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Legal reality: due and existing in law (socio-philosophical analysis)

The article demonstrates the reflection problems in the law of due and existing as legal reality components. The justice concept as a legal category is revealed in the moral assessment context in law and legal regulation in the present and the future. The research purpose is to generalize scientific knowledge and theories that reveal the due and existing law as legal reality factors. By using general and special research methods, the analysis and generalization of scientific material are carried out, consideration of various approaches to understanding justice in law and identifying the role of justice in understanding what exists and should be in law. The article illustrates and considers different points of view and scientific positions of scientists-philosophers and theoreticians-jurists in the research field of the correlation problems of "due" and "existing" in the modern society law in the formation context of legal reality. The research result is the consideration of the due and existing in law as phenomena that determine legal reality as legal reality in combination with political reality and social justice, which acts as the main criterion that determines the essence and social law purpose. Justice is considered the main condition for the existence of modern society and the state. The problems of defining the basic legal justice principles as social justice part, designed to ensure the recognition of law and legal regulation as the main values of the modern legal society, are highlighted. Through legal justice, an understanding of the "proper" and "existing" in law is formed, which constitutes legal reality as a philosophical and legal phenomenon.

Keywords: legal reality, legal validity, justice, due, existing, sphere of law, definition problems, legal category.

Introduction

In modern conditions, the contradictions between the expected future in the field of legal regulation and reality are becoming more and more aggravated because of the education level, legal culture, the media and information in social networks. These information sources form the social reality, which reflects the society's ideas about the "due" and "existing" in the law. Such ideas are formed in society based on the entire information sources set, defining the social development paradigm from the worst to the best. The reason of these ideas is the progressive society development, aimed at ever greater provision of the needs and interests of society and the individual. All this is caused by people's ideas about justice, moral standards, and other social values, which are the main criterion for determining the progressiveness of social development, the approach of the desired future. Despite the fact that the modern development paradigm as a whole is determined by the human rights theory, the theory of the legal state and civil society, which define the individual rights development as a systematic human capabilities expansion, the existing legal reality reveals the problem of the discrepancy between the declared legal values and their implementation in everyday life. The social capabilities of the individual are determined by moral standards, while it is the morality norms that form claims for the development of the individual capabilities, which must be implemented in legal form. On this basis, political consciousness is formed, which should express the legal development goals, which constitutes a legal reality, reflecting the future law development. Since each person, having to some extent political and legal consciousness, represents a certain version of the future, it is necessary to state the variance of legal reality, which reflects individual and group ideas about the future development of law. At the same time, opportunities in the legal sphere are understood as human and civil rights, and not only enshrined in legal form, but also as opportunities to be enshrined in legal form in the future. For instance, these are expectations and claims to improve the property situation of pensioners, the disabled, people working in dangerous conditions, teachers, doctors, people in difficult life situations, and other social strata who need additional protection of property and non-property rights and legitimate interests. These claims are actively discussed in social networks, thereby forming ideas about the "due" in the law, which the state must implement through legislative consolidation and implementation in practice. It should be noted that dissatisfaction with the implementation grade of the expected results in securing claims for various material benefits and the human rights expansion, as a rule, does not depend on the implementation grade of these claims, but depends on the development lev-

el of civil society institutions and ideas about "due". The formation of due in law is the awareness result in groups of individuals' needs and the whole society, by discussing them in the media, including social networks, public opinion is formed, being an integral legal reality part. An understanding of justice plays a huge role in the "due" and "existing" formation in law. Justice, as the cornerstone of the law development in society, consistently acts as a goal, means and result, bringing closer social ideas about what is "due". At the same time, the "existing" in law is also evaluated by society from the justice position, as a social category, embodying the law essence, as a cash justice embodiment. It should be noted that modern society lives in complication of social relations conditions, which implies a legal regulation complication and an increase in not only rights, but also obligations, which implies the new approaches emergence to understanding justice, while social justice new types or new approaches to understanding legal justice. An important aspect of the legal reality development is the continuous legal regulation expansion, the new approaches emergence to legal regulation, the trend towards the expansion of legal regulation entails an expansion of the legal liability scope, which should lead to an increase in offenders. The bills being developed, along with the public relations legal regulation, involve the new duties and legal liability introduction for their failure to comply. This trend allows us to talk about the continuous change in legal reality. The legal reality development is currently due to the transformation of the justice understanding, the understanding of which is determined by the modern society needs and interests. At the same time, classical social values, considered as universally recognized human values: freedom, property, movement freedom, the right to privacy, banking secrecy, correspondence and negotiations secrecy, the right to personal and family secrets, are also adjusted based on the understanding of justice in a particular historical society. In modern conditions, these and other legal values are being revised by politicians and some jurists and society part, who put forward ideas about limiting individual rights and revising legal principles in order to ensure public safety, public health, public morality. At present, it is necessary to intensify the discussion in legal and philosophical science as to whether these factors are prerequisites for the new paradigm emergence for the legal reality development based on law, formed on new legal regulation principles, or whether existing legal values will retain their significance for the further law development in the modern, global world.

