

Legal Awareness And Legal Culture As Elements And Means For The Implementation Of A Mechanism For Ensuring The Legal Impact

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Abstract

The article is concerned with the theoretical understanding of the problems in the field of analysis of the elements of the mechanism for ensuring the legal impact, while studying the mechanism of impact of the law on people's behavior under the influence of various social norms, especially if the content of all or some of them coincide in their requirements. The author analyzes modern legal and conceptual aspects of the essence of legal consciousness in conjunction with legal culture, presented in the form of traditions, customs, legal customs, morality, values, ideas of justice, collectivism, respect, mutual assistance, the priority of social interests, respect for law and the state, which should be inherent to every nation. Certain problems, shortcomings, and contradictions in the development of modern Russian legal theory and doctrine in the field of improvement of the legal impact and regulation mechanism are identified; it is stated that since the beginning of its creation, the legal norm has had not only a regulatory effect but also an educational one, preventive, proactive, protective, etc., which must be used in practice. The thesis is considered that ideas or laws alone are insufficient for effective legal regulation, since simultaneous changes in legal consciousness and culture are required. The informative function of law, based on the promotion of legal norms and legal education, is pointed out particularly. The scientific novelty consists in the definition of the main problems, place and significance of each element of the legal impact mechanism in the social medium, taking into account the perception of legal awareness and legal culture as the centuries-old wealth of the people, which allows society to develop sustainably in difficult situations and even survive without shocks in certain difficult periods. It is noted that the majority of researchers study the legal culture of society, somewhat forgetting about the legal culture of each individual

A proposal is made to create special advisory and informational state bodies, associations, public organizations and institutions for the practical implementation of state tasks in the field of culture and law in general, for informing and advising the population, considering the legal culture both in a narrow and broad conceptual sense, paying attention to the study of the functions of legal culture.

Keywords: person, individual, legal conscience, legal culture, effectiveness of legal norms, rule-making, legal regulation, legal impact, legal impact ensuring mechanism.

1. Introduction

As any modern developed society, modern Russian society strives for the stability of political life, establishes a regime of legality, wishing for its citizens a favorable environment and normal human relations in society, which requires the state to make certain efforts to create mechanisms to serve its people in order to provide support for the majority of civil rights. At the same time, the direct activity of state bodies determines the behavior of an individual in the political and legal sphere due to the fact that otherwise it is impossible to implement efficiently the legal norms in general and the norms ensuring the rights, freedoms, and duties of the individual in particular.

The relevance and significance of this problem is also determined by the fact that the process and mechanism for the implementation of rights, freedoms and duties of a person can be ensured only through securing them in legal norms that guarantee and carry out a targeted impact on personal behavior, which depends not only on legal norms but also on personal attitudes, the values accepted in society and the influence of the social environment on the individual.

In speaking of the legal impact mechanism, it should be understood that it is a combination of elements of the legal impact, such as law, legal principles, law-making process, sense of justice, legal culture and the mechanism of legal regulation, providing the influence on the consciousness and behavior of each individual in society.

2. Methods

The task of the law is to create motives for better behavior in the soul of a person.

(I.A. Ilyin, *Homeland and We*, 1995)

The beginning of the 21st century brought new problems in the field of social management, and the development of technology, electronics, and telecommunications posed a number of new tasks in the traditional areas of legal regulation of social relations. According to S.A. Komarov, the main purpose of the law is to organize the relations of citizens, their behavior, taking into account their individual needs, to direct the actions of the members of society into the mainstream of public interests (Komarov, 2012).

Thus, one of the nationwide problems is the implementation of the process of the legal impact, as a certain element of the governance system. It should be remembered that both the governors and the governed are citizens of one state, people who, due to the prevailing conditions, can influence by their will the consciousness of others, demanding certain behavior of the latter.

The important problem of the present time is that the tasks in the field of governance set by the time should be solved having defined such concepts as legal regulation and legal impact, the meaning of which is sometimes unclear to theorists and completely indistinguishable by practicing managers. Meanwhile, these concepts coincide only to a certain extent and they should be separated. If one perceives the concept of “influence” as an impact, and “regulation” as ordering, then it can be understood that influence includes regulation by means of a legal norm, as well as other means, methods and forms of influence on human behavior. If legal regulation includes only legal means of influence, such as the legal norms, legal relations, various acts of enforcement of the rights and law enforcement acts, then, in speaking of the legal impact, other legal phenomena such as legal consciousness, legal culture, legal principles and the principles of law, law understanding, as well as the rule-making, law-making process can be applied.

