

**GCPMED 2020**  
**Global Challenges and Prospects of the Modern Economic  
Development**

**LEGAL AWARENESS AS A DRIVER OF THE MODERN  
ECONOMIC DEVELOPMENT**

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**Abstract**

Historically, the core of technic civilization economic development is legal awareness and therefore we consider the achievement of any goals in close and interdependent connection with this phenomenon. At the same time, the entire practice of civilizational development also testifies to the fact that this phenomenon in its content reflects ethnic and national identity that leads to the formation of legal mentality in the public consciousness. Therefore, economic development is always latently determined by this phenomenon. Nowadays close attention is drawn to the considering of the specifics of the Russian legal awareness as the driver of all our economic innovations, since Russian and Western legal traditions have different civilizational and value grounds. A specific feature of Russian legal awareness is the existence of a certain interrelation between the moral and the legal norms as well as the principle of relative and absolute values. Legal features of justice, equality and freedom get religious and moral meaning in the field of Russian legal awareness. As a consequence, there is an inability of Russian legal awareness to become the most important driver of the modern economic development. The lessons of the post-soviet development of our history allow us to conclude that the solution to this problem is only possible through the use of the world experience of the global technic civilization, in accordance with which legal awareness should function exclusively on formal legal, and not religious and moral grounds.

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*Keywords:* Law, legal awareness, legal mentality, legal nihilism, natural law



## 1. Introduction

It's well known that the Russian and the Western legal awareness are fundamentally different. This follows from the fact that law and morality are closely interrelated in the Russian legal mentality. Here the basis of legal relations is also the moral values. In contrast, in the Western tradition, the status of law is recognized as independent of morality (Shestakov et al., 2017). So, the legal values don't depend on the moral ones. This is typical for the conception of positive law, dated back to the 19th century. It gradually replaced the idea of natural law from the Western mentality. The difference between the legal awareness in Russia and in the West can be illustrated by understanding the phenomenon of public good. Legal practice in Europe sees the law the most important good that creates conditions for the free and equitable achievement of all other goods. However the good of everyone can be achieved only if the rights of other humans are respected and followed (Revina et al., 2017). All the members of the society are considered the bearers of the public good and a condition for its achievement at the same time.

The Russian mentality is quite different as it's related to the Divine and transcendent area. This leads to a fundamentally different understanding of the essence of the public good. It's considered a kind of higher principle dominating completely the human and social life. So, on the base of the moral principles and the self-limitation of human freedom the universal solidarity for the public good can be really achieved. It turns out that Russian legal awareness depends more on the idea of the spiritual personal development. During this process the reality and the ideal are constantly compared. Thus, a stable mental attitude is gradually forming. According to it, the moral ideal contains more truth than any real legal norm.

## 2. Problem Statement

The spiritual traditions of Byzantine are the basis of the Russian legal awareness. It isn't closely connected to the Roman law system that had mainly an objective character. It was successfully developing before the fourth century, but then it has lost the greater part of its importance both on the territories of the Eastern and Western Roman Empires. Since that time the East and West went different ways in the field of legal consciousness. They have also got various characters. For example, in the Byzantine Empire an origin of law was strongly associated with a figure of the emperor. His imperial authority was legalized by power, but not by law. Thus, the Byzantium emperor has got a special legitimacy in himself. He was called the only source of law; and he didn't exist apart from this law. If there was no law, his legitimacy was also absent. The emperor's legitimacy was acquired by ascending the throne, and it can be lost in the case of the loss of his dignity only. In this case, there are only the moral standards that can limit the legal arbitrariness of the imperial power. Their frequent violation made the emperor a sole despot. And a special legal tradition was formed, determining morally, but not legally and basing on the sovereignty of people. Thus, a special mental tradition was formed. In its field there was no longer any difference between the human and the person: the first one is as an owner of different rights and obligations, the second always follows the moral law. It follows from this that in the Byzantine tradition the moral values were considered more important than the norms of law. The moral concepts have acquired an absolute character and have become really true for the Orthodox religion representatives. Here the law was considered as a distinct form of human spiritual unity basing on Christian moral values such as truth, justice and others.

In the Western Roman Empire the legal consciousness has chosen another way of development. Its basis is a Greco-Roman culture. Later it has become the main foundation of the Western European mentality. The Western legal doctrine was also determined by dominance of the ancient rationalist tradition. Ancient rationalism separated law from morality and set clear boundaries for their cooperation. It also developed its special meaning of truth, that differed much from the non-rational interpretation of Byzantine. Here the concept of truth that was previously correlated to the field of natural and exact sciences has begun to be used in a full way in the field of legal consciousness. The truth is always one; it's always exclusive and independent of person, place and time. So, it's an essence and a quality of law. And as for the moral norms, they are deprived of it. They can appeal only to an authority of evidence. In the Western mentality the truth basing on authority (for example, on God) can't get a proof at all. So, they can't be considered as the universal truthful principles. This approach that was widespread in the Western legal mentality has also changed the truth understanding in the doctrinal Christian religion.

