



CONCEPT AND ESSENCE OF THE PRINCIPLE OF JUSTICE AS A GENERAL PRINCIPLE OF LAW

Yusuvalieva Rakhima Yusupovna,
Professor of the Department of International Law
and Public Law Disciplines of University of the World
Economics and Diplomacy, Ph.D., Associate Professor

Abstract

The article examines the concept and essence of the principle of justice in law, its various interpretations, the significance of this principle in lawmaking, law enforcement and legal responsibility, legal culture and public relations. The author notes that justice is a complex socio-philosophical category that includes economic, legal, political, moral, social and other aspects of human life. The importance of the principle is that justice as the most important social and cultural value and at the same time as a principle of social structure has an enduring significance for scientific understanding. This category is the subject of scientific research in almost all areas of humanitarian knowledge. The essence of law lies in its focus on achieving justice, eliminating contradictions between people, and ensuring order. The author also discusses two types of justice: social and legal. In modern legal doctrine, the problems of justice in law are studied both in the theory of law and in branch legal sciences. The article considers different aspects of this principle.

Keywords: Law, justice, legal system, general principles of law, equality, rule of law, civil society.

Introduction

The law of any country should be guided by the ideas of justice, promote the establishment of justice in society. Justice requires a correspondence between actions, their social consequences, and their corresponding assessment.



The pursuit of justice and ensuring its demands in public life has been and is one of the eternal ideas and desires of mankind. It represents a category of public consciousness and universal human value, the primary source of natural law and the fundamental idea of the legal system of any democratic state governed by the rule of law."

Justice is a complex socio-philosophical category that includes economic, legal, political, moral, social and other aspects of human life. Each of these aspects has specific features in accordance with the scope of its action, but being parts of the same whole, they are connected by a common idea.

Justice is a general characteristic of reality from the point of view of the proper state of things. It contains the idea of the correspondence of phenomena and actions to each other, as well as to the norms and values accepted in this society. This approach takes into account all facets, only their synthesis gives a complete picture of the subject of research. Ignoring one aspect can distort the idea of justice.

Being a deeply contradictory phenomenon that is constantly evolving, justice combines objective and subjective sides, sensual and rational elements. All this makes it difficult, but it does not exclude the possibility of comprehending justice, which occurs at different levels: individual and social, everyday and scientific [1].

Justice is a moral and legal aspect. In a pre-class society, at the dawn of human society, being the moral standard of certain actions, justice predetermined the essential content of social regulators expressed in customs.

Justice as the most important social and cultural value and at the same time as a principle of social structure has an enduring significance for scientific understanding. This category is the subject of scientific research in almost all areas of humanitarian knowledge. Of course, justice is of particular importance for the legal science. At all times, law has been considered as the embodiment of the ideas of justice and, at the same time, verified and verified for compliance with the requirements of justice.

Justice plays an important role in the process of social regulation as an ethical category. The essence of law lies in its focus on achieving justice, eliminating contradictions between people, and ensuring order. Despite this, in different



schools of legal thought, law and justice are correlated in different ways. From the point of view of the natural law approach, law must meet the criterion of justice, while positivists hold a different point of view.

In the legal literature, the principle of justice is considered as a property of all law. As an ethical, evaluative category that testifies to the truth and correctness of certain behavior from the point of view of the interests of society, the category of justice is manifested in criminal law in various aspects, but they have not been fully studied [2].

Adilkariyev Kh.T., I.Tul'teev, N.P.Azizov give the following definition of the concept of justice: "Justice and freedom are the foundation of the legal edifice. They occupy a particularly important place among all the principles. The principles of justice and freedom are reflected in many reputable international legal acts and the domestic legislation of most countries." [3].

The reflection and provision by the State in the form of law of the requirements of justice in law is a confirmation that justice is a moral and legal phenomenon. This approach allows us to overcome the one-sided view of it either as a moral or as a legal phenomenon. Democratic values reflected in law such as legality, humanism, justice, etc. As principles, they act in close relationship and complement each other organically. The essence of the principle of justice cannot be fully disclosed in isolation from them. In addition, all branches and norms of law are measured by the criterion of fairness.

To understand how the chosen criterion for assessing the legal principle (the principle of formal equality) works in more complex situations, it is necessary to consider the relationship between formal equality and justice. This problem was deeply analyzed by Aristotle at the time. He created the most harmonious and versatile concept of the idea of justice in ancient philosophy. For the first time in sociological thought, he presented a formal structural analysis of the category of justice, highlighting the concepts of distributive - justitia distributive and equalizing – justitia commutative justice.

