

Artículo de investigación

The Application of International Standards and Creative Projects in the Formation of Legal Awareness

Применение международных стандартов и творческих проектов в формировании правосознания

La utilización de los estándares internacionales y los proyectos creativos en la formación de la conciencia legal

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Abstract

The article suggests the means and ways influencing the legal conscience of various states and communities' representatives in the field of legal relations in foreign countries. The purpose of the study is to identify common features of law protection measures in the field of rulemaking and public morality for building a strategy for the formation of a sustainable legal awareness and sense of justice. Methods and materials: intersubjective approach and using methods of document analysis, including posted online legal acts, training materials, and mass media; classification, generalization and synthesis. Results: on the one hand, the formation of legal awareness must base on the level of existing knowledge and the target audience (depending on such parameters as age or profession). On the

Аннотация

В данном исследовании авторы предлагают концепцию системы формирования правосознания, учитывающей как международный опыт и теорию, так и особенности национального самосознания. Цель статьи – изучить универсальные модели международных стандартов правотворчества и этического регулирования, применимые для создания стратегии развития правосознания и правопослушного поведения. Методология исследования – классификация, обобщение и синтез; контент-анализ правовых и иных нормативных документов, законопроектов, обучающих материалов и медийных каналов; материалов творческих конкурсов и тематических выставок. Результаты:

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other hand, it is necessary to cover all available groups of means from traditional (books, radio, direct communication and art exhibitions) to the most modern ones (computer tests and quizzes, Internet portals to maintain the transparency of relations between subjects of law, media creativity). Conclusions: the formation of legal awareness in contemporary globalized risk society should include the impact on both thinking and perception; both on legal consciousness itself, and the moral consciousness. The authors develop several ways of application of the findings adapting international standards of legal awareness to the national mentality (using the Russian example) to enhance the value of the law, which will help law enforcement specialists to provide more constructive, effective and theoretically sound reports on their activities.

Key Words: Civil position, corruption risks, creative practices, ethical norms of the state employee, legal awareness, mass media.

эффективные зарубежные и международные инициативы по развитию правосознания основываются на уровне уже имеющихся знаний и возрастных и профессиональных особенностей целевой аудитории, и используют весь спектр средств массовой коммуникации от достаточно традиционных (книги, радио, прямое общение и авторские выставки) до передовых (онлайн задания и викторины, интернет-порталы обеспечения прозрачности правоотношений, цифровое творчество). Выводы: формирование правосознания в современном глобализированном обществе риска предполагает комплексное воздействие на правовое мышление и правовое восприятие; не ограничиваться собственно правовым сознанием, а распространяться и на нравственное сознание. Авторы предлагают несколько путей практического применения выявленных групп методов формирования правосознания путем адаптации международных стандартов к национальному менталитету (на примере российского) для повышения ценности права, что поможет специалистам правоохранительных органов предоставлять более теоретически обоснованные отчеты о своей деятельности, более конструктивные и действенные.

Ключевые слова: Гражданская позиция, коррупционные риски, творческие практики, этические нормы госслужащего, правосознание, масс-медиа.

Resumen

El artículo sugiere los medios y formas que influyen en la conciencia jurídica de los representantes de varios estados y comunidades en el campo de las relaciones jurídicas en países extranjeros. El propósito del estudio es identificar características comunes de las medidas de protección de la ley en el campo de la reglamentación y la moral pública para construir una estrategia para la formación de una conciencia jurídica sostenible y un sentido de la justicia. Métodos y materiales: enfoque intersubjetivo y uso de métodos de análisis de documentos, incluidos actos legales publicados en línea, materiales de capacitación y medios de comunicación; clasificación, generalización y síntesis. Resultados: por un lado, la formación de la conciencia jurídica debe basarse en el nivel de conocimiento existente y el público objetivo (dependiendo de parámetros tales como la edad o la profesión). Por otro lado, es necesario cubrir todos los grupos de medios disponibles, desde los tradicionales (libros, radio, comunicación directa y exposiciones de arte) hasta los más modernos (pruebas de computadora y cuestionarios, portales de Internet para mantener la transparencia de las relaciones entre los sujetos de derecho, creatividad mediática). Conclusiones: la formación de la conciencia jurídica en la sociedad de riesgo globalizada contemporánea debe incluir el impacto tanto en el pensamiento como en la percepción; tanto en la conciencia jurídica como en la conciencia moral. Los autores desarrollan varias formas de aplicación de los hallazgos adaptando los estándares internacionales de conciencia jurídica a la mentalidad nacional (utilizando el ejemplo ruso) para mejorar el valor de la ley, lo que ayudará a los especialistas en la aplicación de la ley a proporcionar informes más constructivos, efectivos y teóricamente sólidos. en sus actividades.

