the improvement of labor tools, the emergence of surplus product, private property, classes with opposing interests, and, consequently, new tasks required a new system of social regulation in the form of law, which is dialectically, inextricably linked with the state. There was a deeper continuity between the mononorms of primitive society and the norms of law than between the organs of tribal self-government and the organs of the state [15, p. 41].

The influence of the evolution of mental processes on the legitimization of society, legal progress, personification of a person, change of his legal status needs additional research. Only a developed collective intelligence is able to create effective means of legal regulation.

Intelligence is inextricably linked with law, not only as a product, the result of its creativity, activity, but also a necessary condition for implementation, realization. Outside the law, a civilized human society is doomed to perish.

The emergence of law is the second revolutionary leap (after the emergence of a social norm) in the regulatory system, which was historically inevitable, natural and progressive. Law is not only violence, prisons, police, courts, punishment, but also, to a greater extent, progress, culture, civilization, consensus. The emergence of law has played a revolutionary role in social regulation due to the definition of a measure of proper, obligatory behavior, the emergence of a norm as a general, typical rule, measure, evaluation system. Law has acted as a powerful, stabilizing, humanizing factor, balancing relations between people, putting them in a certain civilized framework. Only the law can restrain human aggression, control it, and direct it in a positive channel. Otherwise, in the conditions of improving tools and equipment, this could lead to serious cataclysms and mutual extermination.

The origin of law has its own specifics in ancient Eastern and Western societies.

In the eastern way of the formation of law, the main means to consolidate (formalize) legal norms are collections of religious and moral teachings (the laws of King Hammurabi, the laws of Manu, the laws of the XII tables, etc.). In them, legal norms, which were usually casual in nature, were supplemented, if necessary, by ancient customs and specific orders of the monarch and higher officials. Ethicocentrism was complemented by imperativeness. The eastern path of the origin of the law was conditioned by the need to conduct large-scale irrigation work in conditions of a low level of labor productivity development.

According to the existing views, the specificity of the Western way of the emergence of law is that in order to protect the rights of owners, the privileges of the ruling class, legislation is gradually being formed that has institutionality, formalization, certainty, obligation, procedurality, regulating, first of all, power, property and personal non-property relations. Law acts as the basis for the organization of power, the establishment and consolidation of its structure. It arises as a result of property inequality, the emergence of private property and the split of society into classes. The land is privately owned. There is a constant struggle between the haves and the have-nots, where law, as an expression of a certain level of class struggle, acted as a sharp, unmixed, undistorted expression of the domination of one class over another [16, p. 418].

The ascent of law to its civilized forms was a long, difficult, sometimes contradictory process from the law of the strong ("fist law"), through legal custom, case law to contractual, statutory (positive) state law.

The Russian law theorist, corresponding member of the Russian Academy of Sciences, Professor S.S. Alekseev, linking the development of law and civilization, identified the following stages of its formation: the law of the strong, the law of power, the law of the state. In his opinion, the highest stage of civilization development, where positive law approaches natural law, is the law of civil society [17, p. 297–304]. It seems that we should be talking about a single law of a consolidated state-civil society.

A specialist in the field of the theory of the origin of the state and law, Professor T.V. Kashanina, distinguishes in the legal genesis: the stage of childhood (archaic law) from the moment of its origin to the IX–XI centuries, as tribal, folk, customary, barbaric, primitive, vulgar law, which is of a local character in the form of customs implemented by the proto-state; the stage of youth (estate or corporate law of the IX–XI centuries and XIII–XV centuries) and calls it the proto-law or the predecessor of law; the stage of maturity (developed national law XIV–XVII centuries: England – XIV century, Germany – XVII century; Russia: XVIII century – to the present), when the norms of law are formulated mainly by the legislative bodies of the state, and legal systems tend to unite into one world system of law [18, p. 217–220].

The first written evidence of the appearance of archaic law dates back to the VII century BC (Ancient Egypt), the laws of King Hammurabi – to 1792–1750 BC (Ancient Babylon), the laws of Solon – to 640 and 635 – about 559 BC (Ancient Greece), the laws of the XII tables – to 451–450 BC (Ancient Rome), Salic truth – by 496 (continental Europe), Ethelbert's laws – by 600 (Anglo-Saxon legal source), Russian truth – by 1016. (Kievan Rus) [Ibid., p. 220–221]. According to Professor A.B. Vengerov, law as an integral regulatory institution appears at the turn of the IV–III millennium BC in agro-calendars [14, p. 61].

Conclusion. It can be stated that there is no clear idea of the legal genesis, existing in the form of various hypotheses. It can be considered one of the eight objectively unsolvable (along with consciousness) world riddles, problems [19, p. 135]. It can be noted that this process is complex, stretched over time, natural (from the internal tendencies of society) and artificial (purposeful), rational (conscious) and irrational (unconscious), when the collective consciousness takes already established forms.

The study of legal genesis allows us to consider law not only as a phenomenon caused by legal technology, state lawmaking and law enforcement, but created primarily by socio-cultural factors of an objective and subjective order. At the same time, the state, in isolation from the people, is unable to completely monopolize the sphere of creation and use of law. Only law that relies in its genesis on dialogue, the complementarity of tradition and innovation, statics and dynamics, will and freedom, dialectics of form and content can remain viable. A huge role in the legitimacy of the sanctioned rules of conduct is played by the preservation of customs, traditions, rituals, intuitive law, the "spirit of the people", creating a sense of continuity, stability and confidence in the future. Law can exist only as a person's relationship with Others (A.V. Polyakov, I.L. Chestnov) [20, p. 7, 34–37, 44]. The economic reason for the emergence of law was the need to protect private property and the legal regulation of equivalent economic exchange in the emerging commodity-money relations. The birth of the law arises as a "legitimate" formalization of power by the elected, representative structures of the generic organization, the "best" people (with subsequent transfer) to streamline public relations. Law and public authority arise simultaneously, supporting, sanctioning and complementing each other, making it mandatory to comply with the rules (norms) of behavior and create a "reconciled" (M.M. Kovalevsky) environment. The transition from a "group" person to a personality led to a weakening of collective control, an increase in self-confidence, permissiveness, an increase in contradictions and conflicts in society. The emergence of law was caused by the emergence of anti-law, massive violations of mononorm, customs and traditions that undermine the normal existence of society. An external, more specific, strict, mandatory regulator was needed, behind which there would stand the formidable face of public power, the power of the state apparatus and the possibility of coercion.

The appearance of law can be judged by its following main characteristics: publicity, effectiveness (R.A. Romashov), normativity, obligation, compulsion, formalization, non-personification, procedural, etc. This is evidence of the transition of society to a civilized stage, when human individuals have a certain social freedom, exercise independent choice and bear legal responsibility on the basis of socially recognized norms of duty.

The general laws of the development of modern law are the transition from prohibitive to permissive regulation and the expansion of the scope of subjective human and citizen rights; from the estate-legal status to the legal status of an autonomous responsible person; from positive law to contract law and self-regulation; the increasing binding of the state by legal laws, the improvement of the system of legal means.

The task of law is to contribute to the existence of society, to create favorable conditions for this. Therefore, it must be legal and legitimate, social and just, the law of the people, for the people and in the interests of the people.

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