LAW, LEGAL CONSCIOUSNESS AND LEGAL CULTURE IN THE SYSTEM OF SOCIAL NORMS

LEGEA, CONȘTIINȚA JURIDICĂ ȘI CULTURA JURIDICĂ ÎN SISTEMUL NORMELOR SOCIALE

Olga TATAR
PhD, associate professor
ORCID ID: 0000-0003-2158-006X
Email: oleatatar@mail.ru
Comrat State University

CZU: 340.13:316.754 **DOI:** https://doi.org/10.59295/ssdoed2025.15

Abatract: *There are many different norms and rules, guided by which, people solve various kinds of issues in their daily lives, namely: aesthetic, moral, religious customs, legal, political, corporate, rites, rituals, etiquette requirements, standards of decency and a number of others. Norms are presented in the form of certain standards and models of behavior, without which human coexistence is impossible. A social norm represents not just an abstract rule of desired behavior, but a real action. The social norm determines, in addition to the "ought", also the "existent". In turn, a norm is a measure of socially useful behavior that is aimed at achieving the desired interest.*

Keywords*: legal norm, social norm, rule, legal consciousness, legal culture.*

Rezumat: *Există multe norme și reguli diferite, ghidate după care, oamenii rezolvă diverse tipuri de probleme în viața lor de zi cu zi, și anume: estetice, morale, obiceiuri religioase, juridice, politice, corporative, rituri, ritualuri, cerințe de etichetă, standarde de decență și un număr de altele. Normele sunt prezentate sub forma unor standarde și modele de comportament, fără de care conviețuirea umană este imposibilă. O normă socială reprezintă nu doar o regulă abstractă a comportamentului dorit, ci o acțiune reală. Norma socială determină, pe lângă „trebuie", și „existentul". La rândul său, o normă este o măsură a comportamentului social util care vizează atingerea interesului dorit.*

Cuvinte-cheie: *statul de drept, norma socială, regula, conștiința juridică, cultura juridică.*

Introduction

In legal science, all norms are divided into two large groups - social and technical. Lawyers do not deal with technical norms, but only come into contact with them, because It is important for them to establish the distinctive features of technical norms from social ones. “Technical norms” mean all non-social norms, for example, sanitary and hygienic, environmental and others, but if social norms regulate relations between people and their associations, i.e. social life, then technical norms regulate relations between people and the outside world. Technical standards define scientifically based methods, techniques, and methods of handling natural and artificial objects, i.e. the former are created by people, the latter do not depend on human will. What binds technical and social norms is that they are related to human activity, and what is distinctive is the objects and methods of regulation. Among the technical norms, there are norms enshrined in legal acts and acquiring legal force - these are technical and legal norms, for example, fire safety rules, energy supply, storage, etc.).

When writing the article, the following **methods** were used: comparative legal, logical, imperial, historical.

Social norms are generally accepted patterns, rules of human behavior that protect people’s lives from chaos, directing it in the right direction; therefore, social norms are the necessary rules of joint human existence, indicators of boundaries, reflecting the patterns of social development. For example, F. Engels wrote: “At a certain, very early stage of development of society, the need arises to cover as a general rule the acts of production, distribution and exchange of products that are repeated day after day, to ensure that the individual submits to the general conditions of production and exchange. This is a rule „, which is first expressed in custom, then becomes law” [2]. Law developed later than other normative systems, but on their basis. The emergence of social norms is directly related to the transition from herd people to human society, which took several million years. According to E.A. Lukashev “Historically, law arises as if to compensate for the “inadequacy” of morality, which is revealed with the emergence of private property and political power” [8, p. 87]. As noted by V.N. Kudryavtsev, “behavior that corresponds to the norm is more common than deviation from it - pathology” [17]. It should be noted that social norms are very diverse, which is associated with the richness of social relations. For example, in sociology they are divided into types, classes, groups. Social norms are divided into: 1) legal;

