
МЕМЛЕКЕТ ЖӘНЕ ҚҰҚЫҚ ТЕОРИЯСЫ МЕН ТАРИХЫ

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To the question of studying the legal culture of modern society

This scientific study is devoted to the analysis of the legal culture of modern society. The main purpose of the article is to study the characteristics of legal culture, as well as ways to increase its level among the population. The analysis of current problems in this area was conducted. The author considers the essence, content, types of legal culture and its features from the standpoint of various scientific approaches. The author pays special attention to the study of the value aspects of legal culture in conditions in the development of a democratic state and the formation of a civil society in our state. In addition, the article presents a variety of interpretations of legal culture in its relationship with legal awareness and legal education. The scientific work is written on the basis of available scientific studies of domestic and foreign authors on the nature of legal culture, its influence on the formation of the legal system of the state, the development of legal awareness of society and the eradication of legal nihilism. In the conclusions of the article, the author cites the main directions and measures for the formation of legal awareness and raising the legal culture of modern society, and also gives the author's definition of the legal culture of modern society.

Keywords: law, culture, personality, legal culture, democracy, civil society, legal education, legal upbringing, society, human.

Introduction

The development of the legal state at the present stage should be closely connected with the process of formation of the legal culture of society, since it is this category that determines the qualitative state of the whole legal life of a society. Unfortunately, our society is still characterized by the presence of certain elements of legal nihilism, which rather negatively affects the process of formation of legal culture in the state. Legal nihilism interferes with the normal functioning of the entire legal system, forms negative evaluations of people in relation to the state policy pursued in the country.

It follows that it is precisely the developed level of legal culture that will prevent such nihilistic sentiments in society and create all the conditions for creating a favorable legal climate in the state. The formation of legal culture will be possible only if the society begins to use the system of rules, methods and methods in order to develop the welfare of the whole society and the state.

To date, the relevance and scientific interest is of itself as a phenomenon of legal culture, and the ways and means of achieving its developed level. Therefore, in order to find the most effective ways to improve the level of legal culture in society, it is necessary to conduct its theoretical and legal research from the standpoint of various methodological approaches [1; 75].

A characteristic feature of almost all scientific studies of legal culture is their diversity and versatility, which is associated with methodological approaches to the study of this phenomenon. It is well known that the «methodological approach» can be called the very methodological orientation of the research, i.e. it is as a point of view from which the object of study itself is considered (a method of defining an object), as the basic concept or principle that governs the general strategy of scientific research.

The indisputable interdependence of law and culture presupposes the use of the so-called legal culture as the basis for the study of legal culture, cultural approach. On issues of the relationship between law and culture, the following scientific positions can be identified:

- 1) law and legal culture are defined as constituent elements of a common culture (which is quite logical);
- 2) legal culture is the quintessence of all varied cultures.

When studying and trying to study a culture, difficulties arise which are defined by the ambiguity of this term. In science, at present, there is a large number of definitions of culture, which is quite natural in the conditions of development of distinguishable world civilizations. Here it is necessary to turn to the philosophical approach.

The specificity of the philosophical approach is that through abstract thinking, one can penetrate the essence of culture through the disclosure of its content, consideration of forms, determination of the causes and patterns of its development, and, ultimately, in defining it as a way of human existence, its level of worldview, vision, and attitudes towards oneself and other members of society.

With all the variety of interpretations of culture, the philosophical consideration of this phenomenon is connected, firstly, with its understanding as a developed system of reproduction and human development as a subject of activity; secondly, with the allocation of value orientations of human life.

Philosophical understanding of culture can be distinguished in the following definitions:

- 1) Culture is a specific way of organizing and developing human life activity, which is represented in the products of material and spiritual labor, in the totality of social norms and institutions, in spiritual values, in people's own attitudes towards nature, among themselves and towards themselves [2; 552].
- 2) Culture is a system of material and spiritual values, as well as ways to create them, the ability to use them for the further progress of mankind, pass on from generation to generation [3; 145].