Experimental

The research implementation on the changing the paradigm problem of legal development is based on the general scientific and private scientific research methods used, which made it possible to reveal an understanding of the legal values and legal principles that currently exist and the principles and values that are emerging on the modern global problems basis. During the study, general philosophical and especially legal methods of legal acts research, information from the media and official sources were used. The dialectical cognition method is used as the main method. As for general scientific methods, induction and deduction, analysis and synthesis, system, structural-functional, anthropological methods are used. When drawing conclusions, cognition legal methods of political and legal phenomena were used — this is a comparative legal method, formal legal, and other scientific knowledge methods. During the various points of view investigation as a legal reality factor, the historicism method was applied, through which social values of a legal nature were identified. Through comparative analysis and synthesis of the main and secondary features in the main socio-legal categories, the correlation of the philosophical and legal concepts of "public good", "social justice", justice as a legal category and "legal reality" is revealed. Using the methods of induction and deduction, the essential purpose of the broadest legal categories "common good", "justice" is designated. With systemic and structural-functional methods support, the correlation of the categories "due in law", "things in law", "legal reality" is considered. By using the comparative-legal method and the formal-legal method, the interaction and all elements relationship of social reality with legal reality are revealed.

Results

The law development is carried out continuously, the vectors and this development directions are determined by the needs and interests of modern society and are expressed through the policy in the law (legal policy). The due and the existent as philosophical categories express the right dichotomy of the present (legal reality) and the right of the desired (legal and moral principles and ideals developed by society). The discussion about "existent" and "due", in essence, is the driving force behind the whole society development and particularly legal reality. The social necessities research, their comprehension and transformation into public interests are carried out by the political system of society, the higher the level of development of the political system, the more social strata it covers, the more needs it reveals, the more due will be implemented in law.

However, this democratic approach does not guarantee that the right decision will be made in any given situation, since the majority is not always right. This is due to the level of science, culture, moral values, and other factors that influence the adoption of a socially important decision.

The study pointed out that the values recognized by the social majority on a global scale are becoming increasingly important, which should include generally recognized values that are expressed in the form of universal human rights. These rights are enshrined in international acts, agreements, declarations and conventions, but it should be noted that international customs and international doctrines are important. International customs and international doctrines are not considered by Kazakh law as sources, however, these customs and doctrines have their regulatory relation to international relations. At the same time, the national law development is conditioned by the international law principles, which includes, along with legal norms, doctrines and customs. Doctrines and customs are full sources of law in the Anglo-American legal family, in the religious family and customary law, and partly in the Romano-Germanic legal family. This aspect causes a certain difficulty in understanding the law sphere and legal phenomena, since political acts that have a regulatory impact on social relations in the Romano-Germanic family do not traditionally belong to legal acts. Despite they carry out a regulatory impact on public relations and vice versa, the norms that do not regulate public relations, but are contained in legislative acts, are considered legal norms. Thus, in their form and content, legal norms do not coincide with the category of "legislation", while social ideals are expressed through legislation, creating regulatory conditions for their practical implementation.