Palabras clave: Conciencia legal, medios de comunicación de masas, normas éticas de los funcionarios públicos, normas éticas de los funcionarios públicos, posición civil, prácticas creativas, riesgos de corrupción.

Introduction

At present, means of mass media and means of communication provide the opportunity for scientific study and philosophical interpretation of the experience in countering crime violations accumulated in history and used in different societies (Ivory, 2013). In this study, the authors explore the issue as the formation of legal awareness, specific aspects of which are mainly devoted to special legal literature (Roericht, 2014).

Different countries actively use systematic, consistent measures encompassing all levels and elements of legal awareness, which ensures a reduction in legal risk, including those threatening the system of government.

The *research problem* consists of the following contradiction. The state-sponsored approach adopted by many international organizations opposes the ethnocentric western bias (Heywood & Johnston, 2017), and allows developing countries to carry out the necessary reforms in their state and law enforcement structures, which increases the attractiveness of global standardization. On the other hand, the lack of consideration of national consciousness can make the application of standards ineffective and hostile to the local community (Dugard & Wyngaert, 1998).

Too much of the ethical regulation policy may be detrimental to the integrity of the perception of law (Tyler, 2014). Therefore, the systems of the so-called ethical rules of behavior are developed mainly for officials, however, being public, they have an impact on the legal behavior of the inhabitants, consumers of their services.

Theoretical framework

According to the legal intersubjective approach applied in the study, the law is a mediator in the interaction of formally equal subjects, and one can realize the creativity “the process of searching and realizing the harmony between personal abilities and the circumstances of their application, which involves both the unity of society and the freedom of individual actors”¹³³ (Sirazetdinova, 2015, p. 277). Hence, the differences in the level of knowledge and education of the subjects should be compensated by appropriate pedagogical, informational

(education and media) and legal (normative documents) measures.

Methodology

This research proceeds from the following. There are three types of formation of legal consciousness, differently related to the stimulation of creativity.

The first type is the formation of legal consciousness under the predominant influence of the social environment. This type is predominant in society and is called “field-dependent” and relatively uncreative. However, if the social environment orients a person to a creative search and compels him, then potential creative opportunities begin actualizing in the creative activities.

The second type is the relative independence of the legal awareness formation from the environment, and it is closer to spontaneous creativity. However, the formation of legal awareness without taking into account social factors leads to a predominance of the tendency in creativity to self-affirmation, which often does not coincide with the main function of art, communication with the universal, which is especially important for a law that protects universal norms of behavior and rights of any human.

The third type is the formation of legal awareness in the course of interaction and cooperation with the environment, initiation of creativity and the innovation process. This type of mentality the great creators of different eras had.

To determine the effective methods of formation law-abiding behavior, the authors suggest applying successful international practices and creative projects with a regard of intersubjective approach that uses local peculiarities of legal awareness. The first section analyses the main material, including posted online legal acts, training materials, and mass media, from Europe, US, South-East Asia, and Australia, and United Nations’ documents of 1990-2019 period, which had a higher impact on legal awareness and reduced the level of corruption. The second section presents brief classifications of targets, methods and instruments of legal awareness formation which are common on global and local scales on the base of systematic approach. The

¹³³ Translation of: “творчество реализуется в процессе поиска и реализации гармонии между личными способностями и условиями их применения, которая

предполагает как единство социальной реальности, так и свободу действующих в ней субъектов.”

third section of Results demonstrates the main challenges and perspectives of applying the revealed instruments in Russian society.

Results and discussion

Current practices of promoting legal awareness

Legality and illegality cultures produce different types of behavior relative to the spheres regulated by law (Hoyos & Cerón, 2019). In contemporary society, “ideology and moral regulation do not have enough influence and therefore cannot solely ensure the development of self-conscience”, including legal awareness (Khramova & Valeeva, 2016, p. 198). That is why the following types of methods and means of forming justice are used abroad.

