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**CATEGORIZATION OF LEGAL REALITIES IN MODERN
RUSSIAN SCIENCE**

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Abstract

Categorization is one of the ways of solving scientific problems – to reflect the object in question in such a way that, on the basis of the knowledge gained, it would be possible to build effective practices. The article is devoted to the consideration of the main categories used in modern Russian science to reflect the extremely broad legal realities. Attention is drawn to the reasons for searching for other broad categories in addition to the basic category "law". In particular, the traditions of legal anti-positivism, the attempt to overcome the narrow understanding of law, have become an important prerequisite. Another prerequisite has become modern social realities, which require not only updating legislation, but new approaches, new legal thinking. The article analyzes such concepts as *law*, *legal culture*, *legal system*, *legal space*, *legal life of society*. The genetic correlation of these concepts is shown; the limitations and potential of their use are revealed. One of the most interesting problems in this area is combination through the development of appropriate categories of legal and non-legal factors, since the existence of law unfolds not only in legal, but also in social area. Based on this statement, the author sees great potential in such categories as *legal culture* and *legal life of society*. The analysis shows, that one of the serious factors, preventing their potential's disclosure is the excessive legalization of these categories. The author's definition of the concept of "legal life of society" is proposed.

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1. Introduction

Modern society is dynamic; this gives rise to a constantly growing and renewing range of problems faced by a state. The legislator should not only “keep up”, but also foresee and direct the course of development. In modern conditions of rapidly changing social realities, this turns out to be very difficult. Such a role can be fulfilled only by having methods of understanding legal reality which correspond to modern society’s challenges. And here the main role should be played by legal sciences. Are they ready for this? Experts note sluggishness and ineffectiveness of discussions about legal thinking in modern domestic science (Lapaeva, 2018), dominance of outdated approaches to the essence and origin of law (Muromtsev, 2021). The task is directly set to develop a new legal doctrine (Zatonskiy et al., 2020), a fundamentally new approach to the analysis of changing multi-vector legal reality (Tikhomirov et al., 2021).

2. Problem Statement

The task of science is to give an adequate presentation of the surrounding reality. One of the ways is categorization, that is, presentation using extremely generalized concepts of the reality’s fragments. The solution of practical and theoretical problems directly depends on the categories used, since it is the system of used concepts that forms a view of the world. Legal regulation of a dynamically developing and renewing society requires an appropriate image of legal reality, which does not slay the law, but reflects its real existence. Which concepts can such an understanding of legal reality be built on? In search of an answer to this question, we turned to basic, fundamental concepts that describe the existence of law to the greatest extent broad.

3. Research Questions

We intend to solve in this article the following tasks:

- to find out which concepts reflecting the legal reality broadly are used in modern domestic legal;
- to characterize the content of these concepts;
- to identify trends in the development of the conceptual apparatus, used to describe legal reality.

4. Purpose of the Study

The purpose of our research is to analyze the presentation in the form of concepts of ideas about legal reality developed in modern Russian legal science.

5. Research Methods

In accordance with the aforementioned purpose, the following methods of theoretical research were used: dialectical method, analysis and synthesis, deduction and induction, theoretical modeling.

6. Findings

The category “law” is central in the description of legal realities. Despite its age-long history, this concept still does not have an explicit interpretation. In domestic science, a common approach to the classification of types of legal thinking has not yet been developed (Channov, 2021). In addition to the established ones (natural-legal, historical, realistic, psychological, normative, sociological, Marxist), it is proposed to highlight the libertarian-legal, postclassical, integrative, postmodernist models of legal thinking. From the point of view of the given article’s tasks, it is important to pay attention to the traditional coexistence of a narrow and broad approach. With a narrow approach, law is identified with a system of legal norms. With a broad approach, the law is not reduced to the norms created by the state, and often even opposed to them.

One of the brightest expressions of this idea was the famous antithesis of "law in life" and "law in books" (O. Erlich). Various terms are used to denote this “other” law: natural law, living law, law in action, customary law, social law, unofficial law. There are pros and cons for both narrow and broad approaches. There are many reasons behind these approaches. Within the framework of our topic, we will pay attention to only one aspect. In our opinion, the existence of a broad approach is largely due to the problems of categorization. After all, things would seem to be simple and logical: with a narrow approach, law appears as a clearly determined and easily recognizable object – we can easily distinguish the norms, adopted by the state from other norms and phenomena. However, what they are trying to fix with the help of the category "law" is not only a legal phenomenon, but also a social one. Law is not simply associated with society, law is one of the types of social matter, which is what society is made of. And as soon as, speaking about law, we try to lock ourselves into legal norms, we begin to experience cognitive tension, because we feel that a fragment of reality fixed by this category turns out to be somehow truncated, refined, and has lost something very important. And then there is an attempt to return what was lost, to restore a three-dimensional vision of legal realities, expanding the very concept of law. But a broad understanding of law has a significant drawback – it is difficult to apply it in practice, for example, to use as a guidance in law enforcement activities.

