

Urban law as a factor in the emergence of modern legal orders and its role in today's legal landscape

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SUMMARY

The article deals with the development of urban law. It states that urban law was the basis for forming national legal systems. In today's crisis of nation-states, the importance of urban law is increasing, facilitated by the rapid urbanization process. In this regard, the task of jurisprudence is not only understand the importance of urban legal institutions but also formulate proposals for models of inclusive institutions of today's city.

Keywords : Urban Law, Nation-states, Inclusive Institutions, Urbanization

1. INTRODUCTION

The study of the development of legal phenomena and processes shows that their emergence and functioning mainly took place in the dialectical form of interaction between urban law and the law of other legal systems. Urban law thus functions as a universal form of concentration of fundamental legal concepts, which subsequently transferred to the legal space outside its jurisdiction and retain this characteristic even when the autonomy of the jurisdiction is lost. Departing from the until recently dominant pragmatic approach to law as an immutable way of achieving a certain result, forms of legal communication reflecting the dialectical relationship between urban law and the law of nations serve as valuable material, as a formal basis for the construction of all sorts of typified legal constructions of modern legal orders. The latter is important for legal cultures united by a common tradition at a stable stage of their existence, but it is insufficient for understanding the principles, the foundations, of legal communication between legal cultures that do not share a common tradition [see 1, p.103]. Thus, the study of urban law is of fundamental importance for the science of law, on the one hand, and for solving a number of essential problems of organizing the biosocial life of communities in modern urban spaces, on the other. However, the radical changes taking place in the organization of the biosocial life of human communities compel us not only to give a fitting assessment of the role played by urban law in the formation of human civilization, but also to define the institutional and legal parameters under which urban centers can act as peculiar points of its growth.

2. THE PURPOSE OF THE THESIS

The aim of this study is to reveal the importance of urban law in the process of formation of national legal orders united by the commonality of legal tradition and its special mission in the period of actual crisis of nation-states.

3. URBAN LAW: PAST AND PRESENT

Among the factors that led to the emergence of European civilization, primarily as a civilization of cities, the key one is the institutional nature of the legal tradition in which they emerged and developed. The study of urban institutions that have evolved within the Western legal tradition reveals additional characteristics of law, such as public, secular, and constitutional. The communitarian character characterizes the city as a space of the same destiny of persons united in a commune (community of a single destiny) [2, p. 357-359]. Even

today, cities show more similarities with each other than with surrounding countries due to similar legal institutions. So urban law is initially the law of an interdependent, integrated community, which allows cities to grow through organic development.

The presence of the latter, with which one cannot but agree, "distinguishes Western European competition from military competition in other parts of the world and explains why European competition has yielded a different result" [3, p. 282], which subsequently leads to the possibility of establishing nation-states. It is easy to see that these features of urban law reflected in almost inclusive economic and political institutions of modern state. The "need to resolve internal elite conflicts and to ensure that the rights of the elite do not depend on conflict" [see 3], which scholars see as the main incentive for the institutionalization of the order for the open access to economic and political life. In fact, this institutionalization was first realized at the level of the urban social landscape and guaranteed by the institutions of urban law were transferred and consolidated into the space of nation-states thanks to the transformations of the eighteenth and nineteenth centuries. The further growth of nation-states, in contrast to the stable existence of cities before, was in fact due to the "rising costs of war", as it required the creation of new institutions for the administration and financing of war [see 4].

The most important changes in the status of cities occurred in connection with a central political aspect of modernity, namely the development of national power and the formation of nation-states. Modernity, which ends in the wake of the world wars, leads to a global transformation of political power. The concentration of political power in the capitals made it possible to transfer the institutions of urban law to the national space. At the same time, the conceptual foundations of political power acquire a special form of representation in urbanized space. The identity of the members of the urban community changes and takes the form of a national identity. Cities, while retaining their secular character, become a stronghold of nationalism of nation-states. However, the actual dimension of political power does not imply a break with the institutions from which the legal tradition formed. On the contrary, modernity, realizing itself through revolutions, thus changes the cultural orientation of the time, but retains the basic concepts of a particular legal tradition. Indeed, "over the eight or ten millennia since the couple first appeared, cities and states have oscillated between love and hate" [4, p.2], and this unbalanced state tends to be completely unbalanced in the context of the weakening role of nation-states. The model in which the city specialized in credit institutions and the state in warfare seems to have been exhausted. The obvious consequences of the hateful aggression against Ukraine will be not only changes in the institutional

configuration of nation-states, but also a fundamental change in the balance between cities and nation-states as such.

