

The Question of the Legal Consciousness of a Society in Transition of Development of Russia: the Theoretical Aspect

Vladimir Valentinovich Kozhevnikov¹, Anastasia Evgenievna Cherednichenko²

¹Department of theory and history of state and law, Dostoevsky Omsk State University, Omsk, Russia

²Teacher of higher education "Omsk law academy", Omsk, Russia

hta6973@rambler.ru, cherednichenko.nastya@yandex.ru

Abstract

The relevance of this scientific article is determined by the importance of legal consciousness in all spheres of social life in Russia in general and at the transitional stage of its development in particular, because it, acting as a subjective factor, largely determines the direction of the social life of the fatherland. The purpose is to analyze the most essential features of public legal consciousness in the transitional period of the development of Russia and to show its significance for the further development of Russian society. Results: in the course of the conducted scientific research it became clear that the public legal consciousness of the transitional stage of Russian society, firstly, is extremely important for the development of the latter, for all its spheres; secondly, it is characterized by fragmentation, contradictoriness and radicalism; thirdly, some tendencies in the content of such legal consciousness are associated with legal idealism and legal nihilism; Fourthly, it is influenced by a whole system of factors, including, in particular, the ill-conceived policy of our state, which, in general, does not reasonably ignore its significance. Conclusion: it is noted, firstly, that modern Russian society, which is at a transitional stage of its development, is characterized by many different contradictions, among which there is also such a bizarre interweaving of legal nihilism and legal idealism, which together form a bleak picture of legal lack of culture; secondly, it is necessary to overcome the imbalance between the autonomous legal consciousness of individuals and public legal consciousness.

Keywords

legal awareness; transitional period;
modern Russia; legal utopianism;
legal nihilism



I. Introduction

The study of the legal consciousness of modern Russia is a very complex cognitive process, which is complicated by a transitional period of social development, which causes a change in the conditions of social and legal reality and a change in the legal system as a whole. It should be borne in mind that the study of legal consciousness in the transition period as a subjective factor that determines the behavior of people in the legal sphere provides a key to understanding the transformations of social relations. [1].

II. Research Methods

When preparing a scientific article, a system of methods for studying legal reality was used:

1. General philosophical (worldview): dialectical-materialistic;
2. General scientific: analysis and synthesis, logical and historical, comparisons, etc.;
3. Special: method of specific sociological research, statistical;
4. Private scientific: formal legal, methods of interpretation of law.

III. Results and Discussion

3.1 To the Problem of the Concept of a Transitional State of State-Legal Realities

It seems that the problem of legal consciousness in the transition period necessarily presupposes a brief analysis of the latter. Let us immediately make a reservation and emphasize the following: given the fact that the transitional period in the development of our society is far from complete, the designated general theoretical problem in the literature, including the legal one, has not been fully developed. The study of problems related to transitional states, legal systems, and other state-legal phenomena is being updated due to the fact that at present Russia is at a transitional stage of its development from pseudo-socialism to capitalism [2]. The transitional state of state-legal reality is always a very complex, often morbid state of the state, law, other state-legal phenomena, finally, of society itself, associated with a critical assessment of its past and with the painful choice of its "only correct path" of development of the near and distant the future. Knowledge of the true causes and conditions that caused the state of crisis, law, and other state and legal realities are very important, of fundamental importance. On this occasion, in the middle of the XIX century. Russian historian Timofey Nikolaevich Granovsky wrote that his attention was always riveted by the so-called transitional states of society, transitional epochs in the history of mankind. He was attracted to them not only by the "tragic beauty" in which they were denounced, but also by the desire "to hear the last word of every nascent order of things that goes back to the initial thought." It seemed to him that only here "an experienced ear can overhear the mysterious growth of history, catch it in a creative matter" [3]. For all the controversial nature of this problem, various approaches to the analysis of the transitional state of society give more or less clear ideas about this phenomenon. Thus, Evgeny Nikolaevich Moschelkov, in particular, notes that transitional phenomena and processes at the present time are not local, as it was before, but of a global nature; in the transition period at the present stage of development of society, in comparison with the past, the possibilities of active human intervention in the course of transformation processes are vitally increasing [4]. Vyacheslav Valerievich Ogorodnikov believes that these are moments when the emergence of a new quality of social life leads to a crisis of existing qualitative characteristics and their replacement by a new qualitative organization [5]. According to Nikolai Nikolayevich Arzamaskin, the transition period is a long, extended stage from the emergence of factors that led to the crisis of the existing system to the moment of stable, stable functioning of the authorities; in the process of transition, there are significant changes in the main characteristics of the state, law (in relation to this article and legal consciousness - the Authors) and society, the quality of social formations, which were previously the basis for stable, sustainable development, is destroyed [6]. Vitaly Viktorovich Sorokin draws attention to the fact that in the conditions of the transition period, a whole layer of destructive, negative factors opens up, creating a crisis legal situation and undermining the conditions for stable development of society. During the transition period, fundamental shifts have taken place both in public consciousness and in the functioning of legal institutions. The transition period is associated with losses of material, socio-political, moral and spiritual nature. Under the conditions of radical changes, society finds itself without the necessary legal framework, a mechanism for its implementation. [7]. Aleksey Nikolaevich Danilov calls the transitional society "an emergency state" [8]. It seems that this applies equally to the study of the legal consciousness of society in the transitional period of Russia's development.

