

ABSTRACTS AND AUTHORS' INFO

Factors that Influence Appearance of “Blank Loopholes” in Modern International Law

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Certain factors that have an influence on the developments in International Law can be explained by the changes in material world, achievements in science and industry, development of society and so on. Many of them can be regulated in accordance with existing public order, the other ones require a modern approach. Last mentioned above discloses the presence of 'blank loopholes' in existing legal field, as well as in International Law. The reason for one of them is extraordinary achievements in science since the end of the last century to this day. Other reasons are caused by the disappearing of bipolar political world. In both cases the solution for new historical challenges requires doctrinal understanding as well as an update on foreign and domestic legal policies.

➔ International law, loopholes, principles of jus cogens; virtual space, national jurisdiction, internal nationality, cyber attacks, supranational institution, economic tort.

Human Rights: Correlation and Interactions Between International and National Law

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The article researches the correlation between international and national laws and their interactions applicable to human rights. The author comes to conclusion concerning the supremacy of international law in interstate relations and at national levels. This supremacy is not absolute. It is restricted by the degree of which international law regulates interstate and internal relations.

➔ Human rights, sovereignty, non-interference, supremacy, principles, correlation, interaction.

European Integration: Impressive Results of the “Federalization” and Aggravation of Problems

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The article analyses the federalist sources of the integration project of the united Europe and the results of its present-day realization. Despite different appreciations of the degree of this «federality» of the institutions of the European Union, its impact on the present state of the Union is indubitable. The author attempts to forecast a «federalist future» of Europe.

➔ European idea, European integration, European Union, federalism.

Ars Boni Et Aequi as Defined by Celsus: Law Between Art and Science

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Well known definition of law by Celsus (D. 1, 1, 1, 1: *ius est ars boni et aequi*) is based on analytical approach to law according to the dialectic method of Roman legal science established in the period of Republic. The relationship between genus — species in the definition is inverted: *ius* is not presented as a kind of *ars*, but rather is treated as an artificial product of creative activity of the jurisprudence. The meaning of the term ‘*ars*’ is revealed through the interpretation of ‘*bonum et aequum*’ as a predicate, defining *ius*. This idiom indicates at the justice established in the concrete case through application of scientific legal method.

➔ Law, equity, jurisprudence, legal science, definition.

Creative Character of Interpretation and Application of the Law

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The article deals with some particularities in application of the law that allow, in author’s opinion, to characterize this activity as creative one. The author stresses the

creative nature of interpretation. This nature is revealed in the fact that interpreter almost always has to choose between many meanings of the interpreted phrases and that in order to make her choice correctly she needs to evaluate social interests, to consider the varying contexts at the moment of creation and at the moment of application of a legal rule. Application of the law also presupposes creativity insofar as it is impossible to mechanically provide legal qualification for a situation, without addressing the societal connotation of this situation. The author asserts that examination of creative character of application and interpretation of the law is an actual mission for the contemporary Russian legal science.

➡ Interpretation of law, application of law, judicial discretion, deductivism, normativity.

An Anthropological Program of Enforcement

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The article deals with the limitations of a dogmatic approach to enforcement. The author offers a new approach to enforcement. This approach focuses on the analysis of the motivation of law enforcement authority. The author shows the importance of studying framework in the implementation process and formulates the dialogical nature of law enforcement, demonstrating prospects of the methodology of discourse analysis.

➡ Law enforcement, socio-cultural anthropology of law, dialogue, discourse-analysis.

“Fathers” and “Children” of Judicial Reform of 1864 on the Art and Science of Law Enforcement: Formation of Russian Legal Tradition

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The author analyzes the use of the notions “art” and “skills” by the “fathers” of the judicial reform of 1864, as well as their followers. It is shown that the leading members of judiciary of the post-reform Russia paid great attention to the scientific assessment of law enforcement. It is also noted that judges of the second half of XIX — early XX century used the notion “art” in different ways: “the art of drawing

up judicial speeches”, “the art of revealing the main intentions of legislator”, “the art of conciliation”, “the art of assessment of a defendant’s psychological state”.