The dynamically growing role of cities in the life of nationally organized communities and the crisis in which nationally organized communities find themselves thus require a revision of the concepts of national and local (urban) law that have emerged in modern times. Indeed, urbanization has spread rapidly in Europe and America and has also reached Asia and Africa since the 1950s. As early as 2014, the United Nations Department of Economic and Social Affairs reported that, for the first time, more than half of the world's population lives in cities [5]. This means that half of humanity, 3.5 billion people, now live in cities, and this figure is expected to rise to more than sixty percent by 2030 [6]. However, as mentioned above, studies from the perspective of historical and legal retrospection show that it was urban law that formed the basis for the creation of national legal systems. The concentration of political power in the capital cities during the modern era made it possible to transfer the institutions of urban law to the national space. At the same time, the conceptual foundations of political power in urbanized space given a special form of representation. The identity of the members of the urban community is transformed and takes the form of national identity [7, p. 216].

The growing role of cities in contemporary society and their changing role on a global scale allows us to raise the question of the particular character of the social and legal organization of a modern city. In this case, the once homogeneous legal space of the nation-state acquires a differentiated form of its organization - local (urban) and national law. Moreover, each of these places interacts in a particular way with international aspects of legal phenomena and processes. National law in action, when inscribed in the matrix of the "criminal state", serves only as decoration; behind its façade is a criminal group. It is not only incapable of establishing civilized legal relations with other nations, but also of solving the problem of growing tensions between urban communities and their discredited institutions of power. In other cases, the question of the trade-off between the growing role of cities on the one hand and effective nation-states on the other should be resolved by compromise.

In the present circumstances, the answer to the question of what is "urban law" is of particular importance. According to Matthew Glasser and Stephen Berrisford, Urban law – "It is the law that shapes cities, their land use, their institutions, and their finances" [8, p. 212].

Urban law "has the potential not only to understand 'how' but also to inform about 'how to do' [9, p. 1458]. In this case, law begins to serve the improvement of the quality of urban life. Urban law aimed ensuring justice, as well as at ensuring sustainable growth and economic development. The growth of cities without a legal framework that takes into account the needs of all their citizens is not sustainable - not from a political, environmental, or social point of view. Cities without capable urban legal systems give rise to urban pathologies that undermine the prospects for economic and social development of the country [8, p. 213]. This is extremely relevant to the state of affairs resulting from Russia's armed aggression against Ukraine. Despite the ongoing hostilities, the top priority for the central and local authorities and the people of Ukraine is to quickly restore the destroyed cities and return people to peaceful life. The consequences of the destruction of Ukrainian cities during the armed aggression against Ukraine are one of the most serious challenges facing Ukrainians. However, despite its tragic consequences, this challenge can also be seen as a space of opportunities that will open up in the war-torn cities of Ukraine [10, p. 71]. Solving the problems faced by central and local authorities, as well as residents of the affected cities, seen as a window of opportunity for the implementation of a new urban policy aimed at creating inclusive urban institutions designed to ensure human rights and gender equality. It is reasonable to recognize as effective such a

renewal process that aimed primarily at introducing inclusive urban institutions that ensure a comfortable life for women, men and children in the city in accordance with human rights standards.

4. CONCLUSIONS

The study of the process of the formation of the institutions of urban law confirms that, in historical retrospect, there was a process of transferring the basic ideas of urban law to the human *oikumene* with the subsequent consolidation of the corresponding legal forms in the national legal systems, which in turn established international communication. We can observe a certain reverse process in the context of the cardinal changes taking place on the geopolitical map. It is about the juridical deformation of nationally formalized spaces and, simultaneously, a rapidly growing crisis of international communication, which has largely lost its legal form. It is also about the rapid concentration of authority and power in urban spaces and centers. In this context of the growing crisis, urban centers have a special task: they must serve as daughters of access to basic material and social goods and as points of growth for the stable growth of human communities. The model in which cities have specialized in credit institutions and states in war seems exhausted. This trend leads to the emergence of an autonomous system of urban law that coexists and interacts with the law of nation-states.

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