

## Legal Measure as an Expression of Legal Meaning in the Digital World

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**Abstract:** Examining the philosophical projections of law as a value-regulatory system, this paper argues that the measure of law in the digital world particularizes and concretizes legal meaning. It reflects the distributive nature of law as a fundamental legal quality.

**Key words:** Measure of law, Digital world, Sociality, Bilateralism, Contradiction, Balancing of legal meaning, Distributive nature of law

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### Introduction

Drawing on a semantic and phenomenological theory of law as goods and order, the measure of law grounds legal legitimacy in the digital world. It is an extension and concretization of legal meaning (Mihailova, 2001, p. 7). It specifies the qualitative-quantitative legal possibilities for the participants in the legal order, thus building the distributive function as a property of law. It makes sense of the flow of order as a fundamental task of law.

### Measure of law as a part of the legal values

Social regulation is based on values and value relations, they reflect the legal sense. They are the foundations on which the principles and norms of the social legal system grow. As part of legal values, legal measure requires an integral meaning phenomenological (Husserl, 1996, p. 27) approach for law to be part of the ontological-functional system of society. The existential-myopic view of the nature of legal values is advocated. In it values and value relations are determined by the laws of development of the formative culture of mankind, they are objective phenomena. This position is

maintained when considering measure as a part of legal values that detail and concretize legal meaning and because it is in line with the essence of legal measure as a fundamental distributive property of law.

### The legal measure as a carrier of legal meaning

The legal measure contains, specifies and details the meaning of law - it is a bridge to the sociality of man. As a social phenomenon, law is consciousness of community and order (Mihailova, 2001, p. 14). Sociality is the first feature of legal meaning, it is also present in measure as its concretization. Law springs from society and is intended for society, it exists in terms of coexistence, co-consciousness, co-thought. It is external to the individual, drawing it in experience, but the idea of right carries within itself, so the individual is both meaning-cognizing and meaning-making (Mihailova, 2001, p. 13). The individual is cognizant, appreciative of social reality, but is also involved in it. Through the law and the legal measure in the digital world, the individual inscribes himself in existence, receives his qualitative and quantitative characteristics and possibilities. Law is a meaning-making consciousness that discovers

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the meaning of the position of possessing, acquiring and disposing of goods in conditions of coexistence, in an established, binding order (Mihailova, 2001, p. 13-14). The position of subjects in possessing, acquiring and disposing of goods within their scope within the legal order is the essence of legal measure. Its significance derives from the justified positions of the participants in the field of law, but also from the balance between received, given, recompensed. Legal sense justifies positions on goods, is part of man's being and consciousness of law, and lays a bridge to man's sociality. The relation of man to others within the unified legal order in its qualitative-quantitative parameters is contained in the legal measure as an extension of the legal sense and as a fundamental property of law.

The initial coordinates of any law in society are goods and order (Mihailova, 2001, p. 45). Order is a good that is achieved by specifying clear qualitative and quantitative parameters in the mass customary operation of social relations under conditions of co-existence. As a quality of law, the legal measure details the relations between subjects, determines to each - his in the distribution and exchange of goods. The measure sets the position of the subjects in relation to the goods by measuring it by type and limits. It is part of the existential sense of law, related to the distribution of legal power and legal possibilities in relation to legally relevant goods, directed towards the human being.

The search for the measure of things, for the mean, for balance, is given in the nature of man and is his highest faculty (Mihailova, 1996, p. 36). In the mythological and religious understanding of the world, man seeks the idea of co-(dimensionality), determination, harmony and order in the course of social life. The deepest essence of man is bound up with the need for co-measurement, correlation and proper determination of man's positions and capacities in the conditions of social life. The need for "similar cases to be treated similarly",

for moderation and balance in the course of mass relations, for correlation in the positions and setting of the possibilities of subjects, predetermines the distributive function of law. It is an objective (Milkova, 2003, p. 81) property (function) of law that is expressed in measure as an essential legal quality.

As a defining property of law, measure is opposed to chaos and arbitrariness in the flow of the exchange of goods. Part of the legal sense, legal measure concretizes the freedom of man in the conditions of living together. Without it, both the universal and existential order and meaning of law is impossible.

Measure in law presupposes the active, creative beginning in man. Man, with his will and consciousness, knowledge of co-community and order, is the primary social cause of law. It determines the necessity of regulation of social relations and setting the freedom of subjects in type, scope and limits within the legal order. Legitimately, one of the definitions of law is a measure of freedom (Mihailova, 1996, p. 43).

In order to fulfill its role as a standard, a model of what is due, of legal substance, law and legal measure must specify freedom for what, freedom from what, how much freedom. The legal measure is conceptualized as freedom in essence, kind, and scope, it is set as freedom from legal regulation (Mihailova, 1996, p.43), its limits are outlined. In this sense, law rests on the principle that anything is permitted that is not expressly prohibited. As an intrinsic property of law, a concretization of legal meaning, the legal measure sets in kind and scope the limits of legally permissible freedom in the conduct of subjects. The legal measure serves as a benchmark, functioning as a definition of lawful and unlawful, permissible and impermissible conduct of subjects.

