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TÍTULO: El papel de las funciones del derecho en el desempeño de los deberes legales de una persona y un ciudadano.

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RESUMEN: En la actualidad, las funciones del derecho no pueden existir de manera aislada, están estrechamente interconectadas y dependen del sistema legal en su conjunto. El objetivo principal de la ley es la regulación de las relaciones públicas, para garantizar el orden y la estabilidad social en la sociedad, lo cual es imposible de implementar sin el funcionamiento efectivo de la institución del deber. El artículo demuestra que es necesario considerar la implementación de los deberes del hombre y el ciudadano en el contexto del desarrollo social moderno a través del prisma del análisis de las funciones del derecho.

PALABRAS CLAVES: funciones de la ley, estado, personalidad, ser humano, ciudadano, derecho, deberes, derechos, sociedad.

TITLE: The role of functions of the law in the performance of human and citizen legal duties.

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ABSTRACT: At present, the functions of law cannot exist in isolation from each other, they are closely interconnected and depend on the legal system as a whole. The main goal of law is the regulation of public relations, to ensure order and social stability in society, which is impossible to implement without the effective functioning of the institution of duty. The article proves that there is a need to consider the implementation of the duties of man and citizen in the context of modern social development through the prism of the analysis of the functions of law.

KEY WORDS: functions of the law, state, personality, human being, citizen, law, duties, rights, society.

INTRODUCTION.

Order and social stability are the fundamentals of the law. The law is the opposition of chaos and arbitrary behavior. It dictates norms of behavior that reflect the interests of the majority. The legal norms do not only regulate the basic processes, but also protect the existing foundations.

The law is a complex and highly organized structure, that has its own characteristics, functions and purposes, that is a role in the system of state power and society. So, broadly speaking, functions of the law are a legal mechanism. This legal mechanism includes such constituent elements as: the basis, content and form of implementation.

The functions of the law are manifested in the main directions of its activity, and in particular, in its main goals.

In its classical sense, a function of the law is the unity of two points: a) the role (purpose) of law in society; b) the main directions of its influence on social relations (Radko T.N., 1967:6).

According to Radko T.N., a function of the law is the main direction of its influence on social relations, determined by the social purpose of the law, it is the direction in which the class essence, official role, goals and objectives of the law are expressed (Radko T.N., 1971:13). In fact, Baytin M.I. defines the functions of the law in the same way. In his opinion, they are “the most significant influence of the law to public relations, which reveals the universal human and class nature and the social purpose of the law” (Baytin M.I., 2000:12). F.N. Fatkullin interprets the functions of the law as the main directions of the progressive impact of the law to social development, determined by its essence and purpose in society (Fatkullin F. N., 1987:205).

Therefore, a function of the law is a certain mechanism. It influences public consciousness and the behavior of people in society according to the classification and social significance of a particular function of the law (Lapaeva V.V., 2012:54).

According to the above-mentioned, we can conclude that the functions of the law directly affect people activities, that is the performance of their legal duties by citizens.

DEVELOPMENT.

Research methodology.

In the process of cognition of state-legal phenomena were used:

- a) General scientific methods (formal-logical, systemic, structural-functional, concrete-historical).
- b) General logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.).

c) Private scientific methods (technical and legal analysis, specification, interpretation, etc.)
(Komarov S.A., 2019:32).

Study results.

The human and citizen duties are an integral part of his/her legal status, and therefore they are closely interrelated with the human and citizen rights and freedoms. This is confirmed by the fact that they are enshrined in Chapter 2 “Human and Citizen Rights and Freedoms” of the Constitution of the Russian Federation.

Duties are a universal socio-legal formation and they can be considered one of the basic elements of the social and legal regulation system. Being a category of legal science, duties can be considered within the framework of the independent legal institution in the general theory of law and state. At the same time, as a category of social reality, duties play a multifunctional role in various spheres of public life.

Being an important element of regulation and prioritization of the entire system of public relations, legal duties are the most important force of a democratic, legal and social state. Without their systematic national and international consolidation and support, it is impossible to imagine the effective state and public institutions, the establishment, maintenance and strengthening of the law and order and stability of social development (Korshunova I.V., 2004:3).

For a more detailed analysis of the influence of the law functions on the social life and activity, it is necessary to consider compensatory and protective functions of the law.

The compensatory function of the law is one of the general legal functions, because it is reflected in the system of public, private international and national law. That is, the compensatory function affects the implementation of various legal norms in general (Cherepakhin B.B., 2014:174).

Each function of the law has its own purpose and role in the general system of law. Thus, according to its purpose, the compensatory function of the law plays a certain role in the general system of law. The compensatory function of the law aims at restoring public order and social justice. Therefore, this function of the law has a close relationship with the restorative function of the law.

According to S. M. Vorobyev, due to this, the mechanism of moral damage compensation, that is the basis for the implementation of the compensatory function of the law, will be one of the ways to protect infringed incorporeal rights of citizens. This protection will help to achieve the primary goal of punishment - the restoration of social justice in the process of punishment execution. At the same time, the legal status of the victims will change, that will be expressed in strengthening their legal status and the principle of humanism, applicable to them (Vorobyov S.M., 2003:169).

These concepts and the functions are identified in the scientific community and legal literature from time to time. However, both of these functions — compensatory and restorative — are different in methods of influence, forms of implementation, and legal consequences (Cherepakhin B.B., 2014:176). Thus, we can conclude that each function of the law, as a full-fledged mechanism of influence on social behavior, has its own subject, purpose and form.

The effect of the compensatory function of the law, as well as its purpose in the general system of law, is reflected in the name of this function. The compensatory function of the law is aimed at restoring the violated right of a person and a citizen by compensating in any form for his/her losses, due to the legal offense committed against him/her.