In consideration of the mechanism for implementation of national legislation, as an element of legal impact, attention should be paid to the problems of the functioning of the legislation itself, which manifest themselves in the implementation of regulatory legal acts, taking into account that the legislator, after the adoption and approval of the law, considers its activities completed.

It is clear that in modern Russia, the development of national law in any industry is considerably influenced by a system of various ideas of legal theories and paradigms that form the basis for the development of sectoral

legislation, including law enforcement and human rights. A significant problem is not only the considerable influence of the role of international law, the state itself in the implementation of legal policy and state regulation of mechanisms for the implementation and protection of individual rights in general but also the development of the law-enforcement component of national legislation (Marchenko, 2011). It should be noted that at the moment of emergence of the rights themselves, which has not been fixed by anyone, their main problem, the problem of the efficiency of enforcement of the rights, manifested itself.

Let us designate the methodology for analysis of the implementation of the legal impact mechanism, having explained that the general principles of scientific knowledge, as well as the approaches and methods traditionally related to the apparatus of legal science, are applicable to the study; as well as the research based on some methods of system, comparative legal, regulatory, formal logical, historical and logical research methods, taking into account the application of the principles of objectivity and comprehensive knowledge of the studied phenomena.

It becomes clear to most theorists and practitioners that there is a need to study the process of practical functioning of the mechanism for not only the legal impact itself but also the mechanism for ensuring the effectiveness of the legal impact on all spheres of life and activities of society.

Based on the above, the authors make the assumption that the legal impact on a legal category should be considered in a broad and narrow sense of the word. Theoretically, the scientists everywhere justify the generally accepted concept that the legal impact is mainly the normative and legal impact on public relations through such legal tools as legal norms, legal relations, various kinds of law-enforcement acts and the acts of enforcement of the rights, which could be called the legal impact in the narrow sense of the word.

However, if one turns to understanding the legal impact by S.A. Komarov, for example, who considers the legal impact as part of an entire system of regulation of social relations in society, the essence of which lies in the influence of the consciousness of some governors on the consciousness of others governed, then such legal phenomena should be included in the named system, as legal consciousness, law-making, principles of law, legal culture and legal policy of the state as a whole, and to speak about the legal impact in the broad sense of the word (Komarov, 2012).

Based on the views of N.I. Matuzov, the authors conclude that, in speaking of the mechanism of legal regulation, he draws attention to the fact that

in the narrow sense of the word, it is a tough and powerful rationing and regulation of relations through the law, and in the broad sense of the word – the mechanism of legal regulation is represented by a collection of all legal phenomena that can impact the consciousness and behavior of the participating subjects (Matuzov & Malko, 2011). Attention should be paid to the fact that this is not about the legal impact, but about legal regulation, which again brings us back to the problem of understanding all the used concepts and phenomena: legal effect, legal regulation, legal support, etc. It is absolutely clear that, being the subject of legal impact and regulation, social relations are essential when studying the above phenomenon, since they may be subjected to various kinds of impacts and regulation, which in turn depend on many different conditions, signs, and factors influencing them. The authors are trying to analyze the problem of the constantly developing and sometimes complicated economic, political, cultural, religious and other public relations in the past few years, which require attention, solving problems and sometimes conflicts, receiving answers to the questions posed by the development of society.

The authors examine the evidence that juridical or legal impact, being a kind of social management, is represented as the purposeful impact of competent persons on the system of social relations through legal norms within the state, which is aimed at streamlining, protecting, securing, developing these relations in accordance with the requirements of society, state, and individuals.

3. Results

Currently, in the framework of the process of implementing and protecting human and civil rights, many scientists have begun to discuss the significance of legal regulation for the state and public life in general, taking into account actual rights and freedoms of an individual (Denisenko, 2007; Lapaeva, 1997; Kalinin, & Komarov, 2011).

Through legal norms and legal relations, the rights are practically embodied in society and their social purpose in the regulation of certain social relations is exercised.

It is clear that the legislator, the executive, and the law-abiding citizen are interested in the effective legal regulation of public relations and in constant improvement of this efficiency due to significant changes in public relations over time. Following the analysis and research of its activities, the lawmaker may clearly see various kinds of flaws and violations, for the elimination of which it can and should prepare and implement practi-

cal and theoretical recommendations both for the legislator and for other participants in public relations.

3.1. On the mechanism of legal impact and legal regulation

In Russia in the second half of the 20th century, the concept of the legal regulation mechanism appeared, provided that the goal set by the legislator had been achieved and the concept of legal impact mechanism if the result turned out to be different, while the legal impact mechanism included a legal regulation mechanism and if they coincided, the norm was considered effective, determining the regime of legality, the degree of law and order in all spheres of society (Tereshchenko et al., 2017).