The Constitution of the Republic of Kazakhstan enshrines the "common good" in the "public good" form. Article 6 of the Constitution of Kazakhstan establishes the provision that property obliges the use of it must simultaneously serve the public good [1; 3]. These provisions are detailed in Article 188 of the General Part of the Civil Code of the Republic of Kazakhstan. This article establishes the provisions that "The exercise by the owner of his powers should not violate the rights and legally protected interests of other persons and the state. Violation of rights and legitimate interests may find expression, along with other forms, in the abuse by the monopoly owner or other dominant position. The owner is obliged to take measures to prevent damage to the citizens' health and the environment, which may be caused in his rights exercise" [2; 98]. It seems that the constitutional "public good" concept needs further development and interpretation. The concept interpretation should be carried out through the implementation of the general justice theory in the field of law-making practice. Justice as a legal concept is used in Article 5 of the Civil Code of the Republic of Kazakhstan in the context of the good faith requirements, reasonableness and fairness, as well as in Article 8 of the Civil Code, good faith, reasonableness and justice are fixed [2; 102]. The Criminal Code of the Republic of Kazakhstan enshrined the "social justice" concept, which is used in the disclosing the goals context of the punishment application, this is the social justice restoration, the convict correction, the illegal behavior prevention [3; 4]. Further concepts of "public good", "social justice", "justice" development enshrined in legislation and requiring their own interpretation, which reflects the dichotomy of "existent" and "due" in Kazakhstan law.

New problems and challenges imply a revision of generally recognized values and ideals that define law as such. This is clearly seen in the revision of the universal humanity values, which are reflected in the universal human rights. This process reflects the justice transformation on a global scale, as a global concept developed by the world community led by leading countries. Accordingly, one can single out the justice understanding as a universal value on a global scale and justice as a moral values set determined by the development rate of a particular historical society. At the same time, it is possible to single out the legal justice category as a social justice type, taking into account the legal principles peculiarities, legal understanding and legal consciousness.

In the scientific literature, social values are considered in two planes, the ideal and reality, which corresponds to the "due" and "existent" philosophical categories. The ideal is what is defined as "due", and reality as "existing", that is, in the principles and rules form that people use in their lives. At the same time, the justice category is considered a criterion for the development path correctness. Subsequently, the legal reality development is closely related to the political reality concept, which mediates the understanding of the "due" in law. Based on this, the "legal reality" category can include the political reality category, which is designed to reflect reality in the possible and desired law sphere. In addition, all elements of the objective (material) world that provide legal relations and people's subjective ideas about law, expressed in the legal society culture, can be included in the legal reality.

It is necessary to point out the directions of the legal reality formation, which we include: social expectations from law — the implementation social justice and legal justice principles that characterize what is

and should be in law. The justice idea, realized in law, should be fixed in legal science as a "legal justice" category. In essence, this category covers all other law and legal categories principles that define the law essence. At the same time, legal principles expressed in the human rights idea act as an international category reflecting the universality of this category and cultural relativism in national law, reflecting the justice understanding based on national cultural traditions. Accordingly, such a national and international symbiosis, universal and culturally isolated, legal and political, constitutes the essential and proper in law, emphasizing the continuity of social and legal development from the past to the future, which allows us to consider legal reality as a factors set that make up a dialectically developing phenomenon. On the other hand, the legal reality is contained in the consciousness that exists at the present time, in which there are ideas about the legal reality, legal life and legal culture that existed in the past, forming ideas about the "existent" and "due".

The ideas of due and existing in law are most fully reflected in the Legal Policy Concept of the Republic of Kazakhstan until 2030, which is a document of the State Planning System that determines priority areas for the national law development, law enforcement and judicial systems, foreign policy and foreign economic activity, as well as legal education and legal propaganda. Based on the need to form due in law based on the largest possible opinions number, Kazakhstan has developed the "Listening State" Concept. This concept determines the need to create more dialogue platforms to involve citizens and organizations in the developing and discussing regulatory legal acts process. The Legal Policy Concept notes that, in light of this, it is important to develop additional mechanisms that ensure the procedure for developing transparency and considering draft regulatory legal acts, as well as allowing citizens to really take part in the policy formation being pursued [4; 1]. Accordingly, on the justice theory basis, a "common good" understanding as a value of modern Kazakhstan society is developing, defining the legal reality formation as a dichotomy of what existing and what is due.

Discussion

The legal reality research is based on the various approaches consideration to the understanding of "existent" and "due" in law, while these categories are expressed through the justice" category. T. Shiktybaev notes that "the main difference between positive law and existing law, as the difference between natural law and proper law, consists in the place of the state in a particular theory", this author notes that depending on the approach to understanding the state, the due and existing in law are determined [5; 1-2]. It is the state that acts as a body that forms and regulates law, through lawmaking the state creates new legal norms and improves existing ones. At the same time, the state must consider the role of other social regulators that complement legal regulation and, as a rule, predetermine the positive law development direction. It should be noted that the due and existing questions have been studied by philosophers since ancient times. The generally recognized philosopher is Aristotle, whose teaching reveals the role and human virtues significance, the main of which is considered justice.

