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**ETHNIC AND CULTURAL FEATURES OF EDUCATION LAW
ORIGIN IN RUSSIA**

Anatoly V. Ovchinnikov (a)*, Larisa O. Volodina (b)

*Corresponding author

(a) Deputy Head of the laboratory of the History of Pedagogy and Education the “Institute for Strategy of Education Development of the Russian Academy of Education”, Deputy Chairman of the Scientific Council on the History of Education and Pedagogical Science RAE, Institute for Strategy of Education Development of the Russian Academy of Education, Makarenko str, 5/16, Moscow, Russia, anatovch2014@yandex.ru

(b) Deputy Director of the Institute of History and Philology of the Vologda State University, Vologda, Lenin Street, 15.

Abstract

The article is concerned with the interrelationship between the national heritages of conventional legal regulation of upbringing and education of younger generations of citizens, as well as modern educational legislation and law. It is emphasized by the authors that under the conditions of globalization and unification of legal and regulatory framework of education, ethnic differences which have been developing in the culture of the nation throughout its historical development should be considered. Since these special characteristics are preserved in people's memory, while remaining relevant for upbringing today, they still exert a certain influence on the development of modern educational space. Within this context, a special, ethno-educational significance of functioning of the convention and legal origins in modern education is emphasized. It is emphasized that since they were developed in the process of a long and close historical, socio-cultural interaction of ethnic traditions of upbringing and state and legal principles given the special characteristics of a particular region and people development, they have a powerful educational force. As transformed in the national consciousness, they shaped certain education and upbringing values, which, along with modern legislative acts, acted as real regulators of social relations in the educational sphere. For example, following this interaction, a Russian national phenomenon codenamed as “enlightenment”, combining the traditions of the national secular, multi-confessional religious, and state principles in Russian youth's education and upbringing regulation, has been formed for a long time.

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1. Introduction

Current education policy in Russian Federation is focused on formalization of education process, enhancing the role of legal regulation in education sector, cultivation the respect for law as the basis of public life among students. In this direction, Russian education develops not independently, but as a part of global trends, one of which is the unification of national law statutes, their compliance with international law statutes, and reliance on democracy and social progress.

At the same time, as in any national state, the ethnic and cultural traditions are strong in Russian Federation, based on which the process of children education and upbringing took place for many centuries. Traditions accumulated in this sphere of public life do not disappear instantly with the cessation of activities of a particular social institution or a change in the political regime in the country. They remain in people's memory, and, along with the impact of current law statutes, keep influencing development of education system, determining the behavior of a particular education subject.

Despite the temporary remoteness, the manifestation of past traditions increases today. It has a wide public response, especially in education system of various nationalities living in the territory of modern Russian Federation. And in this regard, it is important to refer to history of existence of such traditional statutes of non-state regulation of social relations in education sector and, especially, new generations' upbringing, since they are peculiar to almost all stages of development of Russian state-building and make up important part of nation's genetic code.

It is important to note that the mechanisms of regulating human relations that have existed for centuries on education and upbringing matters became that ethnic and cultural basis on which Russian national education law was developed as cultural and historical phenomenon.

Many features of this phenomenon's origin are clearly manifested in education system of modern Russia. An example of this is the broad, historical and cultural, rather than formal legal, perception of various social communities involved in development and implementation of modern education law, its actual purpose within sustainable development of modern Russian education, developing under the influence of global trends.

And in this regard, an appeal to ethnic and cultural sources of education law seems relevant for solving problems of modern school development and improving quality of management of such development.

2. Problem Statement

The education law and education legislation in modern Russian Federation is based on priority of international law statutes stemming from principles of supremacy of individual and citizen rights, which were determined in the course of European legal development over the past three centuries.

At the same time, in many countries of the world, including Russia, the moral standards governing education and upbringing remain strong. These standards have evolved over the more than a thousand-year history of Russian civilization development and are part of legal culture, but not legislation. Many elements of national legal tradition of upbringing, transformed amid modern times, continue to impact

participants of education process and development of modern education system, although they were formed during the period when community forms of social organization were effective.

Therefore within education system globalization it is important to determine how peoples ethnic traditions and various state's policies impact development of modern education law and legislation which are open for integrative processes peculiar to modern development.

3. Research Questions

In present context it makes sense to find research issue solution for sustainable development of national education system as integral part of world education system, namely how much traditions impact the development of modern education law and legislation within globalization. Is it possible in present context of education modernization to use ethnic and cultural potential of legal education traditions that have arisen in past and can we turn it into a resource of innovative development of national education system?

4. Purpose of the Study

The purpose of article is to show that for sustainable development of modern education system, open for current challenges and progressive innovative development, it is important not only to establish modern education legislation, but also reasonably use education law traditions. It is they that continue to take part of social, non-legal in the modern sense, regulators of relations in education sector. Such traditions developed in community context the powerful education institution of Russian civilization.

