

LEGAL INFANTILISM AND LEGAL IDEALISM AS FORMS OF DEFORMATION OF LEGAL CONSCIOUSNESS

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ABSTRACT

Objective: The study aims to determine the reasons for the development of legal infantilism and legal idealism as forms of deformation of legal consciousness.

Methods: The general scientific research methods employed in the study include the comparative legal, specific sociological, statistical, and formal logic methods (analysis, synthesis, deduction, induction, etc.).

Results: The psychological and social prerequisites for the development of legal infantilism and legal idealism are identified.

Conclusions: A great role in preventing the development of the deformations of legal consciousness is played by public knowledge, although a single prerequisite cannot be established, as the phenomena are complex and multidimensional.

Keywords: Legal consciousness; Deformation of legal consciousness; Apathy; Right; Legal norm; Realization of the right.





INFANTILISMO JURÍDICO E IDEALISMO JURÍDICO COMO FORMAS DE DEFORMAÇÃO DA CONSCIÊNCIA JURÍDICA

RESUMO

Objetivo: O objetivo do estudo é determinar as razões para o desenvolvimento do infantilismo jurídico e do idealismo jurídico como formas de deformação da consciência jurídica.

Métodos: Os métodos gerais de pesquisa científica empregados no estudo incluem o método jurídico comparativo, sociológico específico, estatístico e de lógica formal (análise, síntese, dedução, indução etc.).

Resultados: Os pré-requisitos psicológicos e sociais para o desenvolvimento do infantilismo jurídico e do idealismo jurídico são identificados.

Conclusões: Um grande papel na prevenção do desenvolvimento das deformações da consciência jurídica é desempenhado pelo conhecimento público, embora um único pré-requisito não possa ser estabelecido, pois os fenômenos são complexos e multidimensionais.

Palavras-chave: Consciência jurídica; Deformação da consciência jurídica; Apatia; Direito; Norma jurídica; Realização do direito.

1 INTRODUCTION

The issue of legal consciousness, its content, purpose, and operation is among the most complex in any branch of social sciences, including legal sciences. Legal consciousness has a direct relation to the person, their inner world and existence within the system of social relations and cultural values (Auganbai et al., 2019), which allows approaching it through different points of view and scientific polemics (Zenin et al., 2022).

The emergence and establishment of legal idealism are directly contingent on the correlation of legal norms. Legal norms are not isolated but are in a constant interaction, which results in the construction of a system of gradation of legal values in society (Polovchenko, 2022).

Infantilism of legal consciousness requires in-depth systemic investigation because it has great potential for the development of social and legal norms both by an individual person and a group of people. This concept is also closely intertwined with value orientations, which affect legal relations, freeing society from irresponsibility, indifference, and other negative factors.





2 METHODS

The methodological basis for the study is provided by the dialectic method, which presupposes the examination of objects in an integrated way, in their interrelation. The research employs general scientific research methods: comparative legal, specific sociological, statistical, and formal logic methods (analysis, synthesis, deduction, induction, etc.).

3 RESULTS AND DISCUSSIONS

Legal idealism is distinguished from other forms of deformation of legal consciousness by its features, which are of an intrinsic nature and define the external manifestations of legal idealism.

The foundation of legal idealism is a specific type of attitude to legal values and the idea of some perfect mechanism for the realization of the right (Matuzov, 2013, p. 6).

This type of deformation of legal consciousness cannot be considered negative, since this idealistic attitude to law and the mechanism of its realization is directed towards exalting the values of the law itself and idealizing the results of its implementation. The attitude to current, previous, and desired law characteristic of legal idealism stems from exaggerating ideas about the values of law and the place of the subject of implementation of law in achieving the goals and objectives of legal regulation. The emergence of such an overexaggerated attitude to the value of law ultimately leads the subject who has such an idealized legal consciousness to develop their own specific gradation system of legal values.

Some subjects of legal relations are distinguished by a conscious exaggeration of the value of law in the process of its implementation, so the subject begins to adopt such an idealistic or exaggerated attitude to one or the entire complex of legal values. In this scenario, the value of law acquires an overexaggerated importance. Legal idealists often sacrifice other values in society for the sake of the value that has gained inflated importance for them.

