

# Abstract:

## I.

Values and value judgment represent phenomena influencing effectiveness and efficacy of law. More precisely the fact whether definite values are reflected in a content of law influences (or at least has a capacity to influence) efficacy of law. A value judgment relating to law, i.e. question whether law is believed by valuing subject (addressee of legal norms as commands of holder of authority) to reflect definite values influences (or at least has capacity to influence) effectiveness of law. Effectiveness as well as efficacy of law represents measure in which purposes relating to law are fulfilled as an effect of law.

Effectiveness represents a measure in which behavior of addressees of legal norms complies with a content of law. The purpose that is to be fulfilled there is a reduction of entropy of social relations so that law could create an order.

Efficacy of law is itself conditioned by effectiveness of law (achievement of decent level of effectiveness of law as a purpose represents a means in relation to achievement of efficacy of law as well). In case of efficacy of law the purpose that is to be realized is achieving a common good or in other words providing such a setting of social relations that enables a “social reproduction”, i.e. not just biological reproduction but also reproduction of social relation within which only a human is able to live and make good.

Besides providing a setting of social relations enabling an social reproduction which in which in fact represents a necessary purpose of any legal order or any other complex social regulatory order there could be distinguished also another purpose to which the above mentioned one could be grasped to be a mere means. This one is a terminate purpose of all human behavior and the very content of this purpose could vary in dependence on meaning of pertinent person as a valuing subject as well as on cultural milieu. At least within the “western society” predominates a liberal conception of justice under which a content of this purpose is to enable to any member of society realize his individual purposes.

## II.

Values represent specific goods realization of that could be understood as a means of achieving of above mentioned purposes. Value judgment represents an opinion of valuing

subject on which phenomena in fact are values, i.e. what is desirable as a means realizing of above mentioned purposes. Regarding the fact altruism represents a biologically determined motif of human behavior there exists a tendency of human beings to prefer such a setting of relations within a society that are suited to providing of optimal conditions for enabling a social reproduction. Effectiveness of law is therefore conditioned just by such a setting of relations in society that under value judgment of valuing subject is suited to achieving of this purpose. There therefore takes an effect a “moral sense”.

Sense of justice represents a specific demonstration of moral sense relating to a way in which benefits and burdens are divided amongst members of society. Regulative effect of sense of justice in a literal sense is conditioned by occurrence of such a situation where there altruistic behavior amongst subjects of social relations could be expected, i.e. where there is sufficient degree of by these subjects shared genetic or cultural information.

If a conflict of interests is to be solved by decision of holder of authority an authoritative nature of this decision is conditioned by observance of requirements of formal justice and a subject who admitted to be bound by a decision of holder of authority in fact has a reason to respect this decision as binding for him only if these requirements are met. Therefore even if there could not be expected an altruistic behavior of subjects of social relations requirements of justice could be met on a basis of expediency of such a solution of conflict of interests for subjects of social relations.

Altruism as a motif of behavior and groundwork of sense of justice has in a literal sense effect only within behavior amongst subject that share a sufficient degree of genetic or cultural information or these subjects at least presupposed that they share it. Regulative effect of altruism at the same time confines itself not only to questions of “particular justice” but could relate also to a “global justice” where relevant is a question of mere effectiveness of pertinent setting of relations in society as a means providing of optimal conditions enabling a social reproduction. Considering the fact regulative effect of altruism represents a motif of human behavior regulative effect of that is independent of regulative effect of coercion system of pertinent legal order effectiveness of law could have effect to the full only if a valuing subject considers pertinent legal regulation to be an effective means in relation to this purpose or at least not to be a considerable obstacle to providing of this purpose.

### III.

The very concept of efficacy of law is conditioned by the fact that by obedience of law addressees of legal norms contribute to achieving a purpose of providing such a setting of relations in society that enables social reproduction. The very obedience of law represents a value as a means achieving this purpose. Under so-called *normal justification thesis* it is legitimate to execute an authority and demand obedience only if the obedience provides also the addressees of commands of holder of authority with higher probability of achieving his individual aims than he would be if he conducts in any other way. Obedience of law and in case of need also enforcement of obedience could represent not only a way how to face negative effects of human selfishness but also it provides a possibility to solve a situation of existence of shortage of information.

The one who belief he achieved a perfect and absolute cognition of laws of social relation knows no bounds in his attempt to do good. Willing to provide better setting of social relations such a person is able to cause an enormous amount of suffering just because he any obstacles preventing him from providing what he suppose to be good grasp as illegitimate and socially undesirable. Providing of efficacy of law is therefore always conditioned by existence of limitation of what is even a lawgiver allowed to do. Therefore there has to be limitations of means he could use to realize what he suppose to be good.

To no value judgment may be accredited an absolute validity. All values must be recognized as relative. A question of hierarchy of values must stay always be allowed to be discussed within a democratic procedure.