2) moral; 3) political; 4) aesthetic; 5) religious; 6) family; 7) corporate; 8) norms of customs, traditions, habits; 9) business practices; 10) rules of etiquette, correctness, decency, rites, rituals and others [10, p. 243]. This is a very common classification, where despite their differences, they are closely interrelated. Ancient philosophers Aristotle, Plato, Democritus, Cicero pointed out the importance of law and morality, their similarities and discrepancies. According to the convictions of I.A. Ilyin's concept of law rests on the concept of norm [3]. Russian jurists, such as: V.S. Soloviev, I.A. Ilyin noted that law is only a minimum of morality or legally formalized morality [5, p. 56-64]. Law is a means of realizing the moral and humane ideals of society, while morality is a social institution of historically developing life principles, views, beliefs, but what is essential in morality is the interpretation of good and evil. I. Kant noted: "Whoever turns himself into a worm should not then complain that he is being trampled underfoot" [13, p. 193-197]. The main social values are recognized: ***honor, dignity, good name***. Morality is characterized by internal and external aspects, where the internal aspect expresses the depth of an individual's awareness of his "I" and the degree of responsibility and duty. According to Kant, two things amaze our imagination - the starry sky above us and the moral laws within us. "The law that lives in us," Kant wrote, "is called conscience; conscience is, in fact, the relationship of our actions with this law" [11, p. 239]. Cicero saw conscience as the main decoration of a person: "If you want to sleep soundly, take a clear conscience with you to bed" [12]. The second aspect of morality is the forms of external manifestation of the above qualities. As Hegel noted, "Man is a series of his actions. What a man is externally, that is, in his actions, such is he internally" [14].

The unity of law and morality lies in the fact that: 1. they are types of social norms that form an integral system of regulatory regulation; 2. law and morality are aimed at achieving common goals and objectives - improving public life, developing and enriching the individual, protecting human rights; 3. have the same object of regulation; 4. law and morality determine the boundaries of proper and possible actions of subjects and serve as a means of expressing personal and public interests. Roman jurists called law the art of goodness and justice, and themselves priests. The power of laws increases if they are based not only on power, but also on morality. The reasons for the contradictions between law and morality lie in their specificity, in different methods of regulation. Law by its nature is more conservative; it lags behind the flow of life, con-

taining many conflicts, while morality is more mobile and dynamic. The lack of "mutual understanding" between them affects the regulatory and educational capabilities of both.

Customs play a significant role in regulating aspects of social life, namely the connection with law, morality, and culture. Customs are recognized as stable and widespread rules of behavior that become habits observed voluntarily. Compliance with a number of rites and rituals is no less an imperative requirement for an individual than the fulfillment of legislative requirements. In legal science, all norms in force in society are divided into ***legal*** and ***non-legal***. Legal customs are reflected in the law, they are protected, defended, acquiring legal force. Legal customs are designed to facilitate the legal implementation process, complement and enrich the mechanism of legal mediation of various social relations [10, p. 252]. Legal custom is one of the sources of law. Article 5 of the Civil Code of the Republic of Moldova, dedicated to business customs, states: "A custom is a norm of behavior that, without being provided for by law, is generally accepted and regularly applied in a certain area of civil legal relations" [1]. The Church respects the law, laws, and the order established in the state, and the state guarantees the possibility of free religious activity that does not contradict the principles of public morality and humanism. Freedom of religion is an essential feature of a civil democratic society [10, p. 257]. Politics is also the art of the possible, the art of compromise, coordination of what is desired and the ability to reckon with reality. ***Political norms*** are the rules of behavior of political subjects, participants in the political process, political relations, and when these norms are reflected in laws and constitutions, they acquire the character of a legal one. There is ***political ethics***, presented in the form of a set of established canons adhered to by conscientious politicians, namely: observance of laws, morals, and established order. Legal presumptions and axioms are not legislative norms, but types of rules (principles) that were developed as a result of the long development of legal theory and practice [15, p. 117]. As methods of legal regulation, they are useful and necessary when "non-standard situations" arise. Here we will touch upon the presumption, which is predictive in nature and acts as a means of helping to establish the truth. The most characteristic presumptions are: the presumption of knowledge of the law - every member of society knows the laws of his country, and ignorance of the law does not exempt from responsibility for violating it. Presumptions of fairness of law; the truth and validity of the verdict; responsibility of parents for