5. Research Methods

During composition of this article analysis of legal and regulatory instruments in children education and upbringing, structural analysis of legislative texts, the study and interpretation of sources and scientific research on ethnic history and legislation, containing education legislation statutes of past centuries, as well as historical data on development of education rights in Russia were performed.

6. Findings

National legislation in Russia developed under the strong influence of family, ethnic and cultural traditions and customs, which were greatly impacted by both social economic and natural factors. Heavy, daily agricultural work and the need for cooperation in it determined the search for best possible social and economic organization and socialization of young generation. Community served for these purposes.

Communal ownership, which provides every peasant household with the economic right to own land and acts as a guarantor of its material and spiritual security, contributed to origin of fundamental values of children teaching and upbringing. Based on these core values, the basic education and upbringing guidelines were developed, which later became the basis for traditional law creation. This set of traditional legal views gradually gave rise to social and cultural public ideals and values, on which the gradual formation of modern education law took place.

Its regulatory function was initially based on the close interaction of moral, legal and religious norms of peasants life in Russia, because: “Any culture, regardless of development level, contains a definite social and regulatory base in which different types and ways of regulating social, collective and individual activities are represented; they constitute unity in order to solve the main cultural task of mankind that is mastering the external world, mastering its means and resources for expanding the boundaries of human freedom” (Maltsev, 2009, p.409).

Based on a broad understanding of law as a cultural and historical reality, it should be noted that in Russian state the ethnic and cultural traditions in law have rich ancestry the manifestation of which can be find in ancient Russian epic literature, especially in heroic epic ballads. It is epic literature, proverbs and sayings that are an important source of law creation in the early stages of developing Russian state-building.

This thesis can be attributed to education law in all respects. Education and especially upbringing as the most important elements of public activity of Russian society have always required diverse statutory regulation. At the same time, the statutes that exist not as actual regulators had the status of state law or even institution approved by the whole society. Nevertheless, they played key and sometimes crucial role in younger generation upbringing and education, meaning that throughout long historical period they were informal sources of education law. “Law and moral standards are intended to same people and are aimed at the process of identifying their common interests; moreover, they define the red lines. The law taking into account economic and political priorities of society introduces moral standards in law, constitutes certain political and legal tradition, acts as spiritual effect of efforts accumulated by certain community in the field of civil, political and legal activities” (Ovchinnikov, 2014, p.155).

One of the main ethnic and cultural values at initial stage of education law creation should be *fairness*, understood as inherent parity of everyone’s claims to common benefits and *human’s* value as biological and sociocultural source for continuation of community’s activity itself, which is the main social institution that gained the *right* to educate and bring people along with their closest relatives. Thus, already at the early stage of ethnos development, the first social standards were created, which provisionally can be called antecedents of education law standards in terms of democracy.

These standards and values became crucial in developing main principles of community functioning as a social system, determining its other values, which also became the basis for the social education of new generations of community members. These include responsibility, commitment to each other, solidarity. In the most general terms these standards and values were manifested in the legal institution of collective responsibility, which was at the same time the most important form of social education of community members. Having emerged as traditional law standard against cyclical nature of agricultural activity, dependence of the subsistence farming on natural and climatic factors, in the ensuing years the custom of mutual responsibility did not lose its original moral meaning, stuck as concept *collectivism*. Collective forms of socialization were developed under the influence of collective ownership of land. The combination of “community” and “land” concepts produced the feeling of being together, which was captured in the Russian peasant understanding by “peace” concept: “Amicably and peacefully we will overcome everything” (Ponomarev, 1888). Certainly at the level of medieval legal workmanship

all nuances of such sophisticated social phenomenon could not be developed as a formal and efficient legal standard.

The *fairness* concept became the starting point for community in exercising its managerial functions. According to Council Code of 1649, the community received legal status (Sobornoe ..., 1987). At the same time secular meeting decided how to exercise administrative, economic and financial powers delegated to it by the state. The jurisdiction of secular court, except for land tenure and land use, included all socially significant issues, including domestic issues, in which education issues, resulting in development of *conciliarity* the value of Orthodox Christianity. Note that at the same time fairness was becoming one of the basic public values of Western civilization. And this fact once again allows us to speak not so much about inconsistency of the Western and Russian legal traditions in the field of upbringing and education, as about various manifestations of their democratic foundations in specific historical terms of civilizations development differing in their core bases.

Herewith following circumstance is noteworthy. The essential difference in developing ethnic and cultural foundations of education law in West and in Russia during the Late Middle Ages is the source of this right. If free person with his/her basic, inalienable rights was the source of right in the West culture, then for Russia the right comes from another source the Divine Commandment (Sorokin, 2007, p.223), hence as medieval person understands this it was poorly regulated or was not beyond control of secular law.

