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Structure of legal consciousness in the system of human rights: civilizing and psychological aspect of the development of the society

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Abstract

The main objective of the article was to analyze the structural parts of legal consciousness in the human rights system: with special emphasis on the civilizing and psychological aspect of societal development. In this context, the subject under discussion is legal consciousness as a phenomenon and concept in the human rights system. Based on the results of the study it was determined that legal consciousness is a set of legal ideas, feelings, beliefs and assessments that express the attitude of individuals, social groups and society as a whole to the law and, to the behavior of people in the field of law. It is concluded that the experience of legal consciousness, has a complex internal structure and a sensationalist character, therefore, allows to know and understand more fully and objectively the legal reality of the structural elements of consciousness in the system of human rights, revealing its civilizational and psychological aspect in the development of society. Thanks to the modern method of modeling, a model for the study of the development of legal consciousness in the human rights system has been formed. This made it possible to achieve the stated object.

Keywords: representations of law; legal subjectivities; society and legal consciousness; human rights; civilizing aspect.

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Estructura de la conciencia jurídica en el sistema de Derechos Humanos: Aspecto civilizador y psicológico del desarrollo de la sociedad

Resumen

El objetivo principal del artículo fue analizar las partes estructurales de la conciencia jurídica en el sistema de derechos humanos: con especial énfasis en el aspecto civilizador y psicológico del desarrollo de la sociedad. En este contexto, el tema a debate es la conciencia jurídica como fenómeno y concepto en el sistema de derechos humanos. Con base en los resultados del estudio se determinó que la conciencia jurídica es un conjunto de ideas jurídicas, sentimientos, creencias y valoraciones que expresan la actitud de los individuos, grupos sociales y la sociedad en su conjunto ante el derecho y, ante el comportamiento de las personas en el campo del derecho. Se concluye que la experiencia de la conciencia jurídica, tiene una estructura interna compleja y un carácter sensacionalista, por lo tanto, permite conocer y comprender de manera más completa y objetiva la realidad jurídica de los elementos estructurales de la conciencia en el sistema de derechos humanos, revelando su aspecto civilizatorio y psicológico en el desarrollo de la sociedad. Gracias al método moderno de modelado, se ha formado un modelo para el estudio del desarrollo de la conciencia jurídica en el sistema de derechos humanos. Esto hizo posible alcanzar el objeto planteado.

Palabras clave: representaciones del derecho; subjetividades jurídicas; sociedad y conciencia Jurídica; Derechos Humanos; aspecto civilizador.

Introduction

It should be noted that the problem of legal consciousness is one of the key problems of legal science, since legal consciousness, as one of the forms of public consciousness, performs extremely important functions and tasks, implements generally significant goals in the system of social relations. Despite the fact that more than one generation of researchers has been studying this social and legal phenomenon, there is no single generally accepted interpretation of legal consciousness. This is due to the fact that an exhaustive scientific definition of this category cannot be short and unambiguous.

Society consists of a system of social groups, groups of individuals, political associations. At the same time, they are an integral part of society, therefore, in the legal consciousness of social groups, individual citizens, there are always assessments, imperatives, schemes of legal consciousness

in general. Along with them, the legal consciousness of social groups has its own group legal guidelines, standards, special criteria for requirements for the level of legal consciousness.

They are the product of the special place that a certain social group occupies in the system of society, its specific activity, the special goal that it has, and the specific means of achieving it. The legal consciousness of a separate social group should be defined as a group legal consciousness in the system of human rights. Most often, it manifests itself in the process of passing laws or legal regulations affecting the interests of these groups, as well as regulating their relations with each other and with the state.

One of the most important aspects of the development of the legal consciousness of society is the study of psychological aspects. That is why our study is relevant and important. The main purpose of the article is to analyze the psychological qualities of the development of legal consciousness in the system of formation of a civilized society. The object will be legal consciousness as a phenomenon and concept.

The structure of the article involves an analysis of the literature and a review of the methods used that form the main methodology of the study. The main results of the study, the part under discussion and the current conclusions are presented.