The basis of legal idealism is, in our opinion, these very legal ideals – exaggerated legal values, before which all other legal values, less important for the subject, lose significance in their consciousness.

For a more accurate definition of the features of legal idealism, a particular focus





should be placed on the main features of law, in which the main values of law are reflected.

In the study of the theory of state and law, law is commonly understood as "a system of formally defined, generally binding rules of behavior, regulating social relations and supported by the power of the state, based on consideration of the interests of different strata of society, their agreement, and compromise" (Komarov, 2021, p. 66).

First and foremost, the value of law lies in the fact that it embodies the agreed will of the participants in social relations and promotes the development of those most important relations in the regulation of which both the state and society are interested. The highest value of law consists in that it coordinates people's behavior and activities by reconciling their specific interests. Law does not undermine the importance of any private interest but coordinates it with the common interest.

Another important value of law is its instrumental value. It regulates social relations, giving them stability and ensuring their controllability by the state (Polovchenko, 2022). The law thus introduces an element of order and normativity into social relations, making them civilized.

The formal certainty of law is truly the value of law; it is the form that creates legal models and sets clear boundaries and criteria of human freedom (Morozova, 2017). Speaking about the value of law, we should not forget that law is a marker limiting the freedom of the individual in society (Suslova et al., 2022). However, this does not imply that the value of the law consists merely in the fact that it limits freedom. Law can be described as a line of demarcation between desirable (permissible) and undesirable (not permissible) behavior in society.

The value of the law is also its ability to express the idea of justice (Safonov & Mayakovskaya, 2023). The law acts as a criterion for the correct (fair) distribution of material benefits, affirms the equality of all citizens before the law, etc.

Finally, the value of law is its ability to function as a powerful factor of social progress, a source of reconstruction in society in accordance with the historical course of societal development.

Thus, the underlying values of existing law are consensual value, instrumental value, the value of formal certainty, progressive value, and the value of justice.

All these values are interrelated and complement and in some cases even detail each other. Exaggeration of the importance of any of them, assigning it a more important role, acts as a trigger for the formation of legal idealism in any individual. The



features of a particular form of legal idealism directly depend on the value being exaggerated, becoming the most important of all.

We believe it appropriate to distinguish the following forms of legal idealism:

Exaggeration of the interests of one participant in legal relations (law enforcement officers, executive staff, inspectors and supervisors) over the interests of others, exaggeration of one's position leads to the development of legal voluntarism.

Voluntarism (from Latin *voluntas* – will) in the social sphere denotes the striving of socially active individuals and groups to overcome systemically stable parameters and characteristics of the historical process or activity that disregards objective conditions and is characterized by arbitrary decisions of those who carry it out (Britannica, The Editors of Encyclopaedia, n.d.). One such objective condition is the consensual value of law, intended to harmonize the interests of the different entities involved in legal relations. The objectivity of consensual value is expressed in the fact that it forms the basis for the existence and purpose of law itself.

Legal voluntarism can be expressed as a form of legal idealism, as well as nihilist tendencies in the legal sphere. It means the imposition of one's will in law, ignoring the will and interests of other subjects, the elevation of one's own will to an ideal, exaggerating its value, in accordance with which the subject begins to structure their behavior. There are numerous examples of legal voluntarism, which can be observed in the various spheres of operation of employees of the Russian Federal Penal Correction Service. For example, a manifestation of legal voluntarism is when time off for a period of work is offered not in the period convenient to the citizen who has the legal right to time off, but in any other period, without considering the interests and needs of the citizen themselves.

Another form of legal idealism is idealistic formalism, which is a peculiar perspective on the value of formal certainty of law (Marchenko & Marchenko, 2021, p. 48).