In the scientific literature, legal culture is usually interpreted as an aggregate of knowledge, attitudes and values of an individual with regard to the rights and possibilities of their practical realization, which is carried out in the process of interaction between legal entities. Legal culture is a complex set of phenomena of social life, which includes the totality of legal norms, the legal consciousness of a person and his principles, developed legal relations, the legal behavior of an individual in the process of life activity.

Legal culture is a common culture, because occurs in the process of human activity, i.e. includes material and spiritual components, has a normative and non-normative reflection, develops thanks to individual subjects, and also exists as an objective phenomenon. Legal values that make up its content develop due to the needs of society itself under the influence of various factors [4; 35].

Methods and Materials

In the process of writing a scientific work, general logical methods were used: synthesis, analysis, deduction, generalization, abstraction, modeling; methods of theoretical knowledge: axiomatics, formalization, which together allowed to reveal the phenomenon of the legal culture of modern society.

Results

After analyzing a small part of the existing scientific approaches and opinions to the definition of the essence and content of legal culture, it becomes clear that the formation of legal culture and its ubiquitous development becomes possible only when solving the following tasks:

1. It is important to provide the necessary orientation in the fundamental principles and principles of the legal system of the state. This implies the division of all principles of the legal system into: 1) sectoral; 2) intersectoral; 3) constitutional. Knowledge of these principles will allow the individual to understand the content of the law, to ensure the formation of their own legal knowledge and beliefs necessary for him in the process of life activity;
2. It is necessary to create a certain base in order to expand the scope and increase the level of legal behavior of all addressees of the law. This must be done in order to shape the social maturity of citizens, to form the foundations of legal literacy, which will further characterize their legal behavior;
3. Of particular importance is the process of preparing highly qualified legal personnel, since they are the «face» of the entire legal system, their direct activity is directly related to the implementation of the state legal policy;
4. The system of higher vocational education must meet existing international standards. This will be ensured by the development of educational programs of legal specialties, and it is necessary to include train-

ing courses in them, the study of which should form professional competencies among graduates of legal specialties;

5. Existing research should not be limited to theoretical results. Their practical implementation is important. Conducted research and their results in the study and analysis of legal culture should be used in the development of various government programs, concepts, etc.;

6. It is of great importance to ensure the direct bearers of rights and obligations, equal conditions of struggle for their legitimate interests. This means carrying out work in order to exclude the legal passivity of citizens, fostering in them a sense of legality and justice;

7. It is necessary to carry out systematic work in the field of crime prevention. A special place here is occupied by the fight against legal nihilism, the lack of awareness of the population about the existing laws and changes in them, and the ongoing work to improve the existing legislation;

8. It is necessary to pursue a systematic policy in the sphere of legal activation of the population, since the stability of the rule of law in society depends on the activity and effectiveness of each individual.

The solution of the above tasks in the field of raising the level of legal culture is based on the development of certain areas to which we propose to include:

1) the qualitative analysis and research of such definitions as «law» and «legality»;

2) systematic improvement of the existing regulatory framework in the field of legal policy;

3) systematic development of the level of legal activity of state authorities;

4) the development of higher legal education through the use of modern educational technologies and the development of relations with representatives of practical activities;

5) continuous development and practical mastering of scientific research achievements in the field of formation of legal knowledge and legal culture;

6) processing and systematization of the results obtained and the definition of new goals and objectives for a given area;

7) analysis of international experience in the field of legal culture and the use of its results in the interests of the state.

Thus, we can conclude that it is almost impossible to raise the level of the legal culture of the population without comprehensive measures by the state, as well as without creating the necessary conditions under which it will be possible for each individual to exercise his rights and freedoms. Only joint work in this direction will ensure the formation of the necessary level of legal culture, both of an individual and of society as a whole.

Discussion

The process of formation of the legal culture of modern society is viewed in integral connection with the development of human culture. In any society, the general level of culture is determined by the combination of material and spiritual successes and achievements of people, the results of which determine the level of progress in the development of a given state. In this dynamic of development of the general level of culture, it is legal culture that is of particular importance, which shows the real level of state-legal organization of the life of each individual and society as a whole. A high indicator of legal culture is one of the basic features of a legal state and a developed civil society.