This circumstance also influenced the legal effects of community, which was the main institution for developing traditional education law standards. By applying its own self-regulatory mechanisms, it became an institution for implementation of legal standards originated from formal (national), church, and state principles. Where in Russia there are enormous geographic spaces, this circumstance was most crucial, since for a long time the central authority was not able to have required state effect on development of united education system in country, moreover develop and introduce uniform legal standards, as it was in many European countries.

As modern Russian researchers accentuate “Traditional law is intersubjective and therefore all traditional legal obligations are also intersubjective. The intersubjectivity of traditional legal obligations is determined by the fact that they arise only as a result of social subjects’ activity and do not exist apart from subject. They represent the subjective correlation expressing the proper and possible behavior in society. Therefore, only in terms of reification (illusion), the traditional legal decrees are conditionally alienated from the person, so that people find them to already exist” (Obychnoe ..., 2019, p. 19).

Based on this provision, the analysis of historical sources and actually established sources of law it’s validly to assert that by the beginning of early modernization in Russia, which can be chronologically attributed to the post-reform time (second half of XIX century), the peasantry, representing the majority of state population, developed its own multi-level local ethnic and cultural education system, including legal one. It effectively operated and was supported by traditions. At that time, two processes developed simultaneously: the reformation of state, social and political forces in general education sector and intensive non-political, ethnic and cultural popular movement for the correct arrangement of children education and upbringing the wealth of Russian society and state, its human capital assets. This

sophisticated social process was only somewhat regulated by law standards. The impact of traditions and traditional law in specific cases was high.

Its upper level was developed based on domestic views on state and political structure of country and the most important issues of social, economic and cultural development. In the second half of XIX century, in most regions of Russian Empire, we can see frequent free discussion by peasants of political and social matters, which proves the high level of social and political activity of Russian peasantry, their agreeing with democratic principles that the peasant communities were given as a result of reforms in 1860s - 1870s, which changed many values of peasantry. However, these reforms did not affect the deep, centennial ethnic and cultural principles of Russian life, which became the basis for rational social and political positioning of all peasant life, including children education and upbringing in new circumstances. However, they improved political and legal culture of peasantry, which became the powerful tool, providing the balance of state and traditional law in solving current issues in education and upbringing sector, especially at community level.

For example, by admitting the *State* as one of the most important values in life (“they enormously honor Father the Tsar and treat every law with piety”) (Cherty ..., 1865, p.158), the peasant at the same time considered the he/she had the right to decide what the state required from him/her and “no state institutions could not change his/her mind” (Kopanev, 1978, p. 261).

It's noteworthy that ethnic and pedagogical effectiveness of traditional law is very high. On the one hand it is caused by natural settings, it follows folk tradition, the way of life in a particular place, particular era, particular geopolitical conditions. On the other hand, it is caused by social settings, as it develops foundations of institutional organization, reflecting and regulating social relations in particular community, setting various areas of this community and defining their meanings and values including education system.

For example, the study of archival sources clearly proves that peasants in their petitions often expressed critical attitude to law, to the expediency of their applying to specific situations that are legally significant for peasants. In their minds, only those laws were considered lawful that did not violate the right of everyone to receive the results of their labor, due to which many peasant land acts were recognized as legitimate by government. “Not knowing the chains of serfdom, the local population more freely developed the spirit of *self-entrepreneurship*, self-reliance, vigorous spontaneous activity” (Kizevetter, 1919, p.53). Certainly such attitude had the effect on statutory instruments regulating the social sphere of peasant community, and, above all, the way of young generation education and upbringing.

Under the influence of reformation legislation, the concept of *freedom* and the concepts of *dignity* and *honesty* related to it were seamlessly adopted by peasant family, and these concepts were crucial in regulating the issues of youth education in the history of Russia.

In peasant family there was no permanent tuition of adolescents: children became independent very early. Giving them the right to manage their personal time for their own needs, parents thus sought to instill in them not only "businesslike character", but also rationality, the ability to plan their working day, for the results of which they were always responsible. Freedom was perceived, first of all, as an activity inextricably related to self-organization and discipline, the sense of self-worth in public affairs, an

assessment of own work: “freedom is not a self-will, and parity is not a free-for-all” (Military and statistical review of Russian Empire, 1850, p. 9).

As inherent fairness founded in economic parity with respect to land, the community of peasants determined the importance of such moral qualities as “immense honesty,” sincerity, frankness, loyalty to word (Avramov, 1859, p.272). So, in the military and statistical review of Russian Empire in Vologda Province it was recorded: “The honesty of rural residents was unprecedented; You could safely leave your wallet with money on the table in any hut, nobody would touch it” (Military and statistical review of Russian Empire, 1850, p. 261).