The justice theme is revealed in the Nicomachean Ethics, in which Aristotle determines the understanding and implementing justice problems in the slave-owning society context, developing general principles for understanding justice [6; 48]. In modern justice research, the unsatisfactory state of the justice general theory is noted, that is, "the normative justification for due equality or inequality in the objective distribution relations, exchange and retribution. In this case, two general theories of justice main types are distinguished: egalitarian and hierarchical justice" [7; 90]. Hierarchical justice is presented in the social Plato utopia, and egalitarian justice based on the democracy ideas in a bourgeois society is revealed in the works of J. Locke. Hierarchical justice presupposes the existence of different strata inequality, which is manifested in the Aristotle philosophy. Egalitarian justice is based on the all members of society equality as a basic principle from which exceptions can be made. In this case, the inequality is due to the guilt presumption, which must be justified. John Rawls devoted his research to the distributive justice theory (Rawls J. A Justice Theory, 1971). The exchange justice theory was developed by Robert Nozick (Nozick R. Anarchy, State and Utopia, 1974), Friedrich Hayek (Hayek F. The Constitution of Liberty, 1960), David Gautier (Gothier D. Morals by agreement, 1986). In the retributive justice theory, the main studies were made by the following authors: Herbert Hart (Hart H. The concept of Law, 1961), Feinberg (Feinberg H. Doing and Deserving Princeton, 1970) [7; 115]. Modern authors consider the general justice theory in the modern realities context, while concluding that modern society, in particular Russian society, should be attributed to the oligarchy [7; 112], which in principle is also characteristic of Kazakhstan. For all justice theories, such a society cannot be just, since it is based on friendship of a lower order (friendship for the base goals achievement, in which offerings are the main political force). At the same time, the excessive the rich and the poor polarization, the middle

class absence, the political power belonging not the best society representatives, the public posts distribution not according to merit, but according to other criteria (personal loyalty, family ties, bribes), the absence of the equality principle in the economic sphere, non-compliance the proportionality principle in retribution (in particular, in the criminals punishment). There is also a violation of such principles of justice as demonstrating one's property superiority, which Aristotle called "hubris", as well as the virtuous rulers absence and the effective laws absence that should not allow officials to profit [7; 113]. Thus, these problems in modern times are revealed through the general justice theory use in the modern realities analysis. It should be noted that the problems in the sphere of the justice implementation in society are from legal nature, since it is law that is called upon to embody the justice principles in practical life, since through law these principles can be implemented in society.

Based on the Aristotle philosophy analysis, modern researchers conclude that the "state idea" should be justice, acting as a source of the "common good" [7; 112]. Under the "common good", in accordance with the Aristotle philosophy, we mean a just society that exists on the following principles basis: "According to the laws in private matters, everyone has equal rights; as for respect, in public affairs the advantage is given according to how famous each one is in this or that respect, not by virtue in the any party support, but by ability. Also, a person who is able to benefit the state is never deprived opportunity because of poverty, due to position insignificance. We also take care about public affairs, as befits free citizens, and in everyday relations we do not distrust each other, we do not resent against another if he does as he likes, we do not express annoyance, though harmless, but still unpleasant for outside observer. Sociable without any importunity in private relations, we avoid illegality in public affairs, mainly from a fear: we obey both the persons in power at the moment and the laws, especially those that are issued in defense of the offended, and those albeit unwritten ones, the non-fulfilment of which brings shame on the perpetrators recognized by all" [8; 231-214]. Accordingly, the justice in law concept development, the justice introduction into law enforcement practice and social relations is required. It is necessary to study the public good category, while "good" is considered as one of the most important axiological categories, expressing the state of realized being as the ultimate human aspirations goal. The good, considered as the evil absence, has its roots in the Thomas Aquinas philosophy, who reveals the "common good" concept. Thomas Aquinas linked the doctrine of the common good with Aristotle's justice doctrine. It should be noted that Kazakh researchers revealed the common good idea in the Abu Nasr Al-Farabi, al Kindi, ibn Sina works, and other East scientists. The good category in the Abu Nasr Al-Farabi philosophy is "an ontological category, which has an equivalent meaning with such categories as reason, perfection and happiness, since it is meaningfully reduced to the metaphysical universe essence, the implementation of which is the common good. At the same time, it is noted that the Christian love ethics for one's neighbor obviously contains the public good principle" [9; 11]. Accordingly, the concept of the good investigation in philosophers' works is necessary to develop the good concept in jurisprudence to develop a modern legal and political society.