harm caused by their minor children; assumptions that the actual owner of a thing is its owner, that ownership follows the main thing; a later law repeals the previous one in all respects in which it differs from it; no one can transfer to another more rights than he has himself; a special law cancels the general law; there is no obligation to do the impossible; he who does not deny admits; not everything that is legal, moral [10, p. 260]. Any presumption is accepted as true and is valid until the contrary is proven. It is worth distinguishing versions and hypotheses from presumptions. ***A version*** is one of several assumptions that relates to the facts and circumstances of a particular case, and a hypothesis is an assumption put forward in the process of studying a phenomenon and requiring verification by practice. In addition to versions and hypotheses, we should not forget about fictions - which represent special techniques that involve putting reality under a certain formula that does not correspond to it, in order to later draw certain conclusions from this formula. Fictions were still used by Roman jurists. Z.M. Chernilovsky noted that the meaning of legal fictions is expressed by introductory words: "as if", "as if", "let's admit" [7]. ***Thus, presumptions, fictions, and axioms complement legal norms and serve as an important aid in regulating complex relationships between people.***

Legal consciousness is one of the forms of social consciousness, like political, moral, philosophical, etc. Each form has its own reflection area. Regarding legal consciousness, this is law, legal reality, i.e. legal consciousness is a legal category that needs to be studied by legal science, presented in the form of a set of views and experiences that reflect people's attitude to the desired law and other legal phenomena. Any person is a bearer of a certain sense of justice, be it high or low, correct or distorted. The task is to form the necessary, proper sense of justice. I.A. Ilyin wrote: "There is no person without a legal consciousness, but there are many people with a neglected, neglected, ugly or even wild legal consciousness. However, a weak, corrupt, slavish, criminal legal consciousness remains a legal consciousness, although its mental and spiritual structure turns out to be incorrect, and its content and motives are false and bad [6, p. 76]. „ Legal consciousness expresses an assessment of the law from the point of view of its fairness or injustice, effectiveness or ineffectiveness, advantages or disadvantages, assessing legality, legal order, and the state of crime. Legal consciousness carries out functions that reveal its role and purpose in society: 1) evaluative; 2) regulatory; 3) cognitive; 4) prognostic. The essence ***of the evaluation function*** is that all

elements of the legal system are analyzed through legal consciousness. The legal policy of the state, the activities of its bodies and officials are assessed. Legal consciousness establishes the value of legal phenomena, concepts, categories. ***Regulatory function*** means the ability to have an effective general normative influence on people's behavior, to determine their goals and attitudes. Legal awareness is an internal regulator of an individual's activities. ***The cognitive function*** lies in the fact that legal consciousness, as a form of reflection and mastery of legal reality, accumulates an extensive complex of knowledge about this reality, about law and its operation, and other legal phenomena [10, p. 262]. The higher the subject's legal awareness, the higher the level of his legal awareness. ***The prognostic function*** explains the ability of legal consciousness to move forward and present a forecast of legal development. Forecasting is the most important condition for the effectiveness of legislation. Forecasting includes taking into account objective and subjective factors that can affect the legal development of the country. ***Legal consciousness*** is a system of legal ideas, views, doctrines. A feature of legal consciousness is the ability to reflect law in all its manifestations. According to the level of reflection, legal consciousness is divided into scientific, or theoretical, professional and everyday. ***Scientific legal consciousness*** reflects the actual state of affairs in the legal sphere. ***Professional legal consciousness*** represents judgments about law and other legal phenomena of professional lawyers. ***Ordinary legal consciousness*** is its primary level, when the subject's knowledge about the law is formed under the influence of everyday life and activities, communication with others, and information received through various channels.