Such scientists as Bachilo (2006), Ivliev (2002; 2003), Khabrieva (2006), Tikhomirov (Tikhomirov, 2008; 2010), Nersesyants (2007; 2010) and others paid attention to the problems of theoretical and practical development of the legal impact mechanism, beginning, in the author's opinion, first, with the presentation of the legislator and the emergence of the legal norm, and the legal regulation mechanism for specific fields of public relations. At the same time, the state understands its tasks in the area of increasing the effectiveness of legal regulation by streamlining the lawmaking process, along with improving law enforcement activity and, which is important, raising the level of legal awareness and legal culture of all participants in public relations. Kargopolov (2010), a person far from the processes of legal regulation, notes that the problems existing in modern society come from one thing – the problems of the poor quality of the human personality. He points to the lack of genuine spiritual and mental culture, which, in his opinion, society needs most.

3.2. On understanding the essence of legal consciousness

The problems of legal consciousness are still important, complicated and exciting the minds of many people. Lawyers often understand legal consciousness as a spiritual component of legal matter, a legal system based on morality, ideas about justice, mutual assistance, virtues, religious values created by generations, while the formation of legal awareness can be impacted. The structure of legal consciousness is known and represented by two elements, namely: legal psychology (feelings, desires, habits, spontaneity and connection with personal values) and legal ideology, which is formed on the basis of legal knowledge, estimated indicators of law, which are established and directed to the person for their implementation, while ensuring control over the behavior of the individual.

In this case, one can already speak of the formation of conditions for the legal culture of the individual and the formation of a certain level of this legal culture, which is important both for the legislator, the law enforcer, and for each law-abiding citizen. Today, such an element of legal consciousness as the will is considered, moreover, legal consciousness is defined as an internal source of law (Kalinin, 2009; 2011).

3.3. On the essence of legal culture

It is clear that legal consciousness is not the only element of the mechanism of legal impact, and that its interaction and connection with legal culture are objective, taking into account that both legal consciousness and legal culture are important components of the functioning of Russian statehood, the source of which is the ancient Russian national legal culture. According to S.A. Komarov, legal culture is “a complex of ideas of a community about the law, its implementation, law-making, law-enforcement activities of state bodies, officials, the state of law in the state” (Komarov, 2012).

In Russia, in the 20th century, an understanding of legal culture was formed on the basis of the legal consciousness of a person and legal consciousness and legal culture not of an individual, but of society as a whole were discussed.

It is understood that a society with a high level of legal culture will have an appropriate level of legality, which will allow implementing the legal impact mechanism in the sphere of activity of the officials at all levels of government, and organizing a society of individuals to control the activities of these officials, and having an appropriate independent judiciary and mass media so that any deviations from the law, notwithstanding the initiator of them, would be noted by the public and eliminated by the relevant government bodies.

In order to ensure the legal activity of citizens, they should be legally literate: it is necessary to organize legal universal education, law schools and colleges, higher legal education organizations; a system of scientific legal institutions with corresponding tasks and functions is required. All this sets the government to create conditions for raising the level of legal culture. However, one should probably start with government and civil officials.

4. Discussion

In current hard times, I.A. Ilyin should be recalled, who said in the past century, that a person couldn't but have legal awareness, that everyone

had it, if he was aware that there were other people besides him. “The whole life of a person and the whole destiny of him are composed with the participation of legal consciousness and under its supervision; moreover, to live means for a person to live with legal consciousness, in its function and terms: for it remains always one of the great and necessary forms of human life” (Ilyin, 1995). Thus, the individual as a carrier of a normal legal consciousness through the attitude of the soul to the right gives rise to conscience and will, prompting the obligation to fulfill the rule of law, which is a vital necessity.

One cannot but agree with Komarov (2012), who represents legal consciousness as a complex phenomenon, which includes not only the totality of ideas and feelings, not only the totality of knowledge about law but also, what is quite significant, attitude to it, respect for law as a social value.

It is also well known that legal culture is closely related to legal consciousness, as an independent category with many different elements that characterize its features.

Scientists have no unified point of view, not only on a specific judgment about the category of legal culture but also on the structure and elements included in the concept of legal culture.

So, for example, L.I. Spiridonov admits that cultural and legal norms may coincide in their content, reflecting the same values and requiring the same behavior (Spiridonov, 1995), since culture in its understanding is an expression in a specific way of the human mode of activity.