The justice investigation in law is devoted to the work of V.V. Bulgakova, who notes that natural law covers moral and legal values, that is a necessary condition for the normal human society functioning. The justice provides idea for the priority universal human values recognition over all others, while it is argued that the normative justice definition is impossible, since it can be expressed through different categories and concepts, sometimes incompatible. Justice as a law principle is a proportionality criterion, social relations evaluation [10; 9]. The research by T.Kh. Gafarov argues that the relationship between what is and what should be in legal reality has not been sufficiently studied and a philosophical relationship analysis is needed. The existent and the due are considered as immanent constituent legal reality components, which in their interaction form the legal culture. The author notes that "the ontological legal reality foundations are manifested by the existent and the due, two interrelated and non-existent components, the interaction nature of which determines the qualitative state level, i.e. legal culture. The existent correlates with the existential legal reality foundations, and the due — with the ideal ones, which means that legal reality is a dialectical unity of these two foundations" [11; 10]. In studies devoted to the common good, a connection is established between the understanding law paradigm that prevails in the public mind and the temporal characteristics of the generally common good accepted ideal. This research reveals the personality view the time essence importance, which is a priority for socio-philosophical research, which, emphasizing the time incalculability and the strict impossibility planning when putting forward models of the future, emphasizes the paradoxical relativity and immutability combination of the "common good" ideals. Based on the two most influential paradigms analysis in legal naturalism understanding and the "revived natural law" school, it is concluded that naturalism puts the law at the forefront as an eternally existing dogma, acting as a criterion for social

goal-setting. The “reborn natural law” concept focuses on the “eternal law with changing content” idea, which is progressing in history and acts as “overtime” phenomenon and justice criterion. At the same time, the protective-dogmatic law specificity, based on property relations, and the relative nature of strict law, associated with the historical forms variability of legal consciousness and ideas about justice, are revealed. The concepts of the “common good” and their typology analysis, which includes “the social ideals division into holistic and individualistic ones, the difference of which lies in the fact that the former are focused on finding the eternal, unchanging laws of the divine creation plan or “the natural nature of man” and building on based on the dogmatic image of the “common good”. The latter, denying the dictate of the eternal over the temporal, are aimed at achieving a balance between the interests of society and the rights of the individual. At the same time, the essence of “law and order” is revealed as a temporal method of social goal-setting, which opposes the trend of total planning of the future, introduces an moderate relativization element of the justice value and, based on the “natural law with changing content” scheme, acts as a condition for the possibility of common good any images the that do not contradict the meaning strict law [12; 9, 10]. Thus, from different angles and on the different approaches basis, the existent and due in the law of those who form the legal reality are studied, through the justice implementation and the public good achievement.

Conclusions

Considering the legal reality in the dichotomy of “due” and “existent” context, reflection problem in law and fixing in the legislation of the justice concept is revealed. Justice, being a morality category, predetermines the main directions of the legal reality formation, while the “justice” concept enshrined in legislation is a legal concept that requires its disclosure. Considering the category “justice” as a legal category, it should be noted that correlating as a generic and specific concept, it is necessary to use the term “legal justice” based on a set of general law principles, and distinguishing “legal justice” from the “justice” generic concept.

Consideration of “due” and “existing” in law leads to the need to develop the constitutional “public good” concept, which requires its development. It seems necessary to implement the official interpretation of Article 6 of the Constitution of the Republic of Kazakhstan “Property obliges, the use of it must simultaneously serve the public good” [1; 3]. The constitutional norm can be given the following interpretation: A public good is a good (public benefit is a positive, beneficial effect or result) that is consumed collectively. The main public good features are universality, accessibility, utility, indivisibility, non-rivalry in consumption. It is necessary to single out a public good, a private good, and a mixed good, while determining their legal nature. For example, it seems important to use the funds of the public social fund “Qazaqstan halqyna” (People of Kazakhstan), created on behalf of the President of Kazakhstan Kasym-Jomart Tokayev [13; 1], not for private or mixed benefit, but for the public good.

Ensuring the public good should become the modern state main goal, while the public good following types can be cited as the main examples: security, legal justice, legal equality, equal access to benefits and public nature resources, person and property legal protection, and other public good. At the same time, the state itself is a public good, since it was created to implement modern ideas about justice and the public good through law in public relations. Along with the state, non-state institutions also provide the public good: public organizations, various foundations, citizens and their associations, private entrepreneurs, commercial and non-profit organizations, and other legal and public relations subjects. In this process, the state acts as a coordinating and organizing body, which is called upon to implement the ideas of justice and the public good.