By historical standards, the concept of «legal culture» appeared recently in the categorical apparatus of the general theory of law, but it should be said that at present the problems of raising the level of legal culture of society are among the most pressing in the scientific literature, and the definition itself is firmly in the system of concepts of the general theory of law. The increasing number of analytical studies, which are devoted to the problems of legal culture, is associated primarily with the basic development of a cultural approach based on philosophical and general scientific levels. Of course, there is a large number of definitions of the legal culture of society, the general purpose of which is a qualitative analysis of existing theories and the development of real proposals in the field of the formation of the legal culture of society. To do this, you can highlight some features of the legal culture:

1) legal culture has specific features and stands out as a separate type of social culture;

2) legal culture is represented as a special state (quality) of all legal phenomena of society;

3) legal culture is expressed by the level of development or certain qualitative characteristics of the current legal system;

4) legal culture shows the level of development or quality of legal phenomena, and also determines the degree of accumulation of values or positive elements in them.

However, in the modern understanding of legal culture there remains a large number of problems, the solution of which is not produced directly from cultural or philosophical definitions of culture, but requires a certain methodological approach, which should be based on the peculiarities of legal matter. You can list the most significant of them:

Firstly, it is a clear designation of the social object in relation to which the process of formulating the concept of legal culture takes place;

Secondly, it is the analysis and determination of the structure of legal culture, i.e. the composition of its main elements;

Thirdly, it is the awareness and understanding of the features and effectiveness of legal culture, as well as differences from the state of non-culture;

Fourthly, this is the determination of the place of legal culture in the system of categories of the theory of law.

Currently, legal culture covers almost all spheres of society. It fixes the current level of legal knowledge of people, criteria for evaluating actions from the standpoint of their wrongfulness, and also includes a set of legal values, beliefs, norms, traditions that characterize the entire legal system of the state.

For example, Absattarov G.R. believes that «... firstly, the legal culture of the Kazakh people is a set of initial defining ideas, requirements, attitudes that constitute the moral and social basis of the maturity of Kazakhstani society; secondly, one of the main requirements for legal culture is raising the level and quality of the social and legal life of society and each person individually. This can be expressed in the direct provision of guarantees for the status of citizens, as well as in the consistency and predictability of actions of political power» [5; 181].

In addition to the above definition, it should be said that legal culture is a certain level of legal psychology of society, since its content is based on a combination of everyday legal ideas and emotions in relation to existing legal phenomena and processes in society and the state.

Legal culture is a socio-psychological phenomenon that is of value only in a socially heterogeneous, contradictory society, i.e. where legal culture is expressed as legal regulators of the livelihood of this society. Here, legal culture has a specific content, which distinguishes it from other social phenomena, such as law, legal relations, etc. [6; 257].

Legal culture is an integral part of the culture of society and the individual and is one of the indicators of the development of the general culture of society. This is one of the parties to the social-regulatory system, which reveals the moral and legal level of society as a whole. Legal culture is the level of perception by an individual of legal knowledge and skills, as well as the presence of legal behavior and his skills in the implementation of the norms of the current legal system.

Legal culture has a complex internal structure and at the same time contains a wide variety of social and political ties. It reveals all the changes and deformations that the whole human culture of society is subject to in general. It should be noted that legal culture is reduced not only to the knowledge of all laws or their part, but actually shows how successfully an individual realizes himself in the legal field, and also determines the level of his civil liability and civic duty to the state.

When analyzing the structure of legal culture, we can distinguish three of its components:

1) the cognitive component is knowledge about law, legal and illegal behavior and their consequences. The cognitive component contains judgments of a purely evaluative nature, i.e. views on objects. Based on these opinions, objects are assigned certain qualities (usefulness or harmfulness, acceptability or inadmissibility, etc.);

2) the affective component is the current emotional attitude to the law, to the forms of legal behavior. The emotional component contains a set of feelings in relation to a social object (pleasure or displeasure, love or hate, etc.);

3) the conative component is a behavioral element of a certain social behavior of an object. The conservative component contains the tendencies of the very readiness for behavior in relation to social objects.