Syrykh (1998; 2016) characterizes the legal consciousness as the ability of society to study and know the law, its laws to improve the current legislation, despite the fact that the legal regime supporting the necessary level of legality, mutual responsibility of the state and the individual, protection of rights and freedoms of man and citizen he calls legal culture.

The point of view of S.S. Alekseev on the issue under discussion is definitely interesting, namely: he sees a deep and organic connection between law and culture. According to him, “all the wealth of spiritual values accumulated by mankind through law, through legal norms, through the entire mechanism of legal regulation, receives normative life in the world of objectified phenomena, is fixed, extends its power to the future, is realized in life relations, in people’s behavior” (Alekseev, 1993; 2009).

One can agree with Lungu and Marchenko (1995), who include in the concept of legal culture such legal values as a high level of development of legislation, legal science, law and order.

With regards to the legal regulation mechanism as a legal category, it is

generally recognized mainly as one of the elements of the legal impact, along with legal awareness, legal culture, legal principles and law-making, while the legal impact should be considered as a certain part of social regulation as a system given the fact that both the governed and the governors are individuals, humans (Drozdova & Komarov, 2011).

In view of the aforesaid, it can be concluded that, despite the fact that legal consciousness and legal culture each has its own place in the legal impact mechanism in general and in the legal regulation mechanism specifically, special attention should be paid to their role in the process of lawmaking and law enforcement.

Thus, the regulatory role of legal consciousness is obvious, while the state objectively cannot ensure this regulatory and significant activity of legal consciousness, objectively, even despite the fact, the connection between legal consciousness and legal regulation of social relations is obvious.

Since legal conscience has a legal effect on the consciousness of the participants in the process, without giving the parties rights and obligations, it still determines the behavior of the subjects, which means that it regulates this behavior to a certain extent, possibly strengthening or weakening the effect of the legal norm in each particular case.

Thus, it becomes clear that mechanism of increasing the effectiveness of the legal impact is based on legal consciousness and legal culture, which is important for all social groups to the same extent: for the legislator, for the law enforcer, for the official of any level, for each person (Lukasheva, 2015) living in the territory of this state. One should agree that the creation of conditions for raising the level of legal awareness and the legal culture of an individual as a whole depends on a number of factors, such as: the general level of culture in a country, how the law is implemented by law enforcement and human rights structures, what level of legal awareness and legal culture officials and state employees, what is the legal regime in the state, etc.

Probably, in the present period, society and the state are facing the difficult tasks of creating conditions and factors affecting the improvement of the effectiveness of legal culture and legal consciousness of citizens, so that the actions of citizens have only the nature of lawful actions.

5. Conclusion

Every state is always interested in the correct reflection of social needs by all laws issued by it and their efficient implementation. The social utility of legitimate behavior is obvious. Strengthening of the impact of the rights

on the behavior of people, individuals occurs under the impact of not only a number of legal norms but also moral, religious norms, customs, traditions, social and cultural norms, especially if the requirements of all these or some of the norms coincide.

Objectively, it is clear that legal consciousness, combined with the legal culture of living people, absorbs traditions, customs, legal customs, ensuring the development of legal matter in society, demonstrating the continuity of generations, collecting and preserving all that has been worked out before them; perhaps this is some form of centuries-old morality, traditions, values, ideas of justice, collectivism, respect, and mutual aid.

In the last period of time after 1995, the legal culture has been more often viewed as a conceptual evaluative category, i.e. both the internal and external components have been studied, while the majority of researchers have studied the legal culture of society, somewhat forgetting about the legal culture of each person, since the internal content of the legal culture is contained in the individual. Regarding the effectiveness of legal regulation, there is also no common approach and understanding among scientists. However, everyone comes to understanding that the effectiveness of legal regulation should be analyzed in several aspects, such as validity and expediency, actual efficiency, utility, and even economic efficiency, as well as in various areas.

In conclusion, it should be noted that the legal norm, from the beginning of its creation, includes not only a regulatory effect but also an educational, preventive, proactive, protective effect, etc. It should be used in practice. Particular attention should be paid to the informative function of law in general, based on the promotion of legal norms and on legal education. One of the problems of the scientific community of lawyers is the solution of the problem of the scientifically grounded definition of the legal impact mechanism, a complex and multilateral phenomenon that does not yet have an unambiguous understanding.

The authors would like to conclude with the words of I.A. Ilyin, who, speaking of the political education of the people, stated the thesis that “the general public must be involved in public life, first through legal consciousness, and then only through a political act” (Ilyin, 1994).

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