Justice of the first kind, according to Aristotle, is the provision of goods to everyone according to their dignity, operates in the sphere of exchange and manifests itself in the equalization of what constitutes the object of exchange, and justice of the second kind is an equation between citizens in responsibility



before the law, and is also applicable to situations related to the distribution of all that (power, honors, payments, etc.), which can be divided among the members of the society according to their contribution to the common cause or according to their dignity [4].

In this sense, equality in distributive justice appears in Aristotle as equality in geometric proportion, and equality in equalizing justice as equality in arithmetic proportion. This approach is based on Plato's ideas about the equality of citizens: "...For the unequal, the equal would become unequal if the proper measure were not followed." [5].

An essential indicator of the usefulness of laws from the standpoint of the principle of justice is in many ways their strict consistency with generally recognized standards of human rights and freedoms, with the principle of priority and the task of reliable protection of these values. The exercise of rights and freedoms is inseparable from the fulfillment by each citizen of his legal duties. In cases of evasion from their execution or encroachment on the specified human values of others, it is fair to apply the measures of influence established by law to the perpetrators [6].

In modern legal doctrine, the problems of justice in law are studied both in the theory of law and in branch legal sciences. Justice as a quality or property of law is its axiological characteristic. Assessing a particular rule of law from the perspective of its justice or injustice, one usually correlates the result of its action with the system of intersubjective values accepted in a given society in a given historical period.

The idea of justice, including justice in law, is "eternal" and enduring, but its specific content, the idea of what is fair or unfair, and what requirements a just law should meet, depends on the current state of society, its economic condition, political structure, and value-ideological sphere. [7]

Justice in a State governed by the rule of law should be a precondition, the basis for the realization of all legal values. With regard to these principles, legal norms perform two functions.

Firstly, they combine such ideas into a legal system, as a result of which the ideas of justice acquire the character of universal obligation, rely on the power and authority of the state, and at the same time the moral value of the legal



system itself increases. Secondly, legal norms contribute to the wide dissemination of relevant ideas about justice among the population of the state. Justice is both a legal principle and a moral and ethical category. Together with freedom and the demands of equality, it is an effective social factor that regulates and regulates social life in the regime of constitutional security. At the same time, justice and equality as constitutional categories are closely interrelated. Justice is unthinkable without equality, but it consists not only in it, but in socially justified inequality.

It is necessary to pay attention to the manifestation of justice in several aspects: law-making, law enforcement, and sentencing.

Legal regulations are therefore valid only if they follow the requirements of fairness, honesty, and due process of law, which, in turn, provide the best expression of a "constructive interpretation" of legal practice, and the main attribute of such an interpretation is the "moral justification of law." [8].

Justice, expressed in a specific legal norm, is designed to fix only the ratio of equality and inequality, which ensures a sufficiently accurate proportionality of actions and the consequences of these actions. The concept of justice of the law must correspond to the legal position of the individual in society, the real guarantee of human rights and freedoms, the ability to protect them from the arbitrariness of officials and other unlawful encroachments [9].

For example, the principle of justice is not always implemented in law-making activities. The most common violations include violations in the processes of criminalization (decriminalization) and penalization (depenalization). Such violations should be eliminated by the legislator by making appropriate amendments and additions to the criminal law.

Being a general principle of law, justice at the same time permeates the norms of substantive law, for example, as the principle of criminal law permeates all criminal law norms and performs an integrative role in the system of criminal law principles, filling all criminal law institutions and norms with content. Justice justifies other principles, determines the limits of their validity and correlations in specific historical conditions, and acts as an arbitrator in resolving legal disputes.



The manifestation of justice in the law enforcement activities of the competent authorities is expressed through its acts, which are of a fair nature, ultimately ensuring the maintenance of peace, order, and the common good.

In the process of law enforcement, the principle of justice is most often violated when sentencing. The subjectivity of judicial discretion plays a certain negative role in this. The purpose of punishment – the "restoration of social justice" is achieved only in the case of compensation or compensation for harm to the victim of a crime.

If property or material damage has been caused as a result of the commission of a crime, it is subject to compensation. In this case, the "restorative" nature of social justice is manifested. In the case of physical harm, which, as a rule, is subject to partial compensation, the restoration of justice is of a "compensatory" nature. [10].

Russian scientist G.O. Belanova distinguishes between two types of justice: social and legal. In her opinion, social justice is a socio-political category that is formed on the basis of the requirements of politics, morality and morality, embodies the principles of freedom and equality and is the norm of behavior of people and their collectives, as well as the basis for state and public assessment of various actions, deeds and other social phenomena.