1. Materials and methods

The methodological basis of the article is the fundamental foundations of the psychological aspects of structural legal consciousness as a fundamental feature of a civilized society in the system of human rights. To solve the tasks set, dialectical, systemic, logical and historical methods of scientific knowledge are used, which ensure the conceptual unity of the work on the development of the psychological aspects of structural legal consciousness as a fundamental feature of a civilized society in the system of human rights.

The following methods were used in the research process: structural-logical method, scientific abstraction method, analysis and synthesis, modeling and the method of abstract conclusion based on the results of the analysis of the psychological aspects of structural legal consciousness as a fundamental feature of a civilized society in the system of human rights. The information base of the study is legal documents and publications on the psychological aspects of structural legal consciousness as a fundamental feature of a civilized society in the system of human rights.

Thanks to the modern modeling method, a model for the development of legal consciousness in society was formed, taking into account psychological aspects. This made it possible to achieve the goal.

2. Literature review

As most scientists note, legal ideology is the presented image of law, its reflection in legal norms, concepts, conclusions, theories and concepts, it is a reflection of law, which may be existing or existed, acceptable or undesirable. Although legal ideas are born in the human brain, the sources of their occurrence and the cause of development are legal, social, economic, political reality, the practical activity of people, in the process of which legal ideas, views, social and political requirements are formed. Legal ideology actually affects all aspects of public life, primarily the socio-economic and political situation, being embodied in legal norms, principles, and traditions. Finding its reflection in human consciousness, legal ideology has a significant impact on people's behavior (Maksimov, 2012; Minchenko, 2019).

In modern legal science, there are different approaches to determining the structural elements of legal consciousness and its functional purpose and role in the development of the state as such. As a rule, Ukrainian lawyers distinguish three main approaches to the analysis of the structure of legal consciousness. The first approach involves the analysis of legal consciousness at the level of society, group, individual. In the second case, the analysis of the structure of legal consciousness is associated with the knowledge and study of law at the ordinary, scientific (theoretical) and professional levels.

The third approach to the analysis of the structure of legal consciousness is associated with the general cultural level of a certain community in general, in particular its legal culture, and a certain ideology that prevails in society at the time of studying the above issue. In our opinion, it is appropriate to highlight the fourth approach, determined by the relationship of legal ideology and legal psychology as the main components of legal consciousness (Myronova, 2008; Pavlyshyn, 2017).

According to scientists (Shevchenko, 2020; Sylkin, 2021), the legal psychology of the group consists of legal education, which is characterized by the total knowledge of the members of the group on the legal system of society, about law in general, understanding their own rights and obligations, ways to implement them, etc.; legal awareness, characterized by the group's knowledge of the current legislation, as well as the ability to apply it; legal public opinion, that is, the point of view inherent in the group regarding the law, legal prescription, decisions of state bodies, actions of the state apparatus and law enforcement agencies, the work of the courts; the legal climate, primarily due to group moods, experiences, feelings caused by the reaction to the legal reality; legal experience acquired by the group as a result of legal events.

Individual legal psychology and swings intellectual, moral, psychophysical and other specific qualities of the individual, the level of its general culture, professional competence, spiritual development, self-organization, socialization. A significant role in the formation of individual legal psychology is played by motivation associated with the legal ideals and stereotypes that prevail in society.

As noted in the scientific literature (Kryshtanovych, 2021; Bandura, 2019; Bortnyk, 2021; Jianjian, 2018; Kovkel and Popova, 2019), the structure of legal consciousness consists of legal knowledge, assessments, certain experiences, grouped at three levels - ordinary, scientific (theoretical) and professional.

The scientific level consists of legal doctrines and concepts that are the embodiment of legal knowledge developed within the framework of a particular legal system. Legal consciousness has the following types: individual legal consciousness, group (collective), public. At the same time, in modern legal science there are different views regarding the levels of legal consciousness: cognitive (cognitive), emotional, evaluative.

Giving due to the scientific achievement in such studies, the characterization and analysis of the psychological aspects of the development of legal consciousness through a structural approach to the formation of a civilized society is still relevant today in the system of human rights.

3. Research Results and Discussions

Modern cardinal changes in the social and economic conditions of life cause an increase in the weight of the subjective human factor in building a civilized society. The practical necessity of understanding the content-psychological mechanisms of social interaction of people, their social consciousness is actualized. For the first time, humanity faced the question: is the level of consciousness of citizens sufficient for a satisfactory solution of legal relations between them.