### **3. Research Questions**

In accordance with the West religious doctrine rationalism is an ideological setting that says: the God himself must obey the law. The humans and the God find themselves within the frameworks of contractual and even equal relations. If the human fulfils his Christian obligations, the God must do the same thing. He must also perform in the similar action. This mentality interprets God as a person who must necessarily obey the rational truth on the base of its unquestioned acceptance. It's obvious that a real limitation of the God's power and omnipotence take place in this case. However, the explanation of this is, too, driven by rationalism, i.e. God does not lose its omnipotence voluntarily submitting to the truths of reason that He himself has created. In the worldview tradition of the West, the truth has exclusively a logical and rational character (Makhovikov et al., 2021). And there is no any other truth at all. For this reason the truth of faith in the Western mentality was closely connected with rationalism; it was justified by rationalism too. Here the problem of verification was also topical (Makhovikov et al., 2021). It was impossible for the Orthodox tradition to prove the God's existence with a help of human mind because the human as a result of God's creation didn't have even authority to prove the existence of his Creator. But it was quite normal for the Western scholasticism of the middle ages.

That's why the problem of correlation between law and morality is considered in absolutely different ways in Western consciousness and in the Russian mentality. In the West law it's only the law that plays a dominant role and includes the truth into its structure. The law in the Western mental tradition is much more important than the ethical norms. If there is a conflict between ethics and the norms of law, ethics must be abandoned in favor of law. Certainly the conflicts between ethical and legal norms in the Western culture take place periodically. But the exclusively legal norms are usually taken as a basis in their settlement. In the West, the law, but not the moral norms, regulates effectively the most part of social relations. There is an absolutely different picture we can see in Russian legal consciousness. Here, the truth is sanctified by religious authority and is largely linked to moral rituals. Legal norms lose the truth in this case, because they lose all their positive value. It's a manifestation and an important part of the national identity of Russia. The Russian cultural tradition has also a special vision of such famous western values as progress and humanism (Guryanova & Smotrova, 2020). Humanism is considered in a negative way, in

contrast to the western thought; and progress is generally interpreted as a meaningless concept. Liberating the law from morality, that is typical for the Western mentality, is perceived as a denial of national identity by most Russian people. This is the necessary condition and the main reason of the legal nihilism that is widespread in the Russian legal consciousness.

#### **4. Purpose of the Study**

As the main topic of the study, we must consider the emergence and functioning of legal nihilism in Russian legal consciousness, which has been a major obstacle to its implementation throughout Russian history in as a growth engine of the Russian economy. And this wonder must manifest itself in the sense of the justice of Russia to refer to the eighteenth century. When active Europeans began to cultivate Russian culture, it started with the transformation of Peter I. It was from this time that many elements of European material and spiritual culture entered Russian cultural heritage, which belongs to the legal system as a whole. But it causes an immediate contradiction at the level of the Russian mental judgment paradigm, so it immediately responds to an active answer at the level of mentality. This answer is a phenomenon of legal nihilism. Its content varies over the different periods of Russian historical evolution in the field of legal consciousness. It's also related to the conceptions of legal and law mentalities relevant to the particular historical time.

So, for example, positive law which held a preponderant place in Russian legal consciousness in the XVIII - XIX centuries led to legal nihilism to the point of a hard and deep crisis. And the great expansion of progressive formal law in Russian legal consciousness followed the legal choice to forget how you see right and wrong, the law and illegal; everything drifted towards social apathy. The shortage has taken root; spiritual nihilism and public corruption nearly prevailed. To overcome the crisis of legal consciousness Russian philosophers of the beginning of the last century tried to revive conception of natural law. The ethical moment was central in it, so it would fit better in the context of the Russian legal mentality. However, most of Russian representatives of the idea of natural law opposed the concept of legal positivism arguing that it was not corresponding to the tradition of Russian legal consciousness. The Russian legal conception is the belief that Russian legal awareness requires love, faith, patriotism, inner freedom and sense of justice. If the above mentioned elements are included in the system of legal consciousness, there'll be no place for legal nihilism in it. An attempt to overcome legal nihilism with a help of the natural law concept didn't take place in Russia due to the revolutionary events of 1917. The new understanding of law proposed by the Soviet researchers was very similar to the positive formal law typical for the Western tradition. The theory of legal thought during the Soviet times has lasted until the post-Soviet period. It has got a name of the libertarian-legal conception. Here the law was understood as freedom; and it was closely connected to law as a measure of justice. The last one is based on the synthesis of freedom and justice and is found only within the limits of law. This once again contradicts the tradition of the Russian mentality, which is why the law has lost its moral justification.

Moreover, the atheistic formula of the moral code of the creator of communism by replacing the absolute values of the religious element has in fact lost all faith in artificial moral standards of the Russian tradition. Under these conditions, legal nihilism became an essential feature of Soviet legal certainty, in which the law, spiritually and morally, was perceived as something external without religious justification.

The last one included freedom from sin, mercy and justice as its main principles. The main reasons of legal nihilism in Russia we have observed above are absolutely actual in the post-Soviet period. This makes difficult to form a full use of Russian legal consciousness as an engine for productive economic development. Therefore it is of particular importance to get out of the current situation to the stage of development of the Russian economy.