Legal education (training and retraining programs). In the province of New South Wales (Australia), since the end of the twentieth century, there have been programs to train government officials and community representatives on how to counteract crime, to impact of public justice and to apply ethical principles (ICAC, 1994, p. 4). An independent province anti-corruption commission has conducted field trips with training seminars and meetings in rural areas to prevent corruption in the periphery for more than 15 years.

The Malaysian Anti-Corruption Academy develops successfully investigative practices, monitoring and enforcement, and the development of new counter-crime measures. The Center for Corporate Integrity Development conducts the “Course for certified authorized employees in good faith” (Zhen & Lv, 2011).

Promotion of a sense of justice and heightening the level of awareness and informing has the form of support for officials and citizens on issues of anti-corruption behavior. In Korea, there is a School of Integrity Studies with students at the University Campus for Pure Korea (Dai, 2012).

The US Interdepartmental Ethics Council advises lawyers, government officials on legal conduct. The council’s official website contains information on anti-corruption organizations, including the Office of Government Ethics, as well as relevant news and information materials on government ethics as a starting point for corporate ethics (IECW, 2019).

Codes of ethics and behavior. In Germany, professional development of officials includes the education of their rejection of actions related to corruption and there is a “Code of anti-

corruption behavior”, intended for civil servants. Different states use their own codes of ethical, moral and legal behavior of employees, including police officers. In the USA, Great Britain and France they are oriented towards generally accepted traditional norms of morality and ethics. In Japan, the police code of conduct contains the traditional values of a samurai — honor, and service to the motherland. UN recommendations on anti-corruption issues include the periodic retraining of specialists in the area of compliance with ethical obligations related to public service (United Nations, 1990).

Legal propaganda based on faith and morality. Thematic campaigns such as “Days of fighting corruption”, “Ethics weeks” devoted to the culture of legal behavior and encouraging citizen participation are spread in Southeast Asia, and promote creativity while studying law or use media. The Japanese National Council on Ethics of Civil Service annually holds a “Week of ethics” together with partner organizations. Activities include a poem contest, the work of officials with ordinary employees in the modes of personal and virtual communication. The media make it possible to explain the specifics of legislation and promote compliance with high standards of behavior, according to which the integrity of state employees is the basis for achieving social well-being (Zhang & Su, 2010; Dai 2012). On the other hand, they also warn about the risks associated with potential acts of corruption.

Hong Kong holds a traveling exhibition of the Independent Anti-Corruption Commission using multimedia at the weekend. The thematic scopes are loud cases and messages about new and reputable illegal actions. The Hong Kong Independent Anti-Corruption Commission has been translating television and radio broadcasts for over than 40 years, now available on the Internet (Zhang & Su, 2010).

A documentary series on anti-corruption practices and initiatives in Finland and Korea has been created in Korea. Radio programs on relevant topics are broadcasted at the prime time (Dai, 2012).

In Mexico, ethical dilemmas are covered in “Cinema minutes”, short films on corruption that are being shown before films, on television and on the official website of the Civilian Secretariat. In the Philippines, radio broadcasts interviews with officials, news and interactive conversations with calls and letters from students about corruption. The Ombudsman conducts a weekly

observing column in a nationwide newspaper. Singapore's history is closely linked to anti-corruption activities, the concept, and practice of which became the contents of a huge color book (Dai, 2012).

In order to spread law-abiding behavior and sense of justice, the US, Britain and Germany police officers show an uncompromising attitude towards corruption (Roericht, 2014).

The information and communication technology application. Tests, online quizzes and e-mails, allowing the users to independently, freely and voluntarily to test the understanding of ethical and legal norms of behavior in corruption-related conditions of any individual. They are often included in the mandatory testing programs of law enforcement officers.

For example, in Hong Kong, tests for awareness of legal risks are practiced in the form of a series of videos containing tasks for analyzing illegal components (Zhang & Su, 2010). Appropriate education materials are also available when using mobile Internet (Xiao, 2014), international experience, and state-supported local research (Pan & Lu, 2011). The official website of the Singapore Corrupt Practices Investigation Board allows the citizen to evaluate professional anti-corruption knowledge. New Zealand has active government Internet communities that are involved, among other things, in ethics and behavioral norms and sharing successful practices and media files (videos and presentations) that they recommend as appropriate or useful.