3.2 About the Signs of Public Sense of Justice in the Transition Period

a. Fragmented Sense of Justice

In the legal literature, the legal consciousness of Russian society is assessed as underdeveloped, not fully formed, "immature", which is characterized by fragmentation, contradictoriness and radicalism are rejected, and there is still no public consensus regarding the new ones. Many authors have paid attention to this circumstance. Thus, the most prominent Soviet and then Russian theoretical scientist Sergei Sergeevich Alekseev, analyzing the processes of creating a truly democratic Russian law, pointed out that one of the weaknesses in these processes is the absence of a sufficiently substantiated, verified theory and practice of legal policy in Russia. [9]. It seems that the current situation is determined by the fact that our society, unfortunately, does not have a clear and meaningful national state-legal ideology, ignoring such an unwritten law: "consciousness, including legal, does not tolerate emptiness, some, often far not the best, the system of views will always fill it. " Tatiana Vitalievna Sinyukova, developing these provisions, emphasizes that as a result of mechanical deideologization, a most dangerous situation has arisen, even in comparison with the consequences of the economic crisis: an increasing feeling of spiritual emptiness, meaninglessness, hopelessness, temporality of everything that is happening, which visibly covers more and more new layers of the population ... From the author's point of view, "in our" de-ideologized "consciousness there is a growing tendency towards social primitivism, mass aberrations (ie, delusions - the Authors), the loss of the already weak immunities from charismatic, nationalist populism" [10]. At the same time, it should be noted that the need for an ideology emanating from the state and integrating society is especially optimized in the era of rifts, when the old value systems fail, which turned out to be inadequate to new historical realities. Thus, the socio-political crisis that Russia is experiencing is in many ways aggravated by the spiritual and moral crisis of society. It was not just the collapse of the communist ideology as the basis of the previous statehood, but the destruction of the self-identification of society, as a result of which the society lost its idea of the prospects for its development and place in the world community. Scientists trace the tendencies of the formation of ideology in our society. So, initially, a kind of ideology of the reforms taking place in the state were anti-socialist ideas and liberal-democratic values, which serve as a kind of social guidelines for social development. However, the further course demonstrated the unacceptability of these ideologies for a significant part of Russian society. It became obvious that in Russia a democratic state and a market economy are being created in conditions of not only the collapse of the former statehood, but also the collapse of public morality, moral and ethical dominants. Finally, the authors argue that in modern Russian society, over the past several years, the political elite have been making attempts to create a new national ideology, because life itself has shown that oblivion of this activity leads to segmentation and disintegration of society into groups, if not hostile to each other, then weakly interconnected. The consequence of this can only be an increase in mutual hostility and hostility, intolerance and aggressiveness towards their opponents and, thus, a gradual slide towards civil war [11]. It seems to be quite appropriate to emphasize here that the ideal is like a beacon that directs individual and social movement in the right direction. This also applies to legal ideals. In legal life, the latter are an obligatory component. Now in modern Russia, perhaps, the rule of law is the highest legal ideal. This is reflected in Article 1 of the Constitution of the Russian Federation, where, however, it is not an ideal, but an already accomplished fact of Russian reality. But it is perfectly obvious that this is not the case. The rule of law is only an ideal that expresses the official legal position of our state. As for the issue of the Russian legal ideal, here, as Rustam Suleimanovich Bainiyazov emphasizes, that, as life shows, the rule of law has not become a national ideal (not to mention practice) for