It is worthwhile noting that Russian state authorities keenly perceive these tendencies and contributed to their development, consolidating the traditions that had developed over many centuries in valid family law, which after reforms of the second half of XIX century became one of the most advanced in Europe. Harmonization of family relations, “purposeful and reasonable influence of the state on education potential of Russian family: the previously established traditional values were maintained and new ones were established that did not contradict the essence of family itself as a social institution of education and upbringing” (Volodina, 2011, p.183).

The values, based on national traditions, were cut by the state and got back as official law standards to family and school as the most important institutions of education and upbringing in post-reform Russia, from which it is possible to set the beginning of development of education law as a social phenomenon and, in part as a branch of law.

7. Conclusion

The ethnic and cultural values of Russian peasantry which had been developing during many centuries had been successfully preserved for a long time. It were they which had significant impact on development of unique education system in Russia, becoming, along with nominal legislation, a powerful and sometimes the main legal regulator of relations between subjects of education.

In historical and cultural development of education and training in Russia, two phenomena are united that is the deep desire of peasantry to teach their children literacy, while not forgetting the traditional mode of peasant life, and the active education policy of Russian state, which in general understood and agree with this aspiration of the largest part population of country.

In such a social and cultural environment with a high degree of manifestation of the traditions of customary legal regulation, which included both secular and religious component at the grassroots of youth education and upbringing management, Russian youth was enlightened.

The traditions of education and upbringing accumulated in the ethnic culture of Russia, were united by the concept “enlightenment”, were changed under the influence of various social processes. Some of them got back as regulators of public relations already in the status of national laws or regulations of regional secular authorities and public self-government, as well as religious and moral institutions. And this historical experience should be taken into account in modern plans for reforming education as an experience of mental memory.

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References

- Avramov, V. (1859). Zhiteli Yarenskogo uezda i ih hozyajstvennyj byt [Residents of Yarensky parish and their household way of life]. *Vologda Provincial Journal*, 272. [in Rus].
- Cherty npravstvenno–religioznoj zhizni poselyan nekotoryh uezdov Vologodskoj gubernii (1865). [Features of moral and religious life of peasants in some parishes of Vologda province]. *Vologda Provincial Journal*, (18), 157–158. [in Rus.].
- Kizevetter, A. A. (1919). Russkij Sever. Rol' Severnogo kraja Evropejskoj Rossii v istorii russkogo gosudarstva: istoricheskij ocherk [The Russian North. The role of Northern Krai of European part of Russia in the history of Russian state: historical essay]. Vologda: Printing House of the Union of Northern Cooperative Unions. [in Rus.].
- Kopanev, A. I. (1978). Krest'yanstvo russkogo severa v XVI veke [The Peasantry of Russian Northern Krai in 16th century]. Leningrad: Nauka. [in Rus.].
- Maltsev, G. V. (2009). Npravstvennye osnovaniya prava [The moral foundations of law]. M.: SGU Printing House.
- Military and statistical review of Russian Empire (1850). The 1st branch of General Staff Department. (Vols. 1-17, Vol. 2). Vologda Province, St. Petersburg: General Staff Department.
- Obychnoe pravo Rossii: teoretiko-pravovoj i istoriko-pravovoj aspekty (2019). [Traditional law of Russia: theoretical, legal and historical aspects]. R.L.Khachaturov (Ed.). Moscow: Yurlitinform.
- Ovchinnikov, A. V. (2014). Kul'turno-istoricheskij kontekst politiko-pravovogo processa v oblasti obrazovaniya v Rossii [Cultural and historical context of political and legal process in Russian education system]. *Space and time*, 1 (15), 153-160. [in Rus.].
- Ponomarev, S. (1888). *Artelschina and friendship as a special way of people's life*. P. A. Dilaktorsky. State Archive of Vologda Region. Fund No. 652. Vologda Society for the Study of Northern Krai. Inventory.1. – Case. 47. Extracts from the article. S. 1–11. [in Rus.].
- Sobornoe ulozhenie 1649 goda: tekst, kommentarii (1987). [Council Code of 1649: text, comments]. G.V. Abramovich, A.G. Mankov. Leningrad: Nauka, 448 p. [in Rus.].
- Sorokin, V. V. (2007). Ponyatie i sushchnost' prava v duhovnoj kul'ture Rossii [The concept and essence of law in spiritual culture of Russia]. M.: Yurlitinform. [in Rus.].
- Volodina, L. O. (2011). Gosudarstvenno-pravovoe regulirovanie voprosov duhovno-npravstvennogo vospitaniya v russkoj sem'e vo vtoroj polovine XIX — nachale XX v. [State and legal regulation of spiritual and moral education in Russian family in the second half of XIX - early XX centuries]. *The new in psychological and education research*, 2 (22), 177-184. [in Rus.].