The dramatic search by a person for the meaning of his life, the acquisition of his own worldview position has always existed. Today, in the new social conditions, this search often manifests itself not only in the reassessment of the values of the historical past, but also in those values, motives and goals of behavior that have existed for many decades and formed the basis of both everyday and professional legal consciousness in the system of human rights.

The main characterizing elements of legal consciousness in the system of human rights are presented in Fig.1.

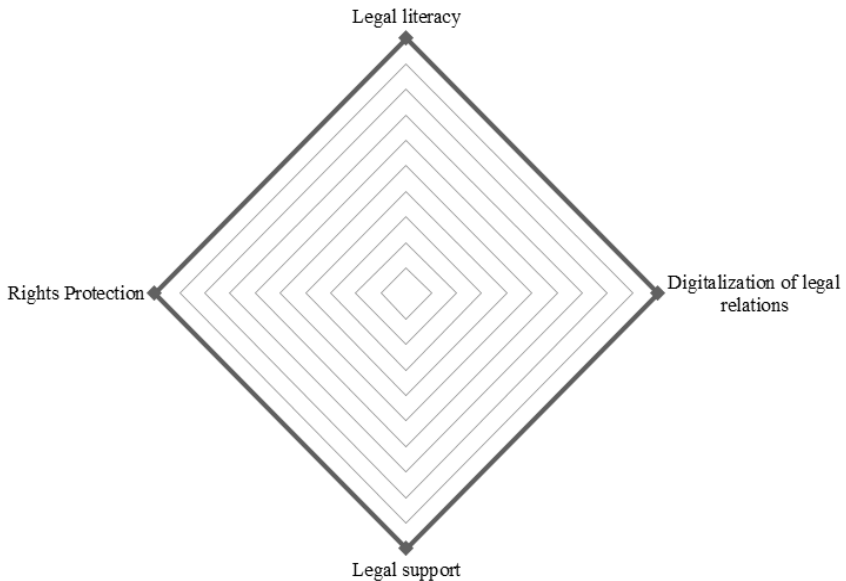


Figure 1. The main characterizing elements of legal consciousness in the system of human rights. Formed by authors.

The inevitable processes of renewal of society contribute to the formation of a new ideological culture of the individual as the basis of his spirituality. Despite the great inertia of public consciousness, society strives for a new and better life, but is in no hurry to abandon old stereotypes, people continue to live by the old rules. Consequently, a legal person, being in the system of legal relations of a particular society, may face a serious discrepancy between individual legal concepts, forms of behavior, values, as well as the whole image of the world of different participants in legal relations.

Therefore, we see the particular importance of this study not only in identifying and structuring the content of the legal consciousness of the subject, but also in the ability to identify the causes and predict the consequences of the above discrepancy, which manifests itself in social interaction.

A legal person is a person who is represented in a legal perspective, that is, falls under the system of social and legal regulation, according to which he acquires certain legal properties and qualities that allow him to actively engage in political and socio-legal reality, to fully exercise his rights and obligations. , as well as to show political and legal activity for sustainable

state development. The properties of a legal personality include: firstly, a person's awareness of his personal, social group and common interests, which becomes an incentive for the socially useful behavior of the individual. Secondly, a person's awareness of duties to other people, social groups and society as a whole. Thirdly, the socio-political and legal activity of the individual, expressed in its positive behavior.

The main properties of legal consciousness are its ideality, rationality, reflexivity, universality, intentionality, creativity, subjective-objective character, normativity, structural unity and mediation in language.

The usual level of legal awareness is inherent in individuals and social groups that implement legal prescriptions in everyday relationships. Ordinary legal consciousness is formed spontaneously under the influence of specific living conditions, personal life experience and legal education, and then its main components are aimed at assimilation of legal requirements only to the extent that they are necessary for practical use in everyday life.

Professional legal awareness is a system of specialized legal knowledge, skills, beliefs, feelings, through which the application of law is carried out. Professional legal consciousness is the legal consciousness of specialists in the field of law, it is differentiated depending on different areas of legal relations (for example, economic, commercial, civil law, criminal law, criminal procedure). Professional legal consciousness consists in the social group of professional lawyers, as well as in individual legal consciousness on the basis of legal practice, under the influence of legal science and theoretical legal consciousness.