Legal education is an integral part of general civic education, which includes a number of components. The following forms of personality education should be distinguished: political, moral, legal, cultural, family, school, which are interconnected, because form one process of spiritual influence on the consciousness and behavior of people. ***Legal education refers*** to the purposeful activities of the state and the media to form the legal consciousness and legal culture of citizens. ***The goal of legal education*** is to develop in a citizen a healthy sense of law and a legal worldview. ***The forms of legal education*** are: a) legal propaganda; b) legal training; c) legal practice; d) self-education. ***Methods of legal education*** include persuasion, punishment, encouragement, and the threat of sanctions. Legal culture is part of the general culture of society. Culture is endowed with many different forms of manifestation.

Legal culture is a special intellectual sphere, with its own specifics and the subject of study of legal science, while it is closely related to moral, spiritual and other types of culture. Legal culture is an essential element of the legal system of society and a necessary condition for the functioning of the state. L. Friedman wrote: "Legal culture is a barometer of social life, which is at the same time a social force that determines how often a particular law is applied or violated in practice, how it is avoided or how it is abused. A legal system without a legal culture does not work" [4, p. 54]. The characteristic features of an individual's legal culture are: 1) a high level of legal awareness; 2) knowledge of the current laws of the country; 3) compliance, enforcement or use of these laws; 4) belief in the appropriateness of laws; 5) correct understanding of one's rights and obligations; 6) purposeful activities of the subject to suppress offenses; maintaining law and order and law-abiding in society. Thus, the essence of a citizen's legal culture is determined by the following formula: ***know - respect - comply***.

Nihilism translated from Latin. - "denial" defines the subject's negative attitude towards certain values, norms, views, i.e. nihilism is one of the forms of attitude and social behavior that originated quite a long time ago, but became widespread in Western Europe in the last century. Nihilism is characterized by a progressive nature, where the generic feature of all forms of nihilism is denial, but not every denial is recognized as nihilism. Today, ***social nihilism*** is expressed in a variety of forms: a new way of life, new values, dissatisfaction with changes, hostility or hostility towards state institutions and power structures, and their leaders. ***Legal nihilism*** is a type of social nihilism. The essence of legal nihilism is a disrespectful attitude towards the law, laws, and normative order. The words of I.A. are very appropriate. Ilyin that "a people who do not know the laws of their country lead an extralegal life or are content with the unstable rudiments of law. It is necessary and worthy for the people to know the laws, this is part of legal life. Therefore, such an order is absurd and dangerous in which the people do not have access to knowledge of the law „It is impossible for man, as a spiritual being, to live on earth outside of law" [17]. Nihilism is formed as a result of the subject's dissatisfaction with his status. Legal nihilism is very sophisticated, because is capable of modification, so let's consider some of its features: 1. Deliberate violations of existing laws and other regulatory legal acts. 2. Massive non-compliance and failure to comply with legal regulations. 3. Issuance of contradictory legal acts. 4. Substitution of legality for political expediency. 5. Confrontation of representative and executive power

structures at all levels. 6. The source and form of expression of political-legal nihilism are violations of human rights: such as the right to life, honor, dignity, property, security [10, p. 264]. Significant ways to overcome legal nihilism are: increasing the legal culture of citizens, their legal and moral consciousness; improvement of legislation; crime prevention, strengthening law and order, respect and protection of individual rights; mass education and legal education of the population; training of highly qualified personnel; carrying out legal reform and others [10, p. 266]. If legal nihilism presupposes an underestimation of law, then legal idealism presupposes its overestimation. They suffered from idealism during the period of perestroika and the period of reformation. Legal norms are unable to resolve the contradictions that arise. According to the convictions of J. Locke: "Make few laws, but make sure they are observed" [9, p. 64-72].

Conclusions

Law and morality have their own specifics, which consist in the following: 1. Law and morality differ primarily in the methods of their formation. 2. Law and morality differ in the methods of their enforcement. 3. Law and morality differ in the form of their expression. 4. Law and morality differ in the nature and methods of their influence on the consciousness and behavior of people. 5. Law and morality differ in the nature and order of responsibility for their violation. 6. Law and morality differ in the level of requirements for human behavior. 7. Law and morality differ in scope. 9. Law and morality have different historical destinies.

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