Therefore, science is looking for new categories that structure reality in a different way. Legal culture has become one of these categories. Its fate is not easy. This category has largely failed to reveal its potential, since it immediately found itself in the grip of ideological and legal dogmatism. Let us pay attention to two points. First, in the overwhelming majority of cases, speaking about legal culture, they mean only intangible cultural samples (norms, values, knowledge, etc.). Meanwhile, in science it is customary to single out the material component of culture. It also exists in legal culture. Material objects used in legal practices can tell a lot about the specifics of the legal sphere of a particular society.

Secondly, since Soviet times, only “high” examples of legal practice have been recorded using the concept of “legal culture”. For example, "legal culture includes only those things which are relatively progressive, socially useful and valuable in legal phenomena" (Lazarev, 2001. par. 7, p. 137). Gradually, judgment-free understanding of legal culture as a qualitative state of society’s legal life begins to spread in domestic jurisprudence (Alekseev, 2005). But the transition to such an understanding turns out to be very painful for legal thinking. Old views are constantly making their way through new formulations.

One of the significant moments is understanding of the relationship between legal culture and legal nihilism. There is a widespread point of view that legal nihilism is the antipode of legal culture (Alekseev, 2005). Sometimes this issue is resolved in a milder way: legal nihilism should be referred to a legal culture if it contributes to the change of outdated institutions (Gulyaikhin, 2013). Sometimes the position is uncompromising: "... it is impossible to agree with the authors who include negative phenomena in the content of legal culture, even violations of law" (Petruchak, 2012. par. 3, p. 14).

The problem of understanding legal culture has a significant, we would even say fundamental, character, since it is directly related to the peculiarities of doctrinal legal thinking. It is comforting that in legal science there is an awareness of the existing limitations. The idea that it is impossible to refer the legal aspects only to positive ones is defended: "legal field is ... the whole complex of positive and negative ... social relations ..., functioning and development of which are formed indirectly by the norms of law" (Zatonsky et al., 2020. par. 4, p. 60).

But even in that depleted form, in which the category "legal culture" is often used, it still plays an important role – it is one of the steps on the way to reflecting the multidimensionality of law. Another step on this way became the category "legal system". It originated in Soviet legal science in the late 1970s and early 1980s. In the literature, it is proposed to distinguish two main approaches to its understanding: normative and sociological (Kozhevnikov, 2020). In a normative approach, the legal system is considered primarily as an integral, organized set of legal norms. In a sociological approach, the legal system includes the entire set of legal phenomena that exist in a particular country. The normative approach to the concept of "legal system" makes it difficult to distinguish from such a concept as a "system of law". However, it is in this interpretation that the term "legal system" is used by the legislator (paragraph 4 of Article 15 of the Constitution of the Russian Federation). It should be noted that the very existence of a sociological approach reflects legal science's need for broader categories conveying the existence of law. But in any case, the use of the concept of "system" focuses on the integrity of legal matter, the dialectical combination of differentiation and unity.

Another concept expanding the categorical image of legal reality is the concept of "legal space". It also has not yet received a single, generally accepted interpretation. With its help, attention is focused on the specifics of legal regulation. Specific interpretations vary. This term is often used to denote the unity of the system of legislative acts and legal practice. Sometimes they pay attention to the fact that the category "space" itself presupposes deeper, socio-philosophical interpretations - as a part of social space, a special sphere of social life. But at the same time, the concept of "sphere of society's life" is filled not with a sociological, but with a legal meaning: the concept of "legal space" allows lawyers to focus on the unity of legal regulation mechanisms; such unity arises in the presence of a consistent legal policy and unified practice of law enforcement (Kapustina, 2016). Due to this term, law appears not as a set of separate manifestations of a state's will, but as an integral, internally consistent process of developing and implementing legal decisions statewide. The concept of "legal space" can be used heuristically, that is, to see with its help modern legal realities in a new way. This approach was demonstrated by scientists from the Institute of Legislation and Comparative Law under the Government of the Russian Federation, putting forward the idea of a multi-vector legal reality (Tikhomirov et al., 2021). They raise the question of the fact that in modern society, there are many legal spaces with their own peculiarities of legal

regulation and specificity of legal boundaries. It is proposed to distinguish such types of legal spaces as territorial, extraterritorial, informational (Tikhomirov, 2017). This adds new touches to the categorical image of legal reality.