The model of the development of the civilized and psychological aspects of the legal consciousness of society in the system of human rights is shown in Figure 2.

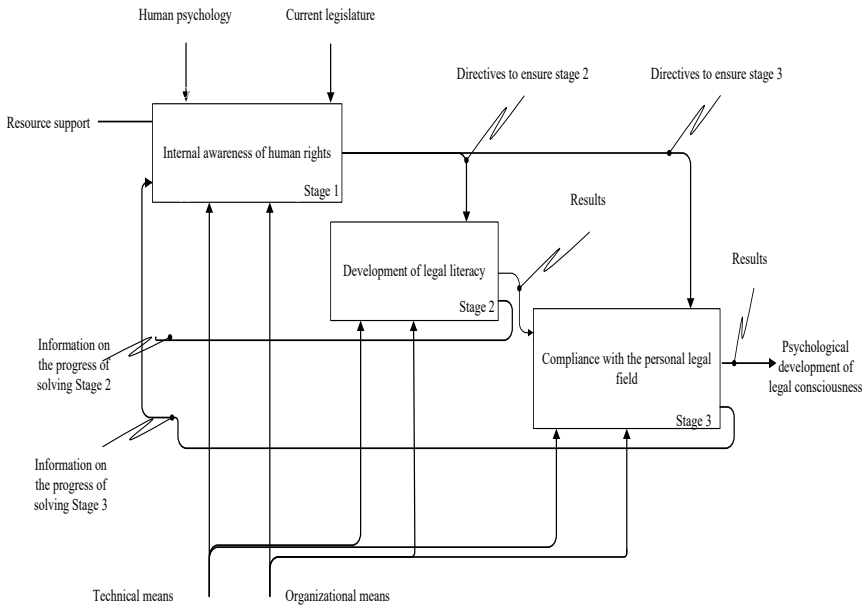


Figure 2. The model of the development of the civilized and psychological aspects psychological aspects of the legal consciousness of society in the system of human rights. Formed by authors.

Professional legal awareness, its main components are distinguished by the ability to constantly develop in the process of law enforcement, the ability to ensure overcoming difficulties in a particular area of law enforcement. This includes specialized legal knowledge, skills, abilities, legal attitudes, mental qualities of a law enforcement officer (sustainable readiness), as well as updating these components, their active use for the implementation of specific law enforcement actions. Such an internal disposition of the law enforcement officer for specific actions to apply the law, the mobilization of all components of professional legal consciousness for the implementation of active law enforcement actions is called situational readiness for law enforcement.

Legal ideas, legal norms and institutions, legal acts, legal attitudes reflect the state of the society's legal consciousness, while an individual legal culture is a set of ideas, a perceived need, an internal need for a person's behavior in the field of law, which is based on its legal consciousness. Based on this, one can join the generally accepted scientific position that legal behavior is directly determined by the legal consciousness of the individual.

Legal ideology is representations, views, concepts, beliefs, theories, concepts regarding legal reality, that is, relatively systematized knowledge about specific legal phenomena, their understanding at a sufficiently high scientific level. Legal ideology corresponds to the level of scientific and theoretical reflection and assimilation of reality. It is characterized by a purposeful, scientific or philosophical understanding of law as an integral social institution not in its individual manifestations (for example, through certain norms, judicial decisions, etc.), but as an independent element of society (culture, civilization). In the field of ideology and through ideology, the needs and interests of social groups, nations, and states are reflected.

The structure of the group's legal psychology includes the following elements: legal education, awareness, legal climate, legal experience (with substructures of the group's legal beliefs, group value-normative orientations, legal position and legal activity). Legal education is the totality of knowledge possessed by group members in relation to the legal system of society, the role of law and legality in the life of society, their own rights and obligations, and ways to implement them.

Legal awareness - knowledge by the group and its members of laws and other legal guidelines, both already in force and new ones being developed, as well as the ability to navigate them when making decisions regarding their own life and the activities of the group. Legal climate - a complex phenomenon in the form of an integral characteristic of the psychological atmosphere of the legal life of the group. The decisive role in it is played by group moods - experiences and feelings caused by the reaction to various legal events.