➡ Law enforcement, courts, judicial reform of 1864, art, mastery, science, legal traditions.

The General Theory of Judicial Method and Styles of Judicial Interpretation in Alf Ross’s Legal Theory

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This article examines the main provisions of the general theory of judicial method (interpretation) developed by A. Ross. His view on this matter is closely connected with the key issue of the positivist philosophy of law — the concept of validity. The authors come to the conclusion that prevalence of the realistic approach to the interpretation in positivist conceptions of the second half of the XX century can be considered as an expression of a general trend in the development of legal positivism — namely, the practice of including sociological and psychological elements into a theoretical analysis of law.

➡ Validity of law, methodology of judicial interpretation, style of judicial method, style of judicial interpretation, legal realism, Alf Ross.

Criticism of the Concept of Possessor of Sovereignty in Modern English and French Legal Science

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The article is devoted to the main issues associated with the concept of possessor of sovereignty. The author traces the evolution of this concept and also raises the question of the most adequate methodology of its research. Based on the analysis of the structure and content of the concept of sovereignty, a distinction between the possession of sovereignty and its implementation is made. The author emphasizes that the choice of the legislator of a particular model of democracy (direct, represen-

tative or half-direct) depends on the degree of identification governors with sovereign. Despite the rather critical attitude of a number of foreign lawyers to the prospects of the concept of possessor of sovereignty in the XXI century, the author argues that its heuristic potential is not completely exhausted, considering the formation and development of communitarian and international law in the field of human rights.

➔ State, sovereignty, people, nation, direct democracy, representative democracy, half-direct democracy, human rights.

Way to Child-Friendly Justice in Russia: Legal Codification and Social-Pedagogical Infrastructure

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The article is devoted to issues of treatment of juvenile delinquents. It shows that national law forms a legal basis conforming to modern standards of juvenile justice. Yet the system is not integrated, it consists of great number of different legal norms, acts and rulings. The issue of lacking conceptual legal unity, deficit of pedagogical substance and infrastructure should be noted as crucial for universal implementation of “pedagogical” justice idea in practice. Ways for unify all the separate elements in one child-friendly system lay in codification of law and forming social-pedagogical infrastructure.

➔ Minors, delinquents, child-friendly justice, resocialization, pedagogical measures, codification.

Assignment of Compulsory Measures of Medical Nature

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The article deals with the legal provisions for assignment of compulsory medical measures in the Criminal Code of the Russian Federation, which sets types of such measures and the criteria for its application. The author reports the statistical data concerning assignment of the measures and notes the discrepancy between the number of expert recommendations and judgments by types of such measures as well as regional variations in the reports of forensic psychiatric expert commissions. The absence of a legal act, providing detailed criteria for the choice of the type of compul-

sory medical measures, considered as one of the causes of problems arising in expert and judicial practice.

➡ The Criminal Code of the Russian Federation, compulsory measures of medical nature, forensic psychiatric examination, report of a forensic psychiatric expert commission, judgment, choice of the type of compulsory measures of medical nature.

Law, Politics and Ideology of Modern China

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The article is devoted to research of the influence of politics and ideology on the modern Chinese law. Noted is role of ruling Communist Party in forming “socialist legal system with Chinese features”. It can be postulated that movement toward new legal system won’t radically change traditional legal mentality of Chinese citizens. To change that, much more fundamental measures should be taken to ensure rule of law, abolishing the Party’s power to influence court decisions and justice system.

➡ Chinese law, socialism with Chinese features, Communist party of China, legal system, reforms, legislation, socialist ideology, legal regulations, corruption.

Certain Features of Rural Government in the USA

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The author analyses organization of towns and townships and new tendencies in their development. The article also deals with particular features of school and special districts’ functioning and their modern evolution.

➡ Counties, towns, townships, incorporated territories, local self-government, urbanization, school and special districts, school boards, local initiatives, local taxes.