Legal justice as an integral requirement of a law enforcement act can be considered only in relation to the results of the law enforcement process – the adoption of an essentially correct law enforcement act, but it seems more correct to consider it more broadly – in relation to the entire process of establishing facts, their investigation, qualification and, finally, the law enforcement act itself.

References:

1. Дамшаева В.А. Проблема справедливости в свете концепции устойчивого развития. - автореф. дис...канд. юр. наук / В.А. Дамшаева - Москва, 2000 (1. Damshaeva V.A. The problem of justice in the light of the concept of sustainable development. - author's abstract. diss...cand. jur. sciences / V.A. Damshaeva - Moscow, 2000)



2. Мелешко, Д.А. Верховский. МОРАЛЬ И ПРАВО КАК СОЦИОКУЛЬТУРНЫЕ РЕГУЛЯЦИИ - Гуманитарные ведомости ТГПУ им. Л. Н. Толстого – 2014 - № 4 (12). (Meleshko, D.A. Verkhovsky. MORALITY AND LAW AS SOCIOCULTURAL REGULATIONS - Humanitarian bulletin of TSPU named after L.N. Tolstoy - 2014 - No. 4 (12).)
3. Х.Т. Адилкариев, И. Т. Тультеев, Н. П. Азизов. Теория государства и права: Учебник под общей редакцией проф. Х. Т. Адилкариева. - Т.: Академия МВД Республики Узбекистан, 2014. (Kh.T. Adilkariev, I.T. Tulteev, N.P. Azizov. Theory of state and law: Textbook edited by prof. Kh.T. Adilkariev. - T.: Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan, 2014)
4. Деревесников А.В. Справедливость как принцип права: историко-теоретический аспект: автореф. дис...канд. юр. наук / Деревесников А.В. - Кострома, 2007. (Derevesnikov A.V. Justice as a principle of law: historical and theoretical aspect: author's abstract. diss...cand. sciences / V.A. jur. sciences / Derevesnikov A.V. - Kostroma, 2007.)
5. В.В. Лапаева. Формальное равенство как критерий правового начала в общественной жизни. // Труды ИГП РАН. 2007 - № 4. – С.92 (V.V. Lapaeva. Formal equality as a criterion of the legal principle in public life. // Works of the Institute of State and Law of the Russian Academy of Sciences. 2007 - No. 4. - P.92)
6. Вязов А.Л. Принцип справедливости в современном российском праве и правоприменении: теоретико-правовое исследование: автореф. дис...канд. юр. наук / А.Л.Вязов. - Москва, 2001. (Vyazov A.L. The principle of justice in modern Russian law and law enforcement: theoretical and legal research: author's abstract. diss. candidate of legal sciences / A.L.Vyazov. - Moscow, 2001.)
7. Пресняков М.В. Конституционный принцип справедливости: юридическая природа и нормативное содержание: автореф. дис...канд. юр. наук / М.В.Пресняков. - Саратов, 2010. (Presnyakov M.V. Constitutional principle of justice: legal nature and normative content:



-
- author's abstract. diss. candidate of legal sciences / M.V.Presnyakov. - Saratov, 2010.)
8. Г. Графский. Справедливость и право // Труды Института государства и права Российской академии наук № 5/2012. – С.163. (G. Grafsky. Justice and law // Works of the Institute of State and Law of the Russian Academy of Sciences No. 5/2012. - P.163.)
 9. Джантуханов В.З. Равенство и справедливость как конституционные ценности гражданского общества: автореф. дис...канд. юр. наук / В.З. – Джантуханов, Москва, 2006. (Djantukhanov V.Z. Equality and justice as constitutional values of civil society: author's abstract. diss...cand. sciences (Law) / V.Z. – Dzhantukhanov, Moscow, 2006.)
 10. Галактионов С.А. Принцип справедливости: уголовно-правовой аспект: автореф. дис...канд. юр. наук / С.А.Галактионов. – Рязань, 2004. (Galaktionov S.A. The principle of justice: criminal-legal aspect: author's abstract. diss...cand. sciences (Law) / S.A.Galaktionov. – Ryazan, 2004)
 11. Беланова Г.О. Понятие юридической справедливости как основания правоприменительного акта: автореф. дис...канд. юр. наук / Г.О.Беланова. – Ставрополь, 2003. (Belanova G.O. The concept of legal justice as a basis for a law enforcement act: author's abstract. diss...cand. sciences (Law) / G.O.Belanova. – Stavropol, 2003.)