This deformation of legal consciousness is in most cases observed in the work of senior civil servants. This refers to a specific attitude of a civil servant to the external form of law, i.e., to normative legal acts of different levels (Gurinovich & Petrykina, 2021). This attitude relies on exaggeration of the importance of legal constructs, legal procedures, and legal wordings to the detriment of other values of law. In other words, legal formalism is a variation or manifestation of the bureaucratic consciousness defined as a system of administration or case management that sacrifices the interests of the case for the sake of formality (Townley, 2008).



A large part of the normative acts in the form of orders, regulations, methodological recommendations, and instructions issued by authorized authorities are of a dispositive (advisory) nature, which assumes their application at the discretion of the subject. However, in practice, their norms are executed under strict control through a mechanism not much different from the execution of peremptory norms.

In our view, formalism in consciousness can also be considered from the standpoint of legal idealism. Citizens, especially civil servants, tend to make a cut out of formalities in their activities, idealizing the meaning of each word, letter, and comma of any instruction or direction at the cost of the tasks at hand. Notably, this is done not out of any motives, but because of the established habit, style of work, or beliefs.

We cannot deny the importance of legal regulation and its contribution to social order. The role of state discipline and control in state authorities and public institutions of all levels and types cannot be undermined.

Legal formalism manifests itself in the fetishization of law, expressed in the issuance of a vast number of unnecessary normative acts, the creation of formalities where they are practically not needed, the implementation of ubiquitous uncalled-for control, and interference in the affairs of citizens or the work of officials. This leads to red tape, loss of the purpose and idea of work and respect for the norms of the law, and other negative consequences.

The most well-known form of legal idealism is an exaggeration of the importance of one of the means or methods (tools) of legal regulation: lawmaking, administrative, supervisory, law enforcement, and other activities.

This concerns the connection of legal consciousness with the principle of balanced use of different means and methods in legal regulation.

Law has instrumental value. Each means used by law occupies a certain place in the mechanism of legal regulation of social relations and plays its own exclusive part. Excessive use of one of them can bring imbalance in legal regulation and form a basis for undesirable and even harmful consequences for the law (Togaibayeva et al., 2021).

Importantly, today legal idealism of this variety is considered virtually only as part of lawmaking euphoria. We are convinced, however, that the exaggeration of the role of one means or method of legal regulation has to be examined in conjunction with law enforcement practice – administrative, oversight, law enforcement, etc.

Proceeding from this, it is important to point out the following features of exaggeration of the significance of certain means and methods of legal regulation in



legal consciousness. Many young citizens often form a subjective conviction that it is enough to adopt good, smart laws or other normative legal acts for the most complex and acute social, service, administrative, and other problems to be solved at once. Yet this is not always the case in practice. Despite legislative acts being adopted and implemented on a constant basis, the state of affairs remains the same or even worsens (Smirnov et al., 2023; Stepanova et al., 2023). As a result, the subjects of realization of the right often come to a disappointment in legal norms and begin to show signs of legal skepticism, i.e., doubts about the reliability and validity of the law.

Of first importance to minimize the possibility of free interpretation and unnecessary red tape in implementing the law are social, economic, political, organizational, and other measures in totality with normative regulation and an effective mechanism for the implementation of legal provisions and minimizing the so-called corridor of discretion for law enforcement subjects. Only the cumulative effect of all these factors can produce the desired effect. Otherwise, the impotence of legal norms, defects in the mechanism of implementation of the law, and the possibility of arbitrary interpretation of normative prescriptions inevitably give rise to the same legal nihilism, and disbelief in the real significance of adopted acts and their ability to change the situation.

The infantilism of legal consciousness is a social phenomenon that manifests itself in the inability to solve certain social tasks by a group of people or an individual in accordance with the accepted values, norms, and features of rational behavior.

One of the reasons for the lack of knowledge of law is that it is impossible to know all legal norms and features of their application. This owes to the complexity and volume of normative legal acts and individual materials. In society, the presumption of knowledge of laws is a legal fiction. Importantly, not only a regular citizen but also a specialist in a specific branch of law is often incompetent in other branches of law. For this reason, the concept should be correlated with the minimal amount of legal knowledge sufficient to maintain social and legal relations. This implies acceptance of certain values and knowledge of the law that allow correctly assessing the activities performed.