Recent research have shown that foreign models of modernization are applicable for social reforms in Russia (Pozdyaeva, 2017, p. 194).

As can be seen from above, most of the recent and previous research and experience on the development of legal awareness over the past two decades has focused on identifying mechanisms for reducing incentives for illegal activities or creating institutional structures to expand opportunities to detect and prevent illegal actions. This was considered as a key element in the fight against corruption, but the success of its use remains controversial (Rothstein, 2012). Less attention has been paid to how to curb the motivation of illegal activities, and the promotion of legal thinking, including moral consciousness, as it is suggested by the legal intersubjective approach and shown in the next section.

The possibility of applying foreign institutional and governmental experience to the raise of local legal awareness

The standards of activity prevent the emergence of anti-legal relations, which is used by the objectivist legal approach. The first example is the section "Standards of Conduct" of the Preliminary Draft Framework Convention on Corruption project prepared by the Multidisciplinary Group on Corruption of the Council of Europe (1996, pp. 40-42) includes a detailed description of ethical rules and "business practices", as well as "administrative rules" regulating the actions of officials.

The means of influencing professional legal awareness based on the intersubjective legal approach is the creation of a positive moral climate – a *favorable environment and positive relations in the team* (Bies, 2014), which ensures adherence to professional ethical standards and, therefore, support for an anti-corruption atmosphere.

Another area of activity in the development of professional legal awareness is the *cooperation of law enforcement officials and state employees with citizens* for the joint detection of corrupt practices and corrupt conditions, including consultations on general and private issues of corruption (Goe, 2012). All this is possible subject to the availability of an adequate level of legal knowledge – not only norms but also values. Hence, legal education becomes necessary, aimed at creating and maintaining a civic position characterized by the rejection of non-jural practices.

Hence, it is clear that the formation of both law-abiding behavior in general and legal consciousness in particular require:

- Availability of not only legal knowledge but also "naturalness" for an individual of legal standards of everyday behavior and professional activities;
- Consideration of the specifics of the legal and official status of the individual (the presence of rights and powers, since it is necessary to limit the illegal "opportunities" (risks) opened by them).

The analysis of the official web pages of public authorities of foreign countries (Hong Kong ICAC – anti-corruption resources, 2019), and informational materials, allows identifying the

following subsystems of anti-corruption measures applied to the public sense of justice: legal, ethical and moral upbringing, promotion of a sense of justice and heightening the level of awareness, legal education. Each of these subsystems is subdivided according to the objects of influence on:

- Professional legal awareness of lawyers and law enforcement officers;
- Legal awareness of civil servants at various levels;
- Legal awareness of entrepreneurs and employees of private companies;
- Legal awareness of the emerging legal consciousness of children and adolescents;
- Legal awareness of society as a whole.

The challenges of legal conscience formation in Russia

The distortions of the legal consciousness are able to undermine the relevance and value of national law enforcement reports for developing democracies, including the case of Russia. A narrowly understood institutional approach (which is a part of the objectivist legal approach) and an inadequate assessment of cultural identity, the inability to properly comprehend and formulate criteria for right-wing legal thinking and behavior, an over-emphasis on improving statistics and developing formal indicators in terms of an intersubjective approach should be replaced or give the first place to promoting honesty and sense of justice, promoted by the intersubjective approach.

According to intersubjective legal approach, the peculiarity of legally abusive behavior is due to the current system of social relations, that is, it is influenced by the historical past of a certain society. At the same time, there are individual and group characteristics associated with legal consciousness. Russian legal conscience is often characterized as conformally negative, subject to nihilism transmitted from generation to generation: in classical works, we see examples of illegal behavior, perceived by their heroes as the norm. The problem of legal nihilism in Russia as a particular case of risk society is relevant not only in the legal aspect. It can be called a threat to national security, contributing to the “flight” of offshore capital. Socio-philosophical aspects of Russian legal consciousness are as follows.

