Right to a favourable environment in a system of legal values

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Abstract. This article analyses the right to a favourable environment as an axiological construct. The author highlights the issues of legal policy in the field of ecology, the role of legal and environmental values in the regulation of environmental protection. Special emphasis is placed on the importance of effective regulation of human-ecosystem interaction.

1 Introduction

Law is often perceived by legal scholars as a means of changing behaviour, adjusting it according to the constructs and values determined by the current legal doctrine and ideology. At the same time, the symbolic role of law, its role in expressing the interests and views of various social groups and communities, including in the field of ecology, is also evident. When raising the issue of environmental legal values, the focus should not be primarily on those problems that arise in law enforcement and law-making in the field of environmental law, but also on longer-term problems. The focus should be on the values that drive the movement and development of environmental norms, how they affect society in the long term rather than the short term, and which values the law will pass on through the generations by means of statutory provisions. For this purpose, it is important to analyse the impact of the development of the value approach in the perspective of its interrelation with the change of both the behavioural attitudes of society and in direct connection with lawmaking. In this regard, legal values perform an integrative function, involving society and the state in the positive changes in the sphere of ecology, not only from the side of improving the quality of legal regulation, eliminating gaps in the law and ensuring the formation of objective law enforcement practice, but also serving as a favourable ground and basis for improving the environment, legal protection of ecology, and ensuring a favourable environment.

As the concept of value has gained popularity, there is a tendency to expand its definition, therefore, nowadays it is characteristic to unite all forms of environmental values, to integrate them, to move from material products to cultural, aesthetic and even spiritual values. It should be noted that it would be methodologically incorrect to equate environmental values and environmental law. The concept of environmental values contributes to environmental design and management by providing a fuller understanding of how nature benefits human well-being, including in ways that have not hitherto been considered in societal decision-making about the environment.
Since many environmental and land-use decisions in modern society are driven or constrained by economic considerations, defining environmental values in economic terms seems like a logical approach to incorporating them into social and public decision-making. Indeed, proponents of protecting the natural environment and incorporating natural features into the design of built environment have sought to engage in research showing that natural objects and systems provide material services that can be measured and assigned an economic value. However, despite the current enthusiasm for environmental services, a broader view of environmental values is objective.

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Thus, since environmental services are part of the economy, and economic structures of every kind constantly have a sustainable impact on the environment, it would seem that economic and environmental interests are on the same plane of understanding and closely linked, since both interest groups aim to improve the quality of life and ensure that society thrives, but despite this conflicts between these interest groups are inevitable, since the economy can have a significant negative impact on the environment.

Value is a complex concept that refers to various aspects of human experience and behaviour. It may be difficult or impossible to integrate all the relevant meanings of the word 'value' into a single analytical or conceptual framework [1-5].

The impact of environmental values on the life of both the individual and society as a whole is dependent on the emotional component of attitudes towards nature. Any person assesses a situation from his/her personal experience, and having direct personal experience, internal positive perception of nature contributes to effective perception of ecological values, including legal ones. Love for nature is perceived by society not only as an environmental, legal value, but also as a personal value, a human quality.

Obviously, legal norms alone cannot solve existing environmental problems, nor can they prevent their occurrence in the future. Law, as the global experience shows, is rather powerless in the absence of its value content, in the absence of a value-oriented legal policy within which to implement, adopt and apply the norms of law. Unless society and the state support environmental norms and ensure their observance, there will be no positive result from the existence of legally enshrined environmental norms. Law, moreover, cannot be perceived as the only and ideal mechanism for protecting the environment, since it is impossible to create an ideal legal norm for every environmental problem, including potential ones. This is also due to the fact that it is impossible to ensure strict compliance of all subjects of law with the adopted norms and that the environmental situation, like any other construct, tends to change rapidly and the law must respond to these changes. The formation of sustainable environmental values can fill gaps in the law and ensure its flexibility, because when society has adopted sustainable values, the majority of society is not inclined to destroy and violate them.

The attitudes towards the environment adopted in a society, a social group, have a significant impact on the development of environmental attitudes and values. Thus, in social groups in which people have positive personal experience of direct contact with nature in the natural environment, they are more inclined to support the protection of the environment and are less likely to commit acts that can harm the ecosystem. It follows that each individual's personal experience of nature is necessary and should, as far as possible, be ensured by the state as part of a policy of ecological values.

The experience of being in nature should be comfortable and relaxing, not frightening. Circumstances should promote non-utilitarian enjoyment or appreciation; villagers, firmly aware that their income depends on exploiting nature, often develop only a utilitarian attitude.