The compensatory function of the law in the general system of law is aimed at implementing rights that compensate for an already committed legal offense (Cavelin K.D., 2015:156). At the same time, the law must not only restore the violated rights, but also protect them, guarantee them, and also influence public order and public behavior and so on. It is worth noting that the compensatory function is enshrined in civil, labor and criminal law.

In its turn, the protective function of the law is characterized by a specific purpose, aims, forms, methods and ways of implementation. The protective function is a direction of legal influence that has social implication, and it is aimed at ensuring public order and protecting the most important, socially significant national, political, economic and other types of public relations, as well as their inviolability. The protective effect of the law is expressed in prohibitions on illegal acts, establishing legal sanctions for committing legal offenses, as well as the application of legal sanctions against persons who have committed crimes and become offenders (Cherepakhin B.B., 2014:178).

The protective function of the law takes a special place in the process of social regulation. It is worth noting that its essence is to protect the established law and order through the possible enforcement measures. This is a special way to influence people, and the purpose of its influence is the forming a legitimate model of behavior.

The impact of the protective function of the law is expressed in the following:

- The formulation and consolidation of legal prohibitions at the legislative level.
- Establishing liability for violation of existing standards.
- Creating conditions for the application of sanctions to persons who have committed unlawful acts.

Let us consider these points in a more detailed way. The forming and consolidation of legal prohibitions should be understood as the authorized bodies' activity, aimed at creating the legislative framework with the purpose to protect public relations.

Since the development of the society, it is dynamic and continuous, the legislation should not fall behind the current state of public relations. The legislation sets permissible measures in the state and controls the behavior of people according the legal framework.

Due to the principle "Everything that is not prohibited is allowed", it is necessary to consider the issue of legal prohibitions properly in order to avoid gaps in the law. If, while fulfilling its duties, the legislation does not take into account the specifics of regulated relations and does not conduct a

comprehensive study of the spheres affected, “legal loopholes” may appear, and thus illegal actions can be committed.

When creating the regulatory framework, beside the prohibitions, it is necessary to establish responsibility for their violation. Liability measures are mostly enshrined in sanctions of legal norms. The choice of a sanction depends on the severity of the committed illegal act. The adequacy of the punishment for an act is one of the basic principles. The main point is that a person who has committed an illegal act must receive a punishment that responds to the action. The importance of this point is difficult to overestimate. The adequacy of the punishment imposed will be an example for the whole society, that the state properly responds to criminal behavior. Establishing and implementing responsibility measures, the state stimulates people to apply a legitimate model of behavior in everyday activities.

Legal prohibitions and responsibility for their violations are not enough to achieve the state of law and order. The social value of the established standards will be shown at the very moment of implementation of the legislation.

The violation of the law gives rise to implementation of safety standards. Implementation of this process demands special conditions for the effective solution of the tasks. These conditions include:

- The legislation establishing permissible measures.
- The system of law enforcement agencies that protect the individual, society and the state.
- The functional judicial system that establishes penalties for committed acts.

All the above-mentioned conditions are aimed at the implementation of the protective function of the law in the everyday life of people. Thus, it is obvious that the protective function of the law makes a person and a citizen fulfill his/her legal duties. It is expressed in the responsibility for actions that go beyond the legal framework, that is, the negative consequences connected with application of the state measures against the violator.

The Constitution of the Russian Federation, namely, part 3 of article 17 establishes the frame of lawful behavior, which is expressed in the implementation of the legal rights and freedoms without harm to others. As soon as the implementation of the rights and freedoms violates the rights of other people, the intervention of the public enforcement institution is necessary.

According to the idealistic model of social relations, a high legal awareness should be the main motive for the lawful behavior of people in the society. A person must realize the value of the rights and freedoms of other participants of public relations and must not allow actions that cause encroachment or criminal violation of the stated norms. The main duty of citizens must be the strict observance of the regulatory requirements governing not only the sphere of interests of an individual citizen, but also society as a whole.

Negative consequences as the implementation of protective standards to a person is possible not only because of the violation of the rights of public relations participants, but also because of non-fulfillment of duties imposed on a person by the legislation. This category includes obligations to protect the national homeland established by Article 59 of the Constitution of the Russian Federation; obligations to pay taxes and fees in accordance with Articles 57 of the Constitution of the Russian Federation; obligations to preserve nature and the environment.

CONCLUSIONS.

The protective function of the current legislation encourages public relations participants to fulfill their responsibilities and protects rights, freedoms and legitimate interests. The lack of the protective function leads to inefficiency of the state legal system. Each offense leads to negative consequences for the state and society as a whole.

The compensatory function of the law plays a certain role in the general system of law, which consists in the purpose of this function, its methods and forms of influence on the society. Moreover, the compensatory function has a wide scope, both in the national and international law, as well as in the public and private law.

All the functions of the law are aimed at ensuring public order, regulation of public behavior and protection of the rights of people. In any case, there are always several functions of the law, because they all interact with each other, without losing their specific characteristics.

It is also worth saying about the interaction of the compensatory function of the law with the protective function. It is difficult to give an example of their interaction at first sight, since the basis of the protective function is the protection of property and non-property interests and rights in various areas of public relations. However, the connection between the protective function of the law and the compensation function can be observed in the restoration of violated rights, including compensation for damage (Radko T.N., 1974:100). Thus, the interaction of the compensatory function of the law and the protective function occurs at the junction of the protection of citizens' rights, and their restoration when these rights have been violated.

Summarizing the above, we can observe connection between the functions of the law and the duties of a person and a citizen. Due to the fact that the functions of the law coordinate the force of law, as a socially necessary tool, they determine the necessary actions of the entities, which he/she must strictly fulfill regardless of his/her inner desire.

Conflict of interest.

The authors confirm the absence of a conflict of interest.

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