An interesting position is of Petrov A.V., who offers a developed methodological scheme, in which legal culture acts as a link in the chain of legal categories, which include:

- 1) legal validity;
- 2) legal consciousness;
- 3) legal system;
- 4) legal culture.

The presented approach makes it possible to identify the legal nature of the legal culture, since allows systematically consistently the characteristics of each of the above elements, while being limited only to a summary of their content [7; 253].

Legal reality is a basic concept in the present bundle, which is a system of all legal phenomena of a society or phenomena containing legal elements. The internal essential basis of these phenomena is formed by the legal will of the individual, since its formation is determined by certain specific social needs.

Legal consciousness is a social phenomenon that has a basis in legal reality, i.e. is directly connected with it and realizes specific goals with respect to legal reality.

The legal system of society is directly regarded as a category that synthesizes the concepts of legal reality and legal consciousness.

The legal culture of society is a complex process and the result of the formation of a set of progressively valuable elements in the legal system of society, and the quality of progressiveness here is determined by their correspondence to the essential basis of law [7; 254].

The legal culture at the present stage is characterized by both positive and negative features. To the first can be attributed:

1) the presence of a system of developed legislation, which is based on the Constitution and international law;

2) the widespread recognition by the general public of the need for knowledge of the basic laws and compulsory adherence to them.

Among the negative features can be identified:

1) the presence of a certain criminalization of the consciousness of people, which is manifested in the broad masses by borrowing vocabulary, previously used exclusively in the criminal environment, asocial stereotypes of behavior;

2) blindly relying on the solution of all arising problems only through the adoption of certain laws;

3) often manifest acts of disrespect for the law;

4) a high level of mistrust of the population to state bodies [8; 5].

Today, there is a large mass of problems in the process of forming a legal culture. First of all, this is legal ignorance of the population, difficulties in the lawmaking process, existing contradictions of legal acts of reality, as well as an insufficiently developed ideology of a strong legal state and, as a result, development of legal nihilism, denial of moral principles. To solve these problems, it is necessary to pursue a targeted state policy, not directed at raising the level of the legal culture of society through the development of law-making processes, the legislative process, as well as the media, the dissemination of fiction, cinema and art.

Legal culture is analyzed from the standpoint of various methodological approaches, such as: — cultural studies, which determine the philosophical, anthropological, sociological consideration of legal culture, information-semiotic, historical, ethical, etc., each of which represents both a form of orientation and a form regulation of all research activities, as well as setting the framework and directions of scientific research. If we take a separate approach, then it cannot completely exhaust the methodological characteristics of the study of legal culture.

From this it follows that in studying the legal culture by researchers, a certain set of approaches is implemented that complement each other. The main criterion of the chosen methodology is the adequacy of appropriate approaches to the types of research tasks.

Special attention should be paid to the «anthropological understanding» of the legal culture in the researches of G.Kh. Efremova, V.I. Kaminsky, S.A. Komarova, A.R. Ratinova and others. All the benefits that are created by humanity in the process of its legal development are analyzed through the identification of large-scale cultural legal complexes. With this approach, the following elements can be included in the composition of the legal culture:

1) right — a set of norms that express the state will;

2) the system of legal relations — public relations, which is governed by the law itself;

3) the system of legal institutions — a set of state bodies and public organizations that provide proper legal control, regulate the execution of the right;

4) the level of legal consciousness — a system of spiritual reflection of legal reality.

The legal culture of society and its level can be most effectively studied from the standpoint of philosophical science, since it is an integral part of the whole culture. But this approach does not indicate the fact that the legal culture of society can be equated with a legal superstructure. The legal culture of society is the

level by which it is possible to determine the qualitative state of the entire legal system of society, the state of legal consciousness and the legal behavior of an individual.

Most fully the structure of legal culture can be outlined in the form of such elements:

- 1) the level of legal consciousness and legal activity of the society;
- 2) the degree of progressiveness of legal norms;
- 3) the degree of progressiveness of legal activity;
- 4) the effectiveness and quality of legal practice.

According to the famous Russian legal scientist Ibrayeva A.S. «... legal culture is a set of positive phenomena in the legal life of society, as well as the degree to which the society assimilates legal values. The future of civil society depends on the level of legal culture of the society» [9; 5].