Russian citizens. On the contrary, there is disbelief, skepticism, apathy in the minds of people about this. The spiritual situation in Russia is such that the communist myth has long been debunked, the old "ideals" have been thrown away, but there are practically no new ones, and if there are, then those that are far from always adequate to the people's spirit [12]. The specificity of the Russian mentality is also manifested in interaction with the legal culture of society, in the characteristic perception of legal values. The Russian legal mentality distances itself from legal culture, from its universal values and principles. This is understandable, since they are unconventional for Russians. In particular, we are talking about natural, inalienable human rights, about the legal autonomy of an individual within the framework of a legal society, about the dominance of law over the state, etc. These social and legal values have not become "native" for the Russian consciousness, which is explained by its irrationalization. Rustam Suleimanovich Bainiyazov emphasizes that not only political demagoguery and populism is inherent in the modern Russian mentality, but also eclectic views, perceptions, views, ideas, etc. The authorities do not give a concrete answer to this question, limiting themselves to referring to the transitional nature of the current stage of development of society, which increases people's disbelief in the effectiveness of the authorities [13]. The fragmentation and anemia of the analyzed legal consciousness is largely determined by the instability of legislation in the transition period, in which the newly formed legal relationship is repeatedly changed by the legislator in a short period of time. In Russian society, a contradictory situation is emerging when the legal consciousness, which served as the basis for legal reforms, due to the dynamic process of legislation, becomes fragmented among the bulk, and the legal consciousness of the reformers is ahead of concrete reality. We believe that one of the reasons for the fragmentation of the legal consciousness of the population is also the lesser, than before, the availability of periodicals, including official ones, where laws and other normative legal acts are published. Due to this, fragmentary information about the legislation prevails in the electronic media, which, due to their specification, cannot provide complete information about the current legislation. Meanwhile, the degree of legal awareness of a citizen is important from the point of view of the formation of his legal consciousness, however, "the abundance of changes introduced to laws, the rapid replacement of adopted norms make it difficult to inform those to whom the laws are addressed" [14]. Speaking about the specific features of a fragmentary everyday sense of justice, scientists pay attention to its characteristics such as confusion and inconsistency, unsystematization, fragmentary information about legislation, spontaneity of formation and development, the influence of everyday ideas and judgments about laws, "relying on their life experience and common sense" [fifteen]. Moreover, such a sense of justice is characterized by increased emotionality and the influence of the stereotypes of the past legal system. The legal consciousness, which was formed by many previous generations, cannot undergo rapid changes, that is, we are talking about the discrepancy between legal ideology and the legal psychology of the majority of the population" [16].

b. Political and Legal Alienation of the Population

Pavel Petrovich Baranov and Alexei Igorevich Ovchinnikov rightly believe, in our opinion, that the reforms of the last decade, accompanied by ill-considered copying of Western political and legal institutions, have led to conflicts between official and popular ideas, views, and ideals. The impoverishment of the people and the process of their alienation from the state have a negative impact on the legal consciousness of the population: law enforcement agencies, the justice system, laws and by-laws are increasingly perceived by the population with fear and distrust, a negative reaction [17]. Alienation, which has become one of the factors in the political and legal life of modern Russia [18], is a phenomenon inherent

in the political system as a whole, especially the state and law, which determines the development of these institutions and their deformation. Vyacheslav Aleksandrovich Kolesnikov also draws attention to alienation from the new, still imperfect market legislation, which creates a situation favorable for the formation of an anti-market legal attitude among the masses. According to the author, the situation worsens when an imperfect, but relatively well-established, seemingly stable legal system breaks down, and the transition not only to a new legal framework, but also to a new understanding of law. If we consider that the transitional state affects, along with the law, politics and economics, it becomes clear why in transitional periods the feeling of alienation intensifies. The scientist believes that here we are faced with the phenomenon of a legal anomaly, legal disorganization, a transition from the old system of law to a new one, when problems arise to fill the legal vacuum and adapt alienated citizens to this situation and to the new law. Moreover, in Russia, the legal anomaly is, in a sense, complicated by additional adaptive obstacles. The official and legal doctrine has completely changed, it is largely focused on the ability of society and the individuals themselves for independent action and self-regulation. However, neither objectively nor subjectively, neither citizens, nor society, nor the state were ready for this. Transitional states are also characterized by the fact that in practice the old legal stereotypes in the application of normative acts continue to operate; the consciousness reoriented to the new legal provisions aggravates legal apathy, undermines the emerging confidence in the new legal system, which claims to be democratic and civilized [19].