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towards nature. It also seems that natural interactions that involve the mind are more effective than others in shaping an attitude that makes people want to protect nature. Obviously, the nature in which positive ecological experiences are to be formed does not necessarily have to take the form of large untouched wilderness areas. What seems to matter is the intellectual and emotional impact of such experiences, which encourage people not only to observe nature, but also to interact with it. A positive experience of interaction with the environment leads to an increased interest in environmental processes and learning about them, as well as to participation in the resolution of relevant environmental problems and issues.

3 Results and discussion

Commitment to nature is a fundamental value in environmental issues, but it is not a necessary element of any behaviour of a legal entity seeking to protect the environment. The environmental services sector attracts not only environmentally friendly organisations and people, but also those who enter this niche purely for selfish reasons. Such a situation often generates more environmental problems, but not their expected solution, due to the non-compliance of such actors with the norms and regulations stipulated for the respective eco-sphere activity and the display of ecological nihilism.

Love or respect for nature, irrespective of possible material benefits, should motivate the legal policy of the state. A value-oriented environmental policy of the state must strive for an open dialogue between society and the state on environmental issues, perceiving the demands of society as a whole to be more important than those of individuals or small social groups (often pursuing selfish, self-interested goals). That is, environmental policy must be unselfish in all contexts and relationships. Social partnership in the area in question is the basis for effective interaction between society and the state. However, this does not mean that market structures and their actors should be isolated from this dialogue, on the contrary, only as part of it, they can perceive environmental values and come to understand the need for their implementation in their activities. It is also worth noting, as mentioned above, that such policies should not focus on immediate problems, but take into account the scale of future threats and benefits, universalising the principle of obligation and the need to care for future generations. In fact, these obligations have the strongest impact on positive attitudes towards environmental protection. Of course, the problem of caring for future generations is complicated not only by the fact that modelling the future has a very relative objectivity and effectiveness, but also by a psycho-emotional factor. Very few people today can understand the need to take care of their descendants after dozens of generations. It is these issues that are central to the debate on the need to preserve natural landscapes, ecosystems, etc. Furthermore, legal policy should promote the values of conscious consumption of both resources (water, electricity, gas, petroleum products) and goods. In a consumer society, this value is perhaps the most difficult to realise, as increasing levels of consumption are difficult to reconcile with any vision of environmental protection. However, the formation of this value is important for shaping environmentally responsible behaviour.

Legal policy primarily serves as a factor of norm activation (the transfer of values into the sphere of direct action). In the context of environmental values, the activation of norms seems to depend on the extent to which the individual and society as a whole have developed a sense of environmental responsibility, the adequacy of ideas about the environmental harmfulness of certain actions, the formation of ideas about the mechanisms of eliminating the harm caused, its minimisation, as well as mechanisms for preventing harm from occurring. It is in this context that the idea of an inevitable ecological catastrophe is clearly irrelevant, as the summed up inevitability devalues any efforts and demotivates from active action.
Legal policy can also promote environmental responsibility, both for citizens and organisations, by providing liability for the discrepancy between the values publicly stated by organisations and their actions.

Public policy on the environment should disseminate information on the environmental consequences of actions, provide for the development of an infrastructure that supports environmentally responsible behaviour, show people that they can play a constructive role, address environmental problems collectively, and involve people in decisions in ways that strengthen their sense of autonomy but do not restrict it. People should be given information from the outset on how to behave in the desired way, and they should be assured that sanctions will be avoided during the adaptation period.

Obviously, at this stage, we do not know much about the development and implementation of environmental values. We cannot say with certainty how policy choices will affect future values. In these circumstances, more thorough empirical research should be a priority. Even at this stage, however, it is possible to conclude that an appropriate and adequate environmental policy is needed, based on the development and implementation of the values that have become established in society.

Values are therefore at the heart of an effective environmental policy. This postulate is due to the fact that values are the tool that defines the principles and basic principles of interaction with the environment, values are long-term, unlike specific legal norms, subject to constant changes arising in response to social and political challenges in the life of the state and the international community.

Values clearly have an impact on social and individual behaviour. Consequently, their influence is strengthened and universalised over time, and it is these shared values that can unify environmental regulation at the global level. Such an approach maximizes the protection of nature, environment, ecosystems, as it becomes part of the norm of each person's life, a personal value of the latter. It is the law that can influence and change the existing model of behaviour, through a systematic approach to the implementation of environmentally friendly norms and their application in practice.