An interesting attempt to categorize legal substance is the concept of "legal life of society". In modern Russian legal science, proposals have been made to give it the status of an independent theoretical and legal category. This point of view has both supporters and opponents. Opponents draw attention to the fact that there are already numerous broad concepts in legal science, such as "the existence of law", "legal sphere", "legal environment", "legal reality". Supporters insist that it is the concept "legal life" that can be "an extremely broad scientific category capable to include both the law and its implementation, and shadow, i.e. negative legal segment" (Zatonsky et al., 2020. par. 5, p. 63).

In our opinion, the concept of "legal life of society" has great potential, which has not yet been fully revealed. Until it is being settled, the process of its formation is going on, and the discussed ideas are not always consistent. So, for example, the authors of the above-mentioned article (Zatonsky et al., 2020) say that the legal life of society is an integral part and a special kind of social life, they believe that it manifests mainly in legal acts and legal relations, as a set of various forms of society's legal existence. It seems that excessive legalization of the concept does not contribute to a better understanding of legal realities. The legalization which produces legalization again has been studied a lot. One should not overlook the correlation of legal and social areas.

We consider that in the concept of "legal life of society" the emphasis should be placed on the fact that this is the *life of society*. When explaining legal realities, much attention is paid to the fact that legal norms are in force, and not enough to the fact that people are the truly active principle. As one of the options, we can offer the following definition: the legal life of society is a set of social practices which are developed in connection with the adoption and implementation of legal norms. This interpretation changes the perspective. Although, as shown above, the social aspects of legal have always been of interest to legal science, but, as a rule, the explanation for this still came down to legal relations and legal behavior, that is, to legal qualifications, when we say that these relations are regulated by the norms of law, and this behavior is legally significant. Taking the concept of "social practices" as a basis, we focus on something else - on the social genesis of the legal, on the mobilization of legal norms. In addition, the range of social practices that can be attributed to the legal life of society is wider than relations and behavior that can be given legal qualifications. For example, if a rule of law prescribes behavior that is burdensome for people, and they begin to avoid situations to which this rule can be applied. Their behavior cannot be legally qualified. But such behavior is important for the implementation of a specific rule of law - it is not in demand, it is inactive. Another example concerns the adoption of the rule of law. How does the society treat the draft laws: does it show no interest, protest, actively discuss it in forms that are not legally significant (for example, on social networks)? How does the legislator react to the public opinion expressed? All this, in our opinion, can be covered by the concept of "legal life of society." Suggested interpretation can be treated ambiguously, since the concept of "legal life of society" ceases to be purely legal. But here you need to decide what is more important: maintaining purely legal approach or understanding the real mechanisms of the functioning of law.

7. Conclusion

We have analyzed those concepts with the help of which legal reality is described in a very broad way in modern Russian science. These include: law, legal culture, legal system, legal space, legal life of society. Each of the considered concepts has its own history and specificity, each contributes to the scientific knowledge of legal reality. Since none of them has yet developed a single, generally accepted interpretation, competition of terms often arises. This situation is largely due to the fact that science is in search of new approaches to explaining legal reality. The largest in terms of scope are potentially the concepts of "legal culture" and "legal life of society." They are somewhat close, since they capture the qualitative uniqueness of a particular society. The concept of "legal culture" focuses on the static embodiment of this diversity, and "legal life of society" focuses on the dynamic one. In order for these concepts to become an effective tool for understanding legal realities, it is necessary to use the developments of non-legal sciences (sociology, philosophy, cultural studies, social psychology).

The analysis showed that an important trend in the development of the conceptual apparatus is the desire to expand the horizons of legal vision. There is an urgent need in a new legal thinking and it is recognized in modern Russian legal science. The path to a new legal thinking will not be easy, since we are talking about development of the system of new ideas and attitudes, that is, about changing legal thinking. To do this, it will be necessary to move away from juridical centrism, join the other sciences' achievements and revise some traditional for lawyers, sometimes ideological, ideas about law. But we express the hope that this shift will happen.

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