Legal experience is a special psychological and legal phenomenon that arises as a result of legal events (dynamic, one-time, repeated) occurring in a group. The group's legal beliefs consist in the cumulative product of individual opinions that arise in response to legal questions and play the role of a group's legal worldview. Group value-normative orientations are socio-psychological norms of understanding, attitude and behavior in the legal sphere of society. The legal position reflects the place that the group occupies in the system of law and in relation to it.

The position can be actively supportive, law-abiding, selectively law-abiding (actively supporting in relation to some legal acts and condemning in relation to others), delinquent and actively opposing. Provides motivation for appropriate actions. The legal activity of group psychology, which characterizes not only the reflection of legal reality in the passive manifestations of group psychology, but also the system of motivations, needs, aspirations, creative research, desires to prove themselves in the legal system.

Value orientations are a stable system of attitudes, oriented in a certain way to social values, which directs people's behavior in relation to these values in the context of their complex interaction. The dominant attitudes form the orientation of the personality, determine its life position and characterize the content side of the value orientation. Legal orientation is an integrated set of legal attitudes of an individual or a community that directly forms an internal plan, a program of activity in legally significant situations. Thus, the regulatory function of law is carried out through legal attitudes and orientations, synthesizing and stabilizing all other sources of legal activity in the system of human rights.

Legal consciousness is a self-reflection, a reflection of legal reality through the prism of individual interest. Therefore, legal consciousness acts as an element of motivation for the actions of an individual, social groups in accordance with the rules of law, i.e. performs motivational and reflective functions. The predictive function of legal consciousness lies in the fact that it is able to get ahead of practice, to predict the development of certain processes in the field of law, it, in fact, is the result and at the same time the process of reflecting and assimilating legal reality, taking into account the interests of people. Finally, legal consciousness produces its own categorical, conceptual apparatus that characterizes the legal reality; therefore, it is also possible to single out the function of terminology inherent in it.

Conclusions

A statement about the absorption of legal consciousness by law or its identification with other legal categories, such as legal understanding, legal influence, legal education, legal culture, etc. in the development of legal relations, expresses the public vision of legal reality, on the one hand - as an observer, that is, without performing specific legally significant actions, and on the other - as a direct participant, publicly manifesting a negative or positive attitude towards ensuring the rights and freedoms of man and citizen (demonstrations, strikes, writing publications as a subject of legislative initiative).

Summing up, it should be noted that legal consciousness reflects legal reality. In this regard, through the analysis of legal consciousness, its development and specifics, it becomes possible to understand how law functions in society, how society as a whole and individual citizens perceive law, relate to it, recognize or do not recognize the values enshrined in it. , norms, principles, ideas, etc. Considering this, the consideration of various problems of legal consciousness, many of which are still debatable, is of paramount importance in the system of philosophical and legal knowledge in the system of human rights.

The emotional and psychological component of legal consciousness consists of the sensations and experiences that social subjects have in connection with their participation in legal relations and are formed on the basis of legal knowledge and ideas about the rules of law, legal rights and obligations, as well as legality, law-making and law enforcement activities and related perception and evaluation of legal phenomena.

Such feelings and experiences include, for example, confidence in the fairness of legal norms, normative legal acts, impatience for their violation. Emotional feelings and psychological experiences are an integral part of legal consciousness and behavior. Accompanying almost any manifestation of the legal activity of the subject and directing it to achieve vital goals, emotions and feelings are one of the main elements of the mechanism for regulating legal relations. A developed legal consciousness implies the formation of stable stereotypes in the field of emotions, feelings and experiences among its bearers.

As a result, as a conclusion, it can be argued that legal consciousness is a complex systemic formation containing various elements that form its structure, the consideration of which is important in connection with the changes that have befallen modern legal reality. The demolition of established stereotypes in philosophical and legal science, the radical reform of the legislative framework have become factors that have changed precisely the idea of the elements of legal consciousness in the system of human rights. The number of elements of legal consciousness, their relationship are interpreted by different authors ambiguously. This question is debatable to this day. Precisely because it should be considered in further research in more detail.

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