c. Legitimate State

Note that the problem of political and legal alienation of modern Russian society is especially relevant in the context of the concept of a “strong state”, which is presented as a kind of reaction of public and legal practice and science to the statehood, which does not cope with its tasks and functions [20]. How do scientists see a strong state? Firstly, it is a democratic state that builds its activities on the basis of law, guided in all its affairs by the principles of legality. This mode of action by the state provides a worthy example for its citizens, who only see lawful behavior as the only acceptable way of behavior in the legal sphere. Secondly, a strong state is one in which citizens have confidence. In our country, it has been greatly undermined both by decades of the domination of an authoritarian regime, and by many circumstances of the modern period, which are associated with the deterioration of the life of the people. The legitimacy of the state is largely due to the behavior of officials in the field of law. It is quite justifiably argued in science that the most negative consequences take place in cases where the right of citizens is violated by the executive bodies, whose task is to protect these rights from any encroachment. A particularly dangerous form of violation should be recognized as the one in which the leaders of power structures participate, because the abuse of power on their part not only harms the citizen, but also serves as an example to follow on the part of subordinates, generates nihilism, disbelief in the force of Russian laws [21]. Quite accurately, Vladimir Emmanuilovich Shlyapentokh wrote that “the anti-communist revolution of 1991 contributed to Russia's leap from a society with a powerful collectivist ideology to a society in which public interests have been removed from the minds of almost everyone - from citizens to high-ranking officials. [22]. Anisim Ivanovich Ekimov focuses on the following tendency: a drop in the level of morality has a negative effect on legal consciousness, meaning a disdain for law. Moral factors cease to work as a means of preventing offenses [23]. In Russia, a kind of civil society with a minus sign has emerged, which is a historical anomaly. The reason for the emergence of such an anomaly is the same that led to the emergence of the communist totalitarian system - an attempt to abruptly break with the previous tradition through thoughtless and criminal introduction into the social fabric

of a speculative social project. The inevitable reaction of rejection returns society, as a result of a series of metamorphoses, to a more archaic state in relation to both its own historical past and the norms and social practices prevailing in a liberal society. The question naturally arises: what is the legal consciousness of our society against the background of the policy pursued by the Russian state, in which arbitrariness rules in society, and the value of human life is quoted below a piece of bread, if the criminalization of public relations continues, and the shadow economy strengthens its position if corruption of officials becomes the rule, and not an exception, if the average person looks at the next elections of power with indifference? Finally, what kind of legal consciousness does the state expect from a polarized Russian society, in which the bulk of it is concentrated on one pole, on the verge or beyond the verge of poverty, and on the other a small stratum of super-rich citizens? [24]. Director of the Institute of Socio - Economic Problems of Population of the Russian Academy of Sciences, Alexei Yurievich Shevyakov, noticed that the gap between the rich and the poor is only increasing [25]. Mikhail Konstantinovich Gorshkov, director of the Institute of Sociology of the Russian Academy of Sciences, notes that “in terms of living standards, we are in a position with which the population of developed countries was in about 30-40 years of the twentieth century” [26]. As for today, according to the 2015 Global Wealth Report (research by Credit Suisse), Russia is the country with the highest inequality in wealth in the world. According to the Global Burden of Disease Study (GBD) 2015, which assesses the health of the world's inhabitants, Russia was in 119th place (indicators for alcoholism, suicide, HIV prevalence, hepatitis and tuberculosis, the number of smokers, deaths from violent crimes, chemical poisoning and non-communicable diseases). The Global Age Watch Index ranks Russia 79th out of 91 in the rating of living comfort for older people, with extremely low indicators in terms of pensions, health status and the quality of the social environment (accessibility of transport, physical safety, social connections). According to Transparency International's Corruption Perceptions Index for 2015 - 119th out of 168. [27] In the Omsk Region, one of the constituent entities of the Russian Federation, there is depopulation: in the first half of 2018, 12,375 births accounted for 14,988 deaths, i.e., 2,613 people. In 2017, the number of deaths exceeded births by 2296 people. [28] It seems that the cited data raise doubts about the existence of a social state in Russia, which, like the legal one, is enshrined in Art. 1 of the Constitution of the Russian Federation [29].