First, Russia is still distinguished by the initial stage of relations between the state and the individual, and the status of a Russian citizen with rights is perceived rather like the status of a subordinate subject with obligations. Formally, a citizen has the possibility of self-realization and insubordination to the system of official and kinship ties, which may have corruption sources and character. However, each citizen faces close to archaic relations with both representatives of the bureaucracy, and with numerous fraudsters as a consumer of services and “roofers” as a producer or an agent of economic activity. This sometimes puts at the big question not only possible achievements but also personal security itself. The activation of archaic behavioral patterns that have existed for tens of thousands of years, once providing advantages in survival, awakens the practice of violence and separation into “ours” and “aliens”.

Second, the transition to the market format of economic relations that permeate all spheres of society, starting with upbringing and education, necessitates the development of personal qualities. The latter are different from those of previous generations — enterprise and adaptability, which in certain conditions contribute to circumventing possible false “obstacles” by corruption path, in order to accelerate the promotion of own private interests. Primitive and underdeveloped ideas about self-regulation through the “invisible” and impartial hands of the “market” are limited to the concept of “natural selection”, which is also distorted, as it suggests that the most aggressive and adapted to any kind of circumstances, including criminal, persons and groups with their offspring are the most likely to survive and having more prospects.

Finally, the application of the systemic approach demonstrates that the state of legal consciousness of an individual and society determines the state of law and order. Consequently, it is important not only to prevent gaps in the legislation, but also to ensure the accurate and steady implementation of legal norms as “an instrument of interaction between social actors that provides protection against arbitrariness”¹³⁴ (Sirazetdinova & Lukmanova, 2016, p. 374). The legal life comes not from the written law, but from a legal idea formed during the interaction of social agents and institutions. That is, unlike any privileges, the law is applicable for everyone and

¹³⁴ Translation of: “Современные интерсубъективистские правовые концепции основаны на признании права

инструментом взаимодействия социальных субъектов, обеспечивающим защиту от произвола”

everywhere in the territory of a particular jurisdiction. In addition, the level of corruption of social relations is inevitably associated with other forms of social consciousness and their deformations – moral, political, religious, and artistic.

Therefore, even isolated cases of non-legal behavior undermine the foundations of a legal state created in Russia, not to mention the constant flow of news information and processes on corruption cases.

This is due to the transformation of the post-Soviet society, associated with structural changes in social relations and, accordingly, in public consciousness. It is worth noting that the shortcomings of the Soviet past led to the spreading of the “philosophy” of denial of law. It presumes that the legal idea was subordinate to the official Marxist ideology, instead of directing and improving it, which made science and philosophy dependent on the political regime for a situation that hampered the formation of independent legal thinking of citizens and therefore the protection of their rights.

Foreign systems for the formation of anti-corruption legal conscience and behavior abroad could not be fully represented in the present work. However, Russian political and legal institutions should apply such initiatives in anti-corruption activities, as the types identified in the work (anti-corruption education, heightening of awareness, informing, development and clarification of legal and ethical norms and codes of conduct, creating a favorable moral climate, cooperation of law enforcement agencies and state employees with citizens) and complexes of measures that proved their effectiveness in various states and regions. This would, when applied locally, make corruption manifestations more predictable, preventing most of these cases.

Conclusions

The research confirmed the hypothesis that formation of law-abiding views and attitudes of legal consciousness requires both an understanding and a philosophical justification for the idea of law (knowledge and education level), and an application of international standards of ethics and behavior (law-making level).

The findings show that the counteraction to the criminalization of society should include not only the activities of law-making and law enforcement agents such as lawyers, policymakers and policemen but also

comprehensive and permanent support for ideological and informational nature, which requires the participation of sociologists, philosophers, psychologists, educators and art historians.

In any case, promotion of law-abiding behavior requires raising the level of legal culture through pedagogical, educational, informational and legal activities: the formation of anti-corruption legal consciousness of citizens, and, in particular, of the officials who constitute an integral part of the formation of the rule of law. The shift to the market economy and digitization of society would benefit from the stimulation of creative activities in the field of law-abiding behavior promotion. All this was impossible without the restoration of the popularity of law-abiding behavior (the well-known example is the conscious voluntary submission of Socrates to the imperfect law, which allowed to condemn him of corruption) and the high intellectual level of public consciousness.

Administrators, teachers and media staff may apply the results of the study, as the process of forming legal awareness and the effectiveness of the fight against corruption depend on the construction of a civil society.

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