In considering the minimal amount of knowledge with respect to legal norms and values, several serious circumstances have to be borne in mind. The first and most important one is the varying significance of different legal norms. For instance, banking law may appear insignificant to most, while criminal law norms are of major significance and are enforced by more serious sanctions (Afanasyev, 2017; Dolgoplov et al.,



2023). Therefore, particular legal norms demand more attention, which makes it possible to overcome the barrier of ignorance and ensure regulated social relations in society.

Of major importance is axiological evaluation. This category allows combining value orientations and cultural traditions with the immediate legal field. Evaluation of objects can often reveal certain properties, as well as full compliance with legal regulation and the demands of society and social significance. When evaluating the norms of family law, each subject can draw different conclusions, for example, with regard to the effectiveness or ineffectiveness of work in a given direction. Legal infantilism in this situation can lead to categorical acceptance of the norms of the law and an inability to distinguish between protecting personal interests and the accepted norms of the legal order.

Practical evaluation in law involves the transformation of theoretical and axiological evaluation through a series of actions or conditions in which the subjective party is placed (Rakhmetulin et al., 2023). The evaluation correlates with the value feeling that has developed in the cultural invariant presentation of human thinking. The result of the process of examination of various social norms is individual perceptions of values.

The infantilism of practical evaluation is often observed in immature individuals who are unable to establish causes and effects or determine the relationship with the results. Such socially immature people are unable to relate manifestations or extrapolate other people's behavior to themselves. For example, underage children often have a feeling that punishment will not affect them or will bypass them (Riekkinen et al., 2019; Zhatkanbayeva et al., 2017).

Avoidance of evaluation is also a value act. This is associated with the fact that many social norms in cultural or spiritual terms are usually formed at the unconscious level. The presented positions are widely elaborated in the study by A.V. Lukashina (1979), which indicates that adolescents often do not give a specific assessment of their own actions or the actions of their friends. They tend to refer to ignorance or lack of evaluation criteria.

Such situations are widely common in contemporary legal practice. Unwillingness to perceive certain phenomena or to accept legal objects, as well as the lack of sufficient legal definitions of actions, is often associated with an insufficient level of adaptation of legal norms to value orientations. These instances are often observed in several social strata, including criminals or persons suffering from alcoholism or drug addiction.



The accumulated social experience and the conditions of life activity prevent the person from readapting, as they do not allow them to transform situations into positive ones. There are also psychological barriers that prevent the person from fundamentally changing their own position regarding actions, phenomena, or other subjects of law. Correction of such an attitude is virtually impossible or requires substantial effort.

A vivid example of legal infantilism is the behavior of asocial people repeatedly criminally prosecuted for non-payment of alimony. Such individuals demonstrate consistently distorted psychology, and regardless of which measures are applied to them, they do not yield the desired effect. The described feature owes to these people having infantile personalities and being unable to adopt different social guidelines and orientations.

Another form of legal infantilism is connected with the concept of legal irresponsibility. The latter serves as the inverse of legal liability. There are different approaches to the concept.

In our belief, the most efficient and rightful definition of legal irresponsibility is related to the deformation of legal consciousness. From this perspective, this concept is interpreted as the inconsistency of the value orientations of a person in relation to the generally accepted models of behavior and legal regulation.

To understand its essential manifestation, it is important to relate this concept to psychological traditions. Classical psychoanalysis presents a substantial number of manifestations of personalities through which social responsibility is removed and the self is opposed to society.

The essential aspect of projection assumes the transfer of the personal qualities of an individual person to the surrounding subjects. Based on this, one's own responsibility is transferred, implying its complete elimination from the sphere of the personal. In the practice of legal proceedings, there are often situations when a person who has committed a theft sincerely believes that everyone does it. When their attention is drawn to other people, particular norms and rules often shift, which causes the exaggeration or undermining of the committed act. In this case, the person believes themselves to be a mere pawn, while the other guilty participants remain free. The psychological characteristics and manifestations described often help to move past one's own misbehavior.