d. Inconsistency of Public Legal Consciousness

The inconsistency of the public is caused by the imperfection of other components of the legal system (in particular, the law itself - the Authors), whose state of legal consciousness is recognized to be reflected in ideas and feelings. We believe that the unresolvedness of many legal issues and the borrowing of non-adaptable values of foreign legal culture make it difficult to understand and assimilate the law by wide layers of the population, the formation of stable legal traditions in public legal consciousness. Indeed, the sense of justice, its ideas and feelings in general determines the law. However, objective law (especially the practice of its implementation) affects the sense of justice, changing in a certain way its content side (legal definitions, attitudes, ideas, beliefs, moods, feelings, etc.), but cannot fundamentally in an immanently essential plane. Change legal consciousness. Here, partial, but not complete and deep restructuring is possible. As a matter of fact, the internal change of legal consciousness is possible only by legal consciousness itself. At the same time, it should be taken into account that legal consciousness not only mirrors the surrounding legal reality, but refracts it through a kind of socio-biological filter of human individuality, consisting of three components: the characteristics of the entire mental alloy of the personality, human life experience; the individual's immediate social circle. It seems that

the manifestation of the inconsistency of the legal consciousness of society is such a feature of it as tolerance. From the point of view of Vladimir Ivanovich Chervonyuk, tolerance (from the Latin *tolerantia* - patience), as a property of legal consciousness (more broadly - the spiritual and legal structure of the individual), presupposes patience with the way of life of people, families, social groups, nationalities, representatives of other confessions, towards their behavior in the legal sphere, legal feelings, as well as legal ideas, positions and opinions, to beliefs, modes of action and feelings other than one's own. This is at the same time the recognition of the legal ideals and values of other people, their beliefs, a correct attitude to the ways they satisfy their needs and, in this regard, a respectful attitude to the norms and traditions that consolidate the invariants of the legal image of people. [thirty]. It seems that the contradictory nature of the legal consciousness of the transitional period of our society is manifested in the unequal assessment of various *corpus delicti*. Thus, scientists note that if we decompose the common negative attitude of citizens to crime in general into its attitude to various types of crimes, it will be found that the degree of "negativity" is not the same, and the reaction to certain categories of crimes of certain groups of the population can be characterized by an almost complete absence of condemnation. For example, giving a bribe earlier, i.e. before the transition period, was assessed as a crime by less than half of the respondents [31]. According to sociological research conducted by the Institute for Comprehensive Social Research of the Russian Academy of Sciences, the Russian Independent Institute for Social and National Problems and the representative office of the German Ebert Foundation in the Russian Federation, our compatriots are much more tolerant than 10 years ago (i.e. we are talking about the 90s of the XX centuries - the Authors), refer to such acts as the purchase of stolen things, the appropriation of found money, political murder, bribery, resistance to the police (now the police - Authors) [32].

e. The Radicality of Public Legal Consciousness

The radicalism of legal consciousness is determined by the impatience of members of Russian society, who want to immediately improve their situation. Moreover, as the reforms deepen, legal radicalism may become a reaction to the difficulties of reforms. Scientists - theorists have identified a tendency according to which, at the initial stage of carrying out reforms, the bulk of the population is carried away by the idea of transformations, realizing the negatives of the previously chosen legal orientation; in this moment, legal consciousness is ahead of the actual movement of the legal system. At the beginning of the transitional period, the population, mainly having an ordinary sense of justice, actively supports reforms at the beginning of the transitional period, because it expects to receive certain social benefits and improve material well-being in a relatively short time by carrying out reforms [33]. However, as the reorganization of the social system continues, unfulfilled hopes from the result of the beginning of the legal reform, as Oleg Ernestovich Leist wrote, "generate in the mass legal consciousness a distrust of law, an alienated attitude towards it" [34]. Generally speaking, one can come to the conclusion that the public legal consciousness of the transition period is characterized by a crisis state caused by the mismatch of needs and interests, value orientations and attitudes, norms and traditions. It should be noted that the reorientation of public legal consciousness often occurs with an exaggeration of the role of new legal ideas, haste in assessing the positive dynamics of the development of legal consciousness in the transition period. The sense of justice that has been acquired by society over a long life cannot undergo rapid changes. Legal consciousness is not only relatively independent in relation to numerous external conditions, but largely unchanged over significant periods of time. A certain constant is inherent in legal consciousness, which, with all changes in the economy and politics, reproduces a certain type of domestic legal thinking, which is the basis