## 5. Research Methods

Of all the scientific methods used in this study, it is first necessary to identify axiomatic, genetic, systemic, as well as comparative, innovative and existential methods. The dialectical method, the situation analysis method are also important in analyzing the mentioned issue. In addition, methodological theories such as historical, objective, concordance and scientific character serve as the methodological basis for this research. The use of these special methods is based on the fact that legal consciousness plays the most important role as the development engine in the modern world economy. Using of this special research method allowed to find out that the Russian legal consciousness is characterized by software exclusivity, which is expressed above all in close connection with the legal and ethical standards that exist in principle of relative and absolute values. As a result, the main constitutional characteristics of Russian legal certainty are not formal but have religious and moral legal significance.

In this context, the main working principles of this study are as follows:

1. The legal consciousness becomes the most important engine for the development of the modern economy if its basic legal characteristics represent freedom, equality and justice and not religious and moral significance.

2. Lessons from the development of Russian legal consciousness show us that this is not yet supported by the dominant formal legal traditions, but by the basic religious and moral traditions.

3. That becomes the main problem when it comes to making the Russian legal consciousness the main engine for economic development.

4. This problem can be solved only in connection with the overall experience of world technological civilization (Guryanova et al., 2020), according to which the legal consciousness should work only for formal legal reasons in which religious and moral values do not operate.

## 6. Findings

The specificity of the Russian legal consciousness that we described was fully manifested by the collapse of the Soviet socialist economy and the first experience of its transfer to the tracks of a liberal democratic society in the 90s of XX century. It was then that an attempt to solve all the problems accumulated in the economy on the basis of borrowed Western liberal values turned into a generalized legal nihilism at the level of the legal mentality of the Russian legal consciousness. This has not only led to its transformation into the most important engine for the development of the Russian economy, it also began to develop during this period into a profound crisis of the entire Russian legal consciousness. And under these conditions, the traditional spiritual, religious and moral values of Russian culture began to gain more prominence in the public consciousness. For many scholars of the Russian legal conscience, the point of

view has become indicative, where an attempt is made to create a complete, universal and synthetic conception of law.

This has led to the fact that in modern conditions the pragmatic compromise between natural law and positive law has developed. Our legal consciousness is still distinguished by the fact that it becomes a reason of the new growth of ethical development of law, connected with the interpretation of justice in the categories of morality. This mental tradition brings to life the rebirth of the great role of religious and moral values in the legal consciousness of modern Russia. Thus, we can make the conclusion that despite the long functioning of capitalist values in our country, with the relative formation of the corresponding personal qualities of the human, there are no radical changes in the juridical conscience and juridical mentality.

All this is the main deterrent factor in transforming the Russian legal consciousness into the most important engine of economic development (Shestakov et al., 2017). And the implementation of this process is impossible without understanding the simple fact from the field of the public consciousness functioning: we must speak to the West in a legal language that it close to it, accepting a number of universal approaches of the way of legal thinking (Korobova, 2021). At the same time, we can't have two different doctrines of legal consciousness: the first one for internal using and the second – for external one. We need one doctrine that is consistent in its philosophical and legal basis..."in the context of the transformation of Western legal values into universal values, taking precedence over national values, we should consider the use of Russian legal consciousness as a complete engine of economic development as the main and only condition.

## **7. Conclusion**

The modern Russian economy is still not able to fully exploit the legal consciousness existing in our society as the most important engine of its development. Changes in the direction of the formalization of the law, the predominance of legal values instead of moral values, are not yet happening rapidly and radically enough. The main reason of this circumstance and the basic limiting factor of this process are the following ones: the desire for the Western model of legal consciousness, i.e. the complete separation of law from morality, the exclusion of the domain of moral values, are considered in the public consciousness as a rejection of one's national identity.

The lessons of the development of Russian legal consciousness show us that the optimization of this process still faces strong opposition in the field of legal mentality. This different legal tradition invariably contributes to the appearance of the phenomenon of legal nihilism in the area of legal consciousness of Russia. This necessarily leads to a legal crisis. From this point of view, it becomes clear that the modern situation in the field of legal conscience can be characterized by the absence of the general doctrine linking the natural legal foundations of the Russian Constitution to the fundamental constructions of dogma of current law. This undermines the state of the legislative process and law enforcement practices. Current uncertainty in the current choice of the mental basis for the formation of the legal doctrine of Russian legal consciousness invariably generates in it the phenomenon of legal nihilism and, therefore, its permanent crisis. And this is because legal nihilism is always a clear and open rejection by legal consciousness of the formalization of law, its isolation from morality and its exclusion from traditional religious and moral values. All these processes are an important stopping factor in the transformation of legal consciousness

into the most important engine of the development of the modern Russian economy. Only by using the experience of developing Western legal consciousness and the complete exclusion of moral norms from the Russian legal consciousness system, can you help turn it into a real engine for the development of the modern Russian economy.

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