In order to develop a legal environmental policy that will be effective in the long term, the focus should first and foremost be on the basic, core environmental values described above. It is not enough, however, to doctrinally define the substance of such a policy and enshrine it in law. A values-based approach reaches its limit only when combined with sound legislative and enforcement practices and active measures (e.g. implementation of state, national and local programmes) by the state and its agencies.

Thus, the value of love for nature, the awareness of the need for its protection and care for it, as mentioned earlier, is most often formed with a positive, active experience of interaction with nature. Accordingly, it is necessary to ensure easy and convenient access to the eco-sphere for as much of the population as possible, to encourage an honest and active public debate about environmental values as well as other values that may be in conflict with environmental protection. Environmental policies should emphasise the impact of individual choices on the environment and declare the responsible use of market-oriented strategies in view of their potential negative impact on environmental values and the environment as a whole.

Since environmental policy is presented as a long-term project, it is obvious that its main strategies should also be aimed at achieving long-term positive effects. Of course, the short-term direct effects of policy strategies also influence the likelihood that future generations will adopt environmental values and adhere to them in their activities.

The interaction between law and values is also impossible to deny and should not be underestimated. In particular, it should be noted that current law always influences and shapes the surrounding reality and will therefore shape the world, which will shape the values of future generations.
On this basis, it is unacceptable to adopt legal provisions which would be contrary to environmental legal policy strategies. It is essential to take a strategic and fundamental approach to incorporating environmental values into legal constructions and to ensure their objective and effective application. In this context, it becomes important to resolve the problem of establishing a dialogue between the authorities and citizens on environmental protection and environmentally friendly behaviour (both personal and economic). Of course, such dialogue is fraught with conflicts and behaviours of denial, but all these problems do not cancel the benefits and effect that this dialogue can bring, because such problems are inevitable, we should not fear them, but rather seek to find the most environmentally beneficial consensus in the dispute between society and the state. Values that compete with the protection of nature should be one of the central themes of such a dialogue, since only then is it possible to understand and make appropriate decisions regarding the trade-offs.

Moreover, it is the axiological core of environmental policy that can ensure the fullest realisation of the socio-economic goals set out in the main policy documents defining the long-term strategy for political and economic development.

In the era of global digitalisation it is also important to actively develop and implement such information technologies, the use of which is aimed at ensuring and protecting environmental rights, rights to natural resources, including technologies for monitoring the ecological condition of territories.

In addition to a focus on future values, the factors that mediate the conversion of environmental values into protective behaviour should be kept in mind. A policy strategy should include measures that link public environmental values more closely to individual behaviour. The law's most important role, however, in making the link between values and behaviour is to require disclosure in ways that emphasise individual responsibility for the destruction of nature in the presence of less destructive alternatives. The state must ensure systematic and sustained monitoring of the environment, including wildlife.

In addition, the link between law, values and behaviour should be studied more thoroughly and extensively. It is prudent to undertake major academic studies at the global level, nationally and globally. Such an approach will make it possible to identify weaknesses and prospects for the development of existing policies, to apply universally what has been shown and proven to work, and to ensure monitoring in this area.

4 Conclusion

Environmental law, on a global scale, has not yet embraced the idea of reorienting political and economic interests toward the implementation and enforcement of direct and active environmental protection methods. Active direct action is today typical only in cases of environmental offences by actors. Not all countries perceive the environment as a value to be preserved and protected, which is why one of the directions of implementing a values-based environmental policy is the development of global (worldwide) legal regulations, which should be implemented by all countries and be binding on them. This has a global significance which also affects the state of the environment, since all ecosystems on our planet are interdependent. The current framework for interstate cooperation on the environment and environmental policy is not systemic but fragmented and needs to be universalised and improved. Environmental protection issues are becoming increasingly urgent in view of the inaction on existing problems that risk having a global impact on the state of the environment in the future. Often national, local, and state projects (in general, worldwide) are implemented in isolation, taking into account the strategy of a particular region or state and studying the impact of the implementation of such a project on a limited territorial scale.
Furthermore, an axiological approach to the right to a good environment should take into account the methods and mechanisms of existing ecotechnologies and precede the introduction of new ones, bearing in mind the global impact of their application and the interconnectedness of the consequences of the actions undertaken.

Therefore, a global political approach should provide easy access to nature for any individual, encourage an active discussion of environmental values, emphasise the influence of individual choices, and motivate the use of market-friendly strategies. Such an axiological approach will ensure effective implementation of long-term environmental strategies.

References

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