Concretizing the legal meaning, setting the quantitative and qualitative parameters of law, the legal measure outlines the autonomy and self-determination of man in the field of

law. The freedom of the human being, enshrined in kind and volume in the essence of the legal measure passes through the human being. It transforms the common will, common good and order in terms of coexistence into freedom for the unit and the individual. Freedom in law has value and meaning in its qualitative-quantitative parameters. It is contained in the legal measure which sets what is permissible for the individual within the socially permissible, within the order of law. In this sense, the legal measure is part of the substance of law, which specifies the freedom/non-freedom in type, scope and limits of the person. Through the essence of the legal measure to allocate by type and volume the freedom of subjects within the legal order is measured to the categories of permissible-impermissible, lawful-unlawful.

Law unites freedom and goods by expressing them through each other. It unites my position of "I have good" and personal freedom with the good and freedom of others. The legal measure contains the most immediate legal meaning, which points to the direct relation of law to the social exchange of goods. It thus conceptualizes, regulates and sets the joint life in the relations of giving and receiving by providing activity or obligation. Simultaneously, the measure of law transforms the communal legal sense of order and harmony, directed and detailed to the individual consciousnesses of subjects.

In its original sense, law is not a norm, but a position on goods conceptualized as "good for me" and defensible as such. The first approximation of the right and the legal measure is the justification of the position of having to dispose of goods (Mihailova, 1996, p. 37), the protection of one's own actions freedom from foreign interference, the qualitative-quantitative dimensions of one's freedom in accessing the goods of the right. An expression of the freedom that is present in the value justification of law as a measure is the opportunity granted to the subject to

choose his or her behavior within the requirements of order. The measure of right therefore carries a useful existential meaning and is polyvariant, comparable to heterogeneous social practice, which, however, as a rule preserves the positive nature of man. Even when it prescribes restrictions and prohibitions, when it sanctions, the measure of law is not arbitrary. Through a clearly defined freedom for subjects, the measure of law seeks balance and equilibrium in distributive and exchange relations in order not to cross the line and to preserve order in society. Law and legal measure does not justify any freedom, any activity/passivity of the subject. Reflecting the justified dependence in subjects' positions regarding goods, the legal measure selects and anchors a permissible pattern of legally justified freedom - for what, from what, how much freedom.

Law does not repeat but evaluates, distributes and sets the social interactions mediated by the goods of law. Reflecting the legal sense, the legal measure provides an enduring definition of the socially justifiable relationship between subjects in the distribution of goods (Mihailova, 1990, p. 68). It indicates the reasonable, socially selected, useful in kind and limits of the power of subjects with respect to the goods and order of law.

The right is a carrier of a particular social meaning, representing the possession, giving, receiving of goods as a legitimate state, when it has as its basis the requirement of entitlement. The deepest sense of right is o-righteous-n, rightful, two-sided, commensurate, opposite, just, right. These qualities also characterize the measure of right. Opposite to what is received is what is given. The commensurability of the legal sense is concretized by its two-sidedness (Mihailova, 2001, p. 52). The legal sense sets a formula of correlative dependencies on goods different in their nature. The acquirer has a counter-

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contribution commensurate with the measure of the right, with dependence on a common legitimate law of conceptualizing, commensurating and setting positions in access to legal goods. Commensurability and commensurability (Dachev, 2004, p. 177) is an essential feature of the legal meaning embedded in the legal measure. Available social matter takes on legal meaning, assumes new qualities and parameters, is valid with the approval and legitimacy of law (Mihailova, 2001, p. 40), and is embedded differently in legal positions. The commensurability of legal meaning reflected in the legal measure is a synthesis between the factual and the entitled. Through it a useful, desirable social dependence is constructed in its qualitative and quantitative dimensions between subjects. The legal measure names the social matter of facts, positions and dependencies, in optimal quality, quantity and state of affairs. At the same time, it gives them the quality of law, adds to them its requirement of justice, of justified legal sense.

The legal sense detailed in the measure of law reconciles and balances opposites. They give rise to the operation of law. They are a necessary essence, quality, property, objecthood, condition for law to be at work and to order being (Mihailova, 2001, p. 207). Each position depends on the subject's counter-position, on an available circumstance and ground. Each good is commensurate and relative to another good. Legal measure contains the unified essence of law to be applied as a rule and criterion, as a superpersonal principle. At the same time, the measure of law reconciles opposites, fulfills the requirement of law for concreteness in the positions and conduct of subjects, and thus guarantees the order of law.

### **Conclusion**

The history of human development proves that law existed even before the emergence of the state as customary, mythological law,

interwoven in social practice, in the common life of people. The notion of law in digital world, thanks to its legal sense, carries a useful existential code that points to man's place in society without being institutionalized. The measure of law fulfils precisely this function of law to justify, balance and distribute relations of giving and receiving within the community. The value qualities of balance (proportionality), bivalence, opposition and sociality of the legal meaning embedded in the measure of law lend legitimacy and justify what is due. Thus, they bind the person within the social, they give effectiveness to law.

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