For example, Vengerov A.B. in his research, he adheres to the point of view that legal culture is the most comprehensive form of legal awareness. It is important to take into account that legal consciousness covers only the spiritual side of society, while legal culture contains both spiritual characteristics and various legal institutions, as well as relationships that arise within these institutions [10; 451].

If we talk about the types of legal culture, the most interesting is the professional legal culture, the level of development of which is an integral part of the development of any legal state. This is especially true of legal workers, since by virtue of their duties, they must have a sufficiently developed level of professional culture.

According to Agranovskaya E.V., it is almost impossible to identify the signs of a professional legal culture without analyzing and solving problems related to the level of a person's legal culture. Possessing a sufficient level of general culture, a person «enters» into the chosen sphere of his activity, at the same time acquiring a set of professional skills and abilities, i.e. comprehends the professional culture of their community. Initially, a person takes a guideline on those values that are most significant for him in this period. However, over time, there is a «rethinking» of the values of ordinary and professional, i.e. their interrelationships are established, their qualitative interaction with each other is observed [11; 211].

As Agranovskaya E.V. writes, «... legal culture performs the function of reflecting legal reality, which means several interrelated moments: knowledge of the phenomena of legal life, awareness and assessment of their personality» [11; 211]. The professional legal culture itself relies, first of all, on the existing level of the legal culture of the individual.

Professional legal culture is a part of the general culture, i.e. a set of moral and legal norms that contribute to the formation of the foundations of legal competence, legal beliefs and guidelines, while it is based on law enforcement practice, legal skills and knowledge. Professional legal culture is built on the basis of a person's legal awareness, which must be considered as one of the main factors of its formation and evolution.

The level of legal culture of a society largely depends on the development of legal awareness of the entire population, on the level of lawmaking culture, law enforcement, on the degree of perfection of the entire system of legal acts. It should be noted that a great influence on the level of the legal culture of society is exerted by the level of the right culture of civil servants, who represent the very face of the state.

Legal culture has its own structure, set of features, has certain functions and serves as a necessary basis for the formation of the legal culture of legal workers. In the process of its development, the legal culture of a person undergoes changes initially at the everyday level, and then at the professional level, which is expressed in the quality of his professional activity.

The process of development of legal culture itself, of course, is accompanied by an increase in the legal consciousness of young people, a reappraisal of values, a critical understanding of the experience (including legal) of previous generations, new ideas about their future and the future of the whole society.

Legal culture develops practically all its life and is associated with such a concept as legal socialization of an individual, by which is meant a process that is a consequence of general development, a product synthesizing the most important characteristic features of the formation environment, legal traditions, socio-legal attitudes, and value orientations in society.

Of great importance is the level of legal culture of legal workers, since their task is to inform the population of all changes in legal acts, protect the rights and freedoms of citizens, as well as the responsibility for the effectiveness of the policies implemented in the state.

Conclusions

Analysis of the existing scientific literature allows us to identify the main tasks, areas of work and measures in the field of legal awareness and legal culture of lawyers:

1) the inculcation of conscious internal needs in the commission of lawful actions, which were previously performed only by virtue of formal necessity;

2) the acquisition of regulatory legal knowledge in order to guide them to comply with the law, the correct use of the rights granted in the performance of their duties;

3) the impact on the level of legal awareness using modern organizational, legal and psychological and pedagogical technologies that stimulate an increase in the level of legal culture;

4) the formation of attitudes (evaluation category) to the legal requirements, which leads to a conscious conviction of the need for adopted legal decisions on current situations;

5) the formation of a unified system of legal education of society, the consolidation of the common efforts of public authorities, educational institutions of all levels, culture, mass media and law enforcement agencies of the state;

6) a clear focus of the state ideology to protect the interests of each person, as well as the development of a unified legal policy, ensuring the well-being of citizens, strict observance of the constitution and laws by all government bodies;

7) the obligatory provision of the population with the right of legislative initiative, widespread dissemination of knowledge in the field of legal engineering, as well as wide public coverage of all legislative activities, strengthening of legal liability especially for violation of the rights and freedoms of citizens in the field of law enforcement;

8) the development of the system of activity of public organizations, the active assertion by the individual of his inalienable rights and freedoms, the struggle against absolutely any manifestations of lawlessness and arbitrariness;

9) the ongoing research in the field of studying legal culture, compulsory bridging the «gap» between science and practice, as well as improving the efficiency of higher legal education, further work on introducing legal disciplines into the list of compulsory.