Another mechanism involves rationalizing the environment, that is, explaining an action or behavior for fictitious or contrived reasons. The key to this process is to



provide sufficient plausibility that masks the authenticity of the motives. This defense becomes a cause of consonance that mismatches perceptions regarding the mental and emotional component, saving the psyche from feeling a sense of guilt or social censure.

The phenomenon of displacement is also widely described in psychology and relates to a full or partial refusal of a person to admit guilt, recognize mistakes, and bear the appropriate responsibility. Regarding the manifestation of this phenomenon, an individual experiences the loss of certain circumstances, reasons, or motives concerning the accomplished action, which erases from memory and reduces the significance of the antisocial effect. If they do not remember, it did not happen. Such a perception of one's own feelings is true for the individual, which is constantly affirmed in society. As for the locus of control, the latter shifts towards transferring all responsibility to the outside world, taking it out of the sphere of personal world perception.

In the legal sphere, there are often cases when displacement correlates with loss of control, falling into a state of affect, and emotional agitation. Sometimes its manifestation can correlate with a loss of consciousness. Displacement becomes the reason for full denial of the caused harm and the committed crime, as there is no motive. Occasionally, the person refers to the commonality of such actions, and often such delusions are associated with full adherence to the psychological state and the correctness of actions, accepted values, etc.

These mechanisms are usually associated with an infantile type of personality and behavior. They are commonly observed in society, which raises the need for society to work purposefully and earnestly to overcome the problem and ensure the interest of social subjects in the knowledge of legal norms.

Among other forms of expression of legal infantilism, we should consider legal passivity. This phenomenon has two key characteristics. The first correlates with the lack of initiative in legal relations. The second is marked by indifference to crimes and legal and other social norms. The presented features of behavior are often linked to psychological inertness and a lack of specific goals and motives. The person usually lacks any specific creative inclinations and is unwilling to look for ways to achieve a specific result. Among the key traits of psychological manifestation, of note are pessimism, apathy, conformism, etc.

Frequent in legal practice are cases of citizens' failure to use their rights (electoral



rights, the right to judicial protection, etc.) or refusal to protect legal rights and interests. Not uncommon are cases of indifference on the part of citizens who are participants or witnesses of legally significant events (traffic accidents, crimes, investigative actions). The passive attitude is most often laid down in childhood: in family upbringing, in teenagers' company, at school. It is developed due to a low status in the group, inability to achieve something in any way other than indifference, begging, waiting, and various manipulations. An in-depth study of the psychological qualities and traits of such subjects reveals frequent cases of general psychopathic development: diseases of the central nervous system, predominance of inhibitory impulses in the psyche, etc.

It is important to emphasize that manifestations of initiative should be especially encouraged by the state and other social actors and supported by relevant state ideology. In most European countries, legal activity (reporting a neighbor parking their car improperly, informing law enforcement about suspicious persons, etc.) is not condemned by society. Morality, law, religion, state, school, and family in a civilized state act together to form law-abiding proactive behavior.

4 CONCLUSIONS

Legal idealism is a complex and multifaceted phenomenon. It has many different causes, which are inherent not only to it but also to any other idealism (for example, political idealism or faith in God). The determinants of legal idealism can be found in the psychology of the individual, society, and the law itself. The close interconnection of forms of social consciousness leads to their interpenetration and mutual influence. The functioning of legal idealism is actively influenced by economics, politics, morality, religion, etc.

Legal infantilism is a multidimensional phenomenon. To analyze legal infantilism, particular attention needs to be paid to public awareness, i.e., the degree of knowledge of citizens' rights. Lack or incompleteness of knowledge can express itself in various ways: lack of specific knowledge of norms or values in society; inability to give a full and comprehensive assessment of the norms or values accepted by society; failure to form the required level of social orientation and legal attitudes.

A special category is ignorance of the law, which is marked by high complexity and diversity and requires additional clarification. Complete ignorance of the norms of law is a priori impossible. When reaching the age of legal responsibility, a person acquires knowledge regarding legal regulation and an understanding of the rules of behavior.



Therefore, complete ignorance can only exist in a purely hypothetical case.

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