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Құқықтық шынайылық: құқықтағы міндеттілік және мәндік (әлеуметтік-философиялық талдау)

Мақалада құқықтық шынайылықтың құрамдас бөлігі ретіндегі құқықтағы міндеттілік және мәндіктің көрініс табу мәселелері қарастырылған. Әділеттілік ұғымы қазіргі және болашақтағы құқықты моральдық бағалау және құқықтық реттеу тұрғысынан құқықтық категория ретінде ашылған. Зерттеудің мақсаты – құқықтық шынайылықтың факторлары ретінде құқықтағы міндеттілік және мәндікті ашатын ғылыми білім мен теорияларды жинақтау. Зерттеудің жалпы және арнайы әдістерін қолдана отырып, ғылыми материалды талдау және жалпылау, заңдағы әділеттілікті түсінудің әртүрлі тәсілдерін қарастыру және заңдағы міндеттілік және мәндік нәрсені түсіну үшін әділеттіліктің рөлін анықтау жүзеге асырылады. Философ-ғалымдар мен заңгер-теоретиктердің қазіргі қоғам құқығындағы «міндеттілік» және «мәндік» арақатынасының мәселелерін құқықтық шынайылықты қалыптастыру тұрғысынан зерттеу саласындағы көзқарастары мен ғылыми ұстанымдары талданған және салыстырылған. Зерттеудің нәтижесі заңның мәні мен әлеуметтік мақсатын анықтайтын негізгі критерий ретінде әрекет ететін саяси шындық пен әлеуметтік әділеттіліктің үйлесіміндегі құқықтық шынайылықты құқықтық болмыс ретінде анықтайтын құбылыстар ретінде құқықтағы міндеттілік және мәндікті қарастыру болып табылады. Әділеттілік қазіргі қоғам мен мемлекеттің өмір сүруінің негізгі шарты ретінде қарастырылған. Құқықтық әділеттіліктің негізгі қағидалары қазіргі заманғы құқықтық қоғамның басты құндылықтары ретінде құқық пен құқықтық реттеуді тануды қамтамасыз етуге арналған әлеуметтік әділеттіліктің бөлігі ретінде анықтау мәселелері атап өтілген. Құқықтық әділеттілік арқылы философиялық және құқықтық құбылыс ретінде құқықтық шынайылықты құрайтын құқықтағы «міндеттілік» және «мәндік» түсініктері қалыптасады.

Кілт сөздер: құқықтық шынайылық, құқықтық болмыс, әділеттілік, міндеттілік, мәндік, құқық саласы, анықтау мәселелері, құқықтық санат.

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Правовая реальность: должное и сущее в праве (социально-философский анализ)

В статье рассмотрены проблемы отражения в праве должного и сущего как составляющих правой реальности. Раскрыто понятие справедливости как правовой категории в контексте моральной оценки права и правового регулирования в настоящем и будущем. Целью исследования является обобщение научных знаний и теорий, раскрывающих должное и сущее в праве как факторов правовой реальности. При помощи общих и специальных методов исследования осуществлен анализ и произведены обобщение научного материала, рассмотрение различных подходов к пониманию справедливости в праве и выявление роли справедливости для понимания сущего и должного в праве. Проанализированы и сравнены точки зрения и научные положения ученых-философов и теоретиков-правоведов в сфере исследования проблем соотношения «должного» и «сущего» в праве современного общества в контексте формирования правовой реальности. Результатом исследования является рассмотрение должного и сущего в праве как явлений, определяющих правовую реальность как правовую действительность в сочетании с политической реальностью и социальной справедливостью, которые выступают в качестве главного критерия, определяющего сущность и социальное назначение права. Спра-

ведливость рассмотрена как основное условие существования современного общества и государства. Выделены проблемы определения основных принципов правовой справедливости как части социальной справедливости, призванной обеспечить признание права и правового регулирования в качестве главных ценностей современного правового общества. Посредством правовой справедливости сформировано понимание «должного» и «сущего» в праве, что составляет правовую реальность как философско-правовое явление.

Ключевые слова: правовая реальность, правовая действительность, справедливость, должное, сущее, сфера права, проблемы определения, правовая категория.

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