Thus, we can conclude that the modern period is the time of the intensive process of the formation and formation of a legal society. It is the legal culture in this process that plays a special role. This is explained by the fact that legal culture is the most versatile and multifaceted phenomenon, while it is worth noting that there are certain difficulties in its understanding.

Undoubtedly, legal culture is an indisputable aspect of human culture, it is reflected in law, legal practice, i.e. it has become a basic element of civil society, including both the level of legal culture of the population, and the level of legal culture of civil servants (officials), and hence the legal culture of the entire state as a whole.

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С.А. Ахметов

Қазіргі қоғамның құқықтық мәдениетін зерттеу мәселесі

Мақаланың негізгі мақсаты құқықтық мәдениеттің ерекшеліктерін, сондай-ақ халық арасында оның деңгейін арттыру тәсілдерін зерттеу болып табылады. Автор құқықтық мәдениеттің мәні, мазмұны, түрлері және оның ерекшеліктері әртүрлі ғылыми көзқарастар тұрғысынан қарастырды. Демократиялық мемлекеттің дамуы және біздің мемлекеттегі азаматтық қоғамның қалыптасуы жағдайында құқықтық мәдениеттің құндылықтық аспектілерін зерттеуге ерекше назар аударды. Сонымен қатар мақалада құқықтық мәдениет ұғымы және құқықтық тәрбиемен өзара байланысы жайлы алуантүрлі түсінік берілген. Заңгерлердің қызмет деңгейінен құқықтық реттеу механизмнің тиімді жұмыс істеуіне ғана емес, сонымен бірге қарапайым азаматтардың құқыққа және құқықтық құбылыстарға деген көзқарасына байланысты. Ғылыми жұмыс отандық және шетелдік авторлардың ғылыми зерттеулеріне сүйене отырып, құқықтық мәдениеттің мәні оның мемлекеттің құқықтық жүйесін қалыптастыруға, қоғамның құқықтық санасын дамытуға, құқықтық нигилизмді жоюға бағытталып жазылған. Мақала тұжырымдарында құқықтық сананы қалыптастыру, қазіргі қоғамның құқықтық мәдениетін арттыру бойынша негізгі бағыттар мен шаралар келтіріліп, жоюға бағытталып жазылған қазіргі қоғамның құқықтық мәдениетіне авторлық анықтама берілді.

Кілт сөздер: құқық, мәдениет, тұлға, құқықтық мәдениет, азаматтық қоғам, құқықтық білім беру, құқықтық тәрбие, қоғам, адам.

С.А. Ахметов

К вопросу изучения правовой культуры современного общества

Основной целью статьи является исследование особенностей правовой культуры, а также способов повышения ее уровня среди населения. Автором рассмотрены сущность, содержание, виды правовой культуры и ее особенности с позиций различных научных подходов. Особое внимание уделено изучению ценностных аспектов правовой культуры в условиях развития демократического государства и формирования гражданского общества в нашем государстве. Кроме того, в статье представлено многообразие трактовок правовой культуры в ее взаимосвязи с правовым сознанием и воспитанием. В статье показано, что от уровня деятельности юристов в значительной мере зависит не только эффективное функционирование механизма правового регулирования, но и отношение рядовых граждан к праву и правовым явлениям. Научная работа написана на основе имеющихся научных исследований отечественных и зарубежных авторов по вопросам природы правовой культуры, ее влияния на формирование правовой системы государства, развитие правосознания общества и искоренение правового нигилизма. В выводах приведены основные направления и меры по формированию правосознания и повышения правовой культуры современного общества, а также дано авторское определение правовой культуры современного общества.

Ключевые слова: право, культура, личность, правовая культура, демократия, гражданское общество, правовое образование, правовое воспитание, общество, человек.

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