of the Russian tradition of law. Speaking about the peculiarities of legal awareness and legal culture in Russia, the authors first of all draw attention to the fact that the Russian legal system throughout its history is characterized by underdevelopment of legal traditions and imperfection of legislation. It can be said that the society has not developed clear legal mechanisms allowing to speak about respect for the law and court. All this has under itself the historical roots of our legal reality. For a long time, in Russian society there were no favorable prerequisites for the development of legal culture (and, naturally, for its basis - legal consciousness - Authors), which was explained by various objective and subjective factors: the domestic legal system was not characterized by the developed institutions of constitutionalism characteristic of the West. - the European system, and there was a disrespectful attitude towards the individual, his rights and freedoms, the low role of the judiciary, the domination of the totalitarian regime of Soviet power for 70 years, etc. In state legal practice, the idea of the supremacy of the state over law and state power as a decisive force in lawmaking has always prevailed. The paternalistic approach, which prevailed throughout its history, always put the interests of the state in the first place in the relationship "state - personality", and considered the personality as an element of no social value in the state system.

f. Incompatibility of Law with Morality, Conscience

An important feature of the Russian legal consciousness and legal culture is the incompatibility of law with morality and conscience. The law is associated with police measures. In addition, in Russia there is a negative attitude towards law, the opinion that law is a pernicious phenomenon of public life. In this regard, we note that if a social contract in the European way is the consent of subjects and the authorities on a mutually binding law, then a social contract in Russia is a tacit conspiracy of the people and the authorities about mutual impunity in violation of the law. In Russia, instead of personal freedom, the idea has always been recognized serving the sovereign (fatherland), instead of equality - the idea of hierarchy, instead of formal equality and freedom - the idea of duty, service, rank. These are the basic values of Russian reality. As Magomed Imranovich Abdulaev and Sergei A. Komarov noted, a characteristic feature of legal consciousness and legal culture in Russia can be considered that the idea of subordination of law to ideology has always dominated in Russian society [35]. It should be borne in mind that statism is organically inherent in the Russian legal mentality, as evidenced by the entire history of Russia. An excessive, unjustified orientation towards state power is a characteristic feature of the domestic mentality, showing it not in the best light in comparison with the Western legal consciousness and mentality. The point is that if in Western civilization a person relies more on his own strengths and capabilities, and the state is seen as a kind of legal "arbiter" strictly protecting individual freedom, security, property of its citizens and acting in accordance with the prescription of law, then in In Russian society, the individual does not have that sense of positive legal responsibility and duty, which is characteristic of citizens of Western European democracies [36].

3.3 Results

In the course of the conducted scientific research, it became clear that the public legal consciousness of the transitional stage of Russian society, firstly, is extremely important for the development of all its spheres; secondly, it is characterized by fragmentation, contradictoriness and radicalism and other properties; third, it is associated with legal idealism and legal nihilism; fourthly, it is influenced by a whole system of factors, including, in particular, the ill-considered policy of our state, which in general ignores its significance.

IV. Conclusion

In this part of the article, we note that the modern Russian society, which is at a transitional stage of its development, is characterized by many different contradictions, among which there is also such a bizarre interweaving of legal nihilism and legal idealism, which together form a bleak picture of legal lack of culture. We believe that the main ailment of the Russian national mentality is the lack of creative education of its own and unique legal consciousness, rooted in the consciousness and psychology of the Russian people, in its ethnic, historical, cultural and religious traditions. It is also necessary to overcome the imbalance between the autonomous legal consciousness of individuals associated with issues of property, honor, debt, and public legal consciousness, which includes the issues of the survival of society and the functioning of the state

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