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Phenomenon of legal culture of kazakhstan society

This article is devoted to the analysis of the legal culture of civil society. The purpose of the article is to highlight the value orientations of the legal culture of the Republic of Kazakhstan in the process of developing a democratic state. The essence and structure of legal culture and its features are considered in the article. The author pays special attention to the study of the value aspects of the legal culture of the Republic of Kazakhstan in the development of a democratic state and the formation of a civil society. The author concludes that the main factors are the formation of an anti-corruption culture of anti-corruption education and training, and great importance is increasing the level of legal culture of the individual. In addition, the main approaches to understanding legal culture have been studied. The scientific work is written on the basis of scientific research of Kazakhstan and foreign authors on the nature of law, legal culture, its values in the formation of civil society and the rule of law in the Republic of Kazakhstan. It concludes that the main principle of civil society advocates free and comprehensive development of the individual in society, and that civil society starts with the appearance of the citizen as a free member of society who is aware of its purpose, endowed with a set of rights and freedom and the duty of responsibility for their actions to the society.

Keywords: law, culture, identity, legal culture, a democratic state and its values, civil society, legal education, legal upbringing.

The question of the formation of the legal culture of modern society is considered in direct connection with the development of universal human culture. The general level of culture of any society is determined by the material and spiritual successes and achievements of people, the results of which together determine the level of progress in the development of the state. In this dynamics of the development of the general level of culture, the important is the legal culture, which shows how developed the state and legal organization of life of each individual and society as a whole. A high indicator of legal culture is one of the main features of the rule of law and developed civil society. In our country active work is carried out in the field of raising the level of the legal culture of the population, eradicating legal nihilism and fighting corruption manifestations.

In the Address of the President of the Republic of Kazakhstan N.A. Nazarbayev clearly emphasizes the idea that «when moving to the number of 30 developed countries of the world we need an atmosphere of fair competition, justice, the rule of law and high legal culture» [1].

In the Concept of Legal Policy for the period from 2010 to 2020 «... an integral part of the legal policy is the legal regulation of scientific and educational activities that are an important condition for ensuring the country's industrial and innovative development, increasing its intellectual potential» [2].

This document shows the direction of development of our state in the field of implementing legal policy, which relies not only on the existing regulatory and legal acts, but also shows the need for the development of the education system at all levels, the actualization of scientific research in the main sections of this concept. All this will have a positive effect on the intellectual level of Kazakhstani society.

Legal culture now covers all spheres of society. It records the level of legal knowledge of people, the criteria for assessing acts in terms of their illegality, includes a system of legal values, beliefs, norms, traditions, as well as law-making and law enforcement activities. The product of legal culture is, first of all, legal documents that fix the established norms of law; organizations that develop and control the implementation of legal norms, as well as institutions that carry out punitive functions [3; 69].

Legal culture is an integral part of the culture of society as a whole, and its significance goes beyond the study of law and legal practice. In the legal culture, which represents a certain level of development of the regulatory qualities of law and legal values, legal progress and spiritual values, the legal consciousness of society and the individual is realized. The main interrelated and interacting elements of legal culture are the state of legality, legislation, practical work in the field of law and, above all, the state of legal consciousness in society.

Being a systemic education in the legal system of society, the legal culture at various stages of its history also changes, which allows to determine (measure) its value. In the broadest sense, the level of legal culture can be measured both in historical retrospect, and in relation to the existing state of legal life, in accord-

ance with the existing legal system of society. Narrowly, the level of the legal culture of society can be measured as the level of positive and negative manifestations of legal life achieved. In the studies of many scientists, the difficulties stemmed from attempts to strictly isolate the legal culture from the system of universal human culture, which is represented in the results of people's activities. The level of general culture determines the possibilities for the realization of law, and its own development depends on the existing legal norms. On the one hand, the development of law, hence the legal culture is conditioned by the economic structure, social structure, political system of society and its ideology, and on the other - the level, nature, traditions and tendencies of its culture.

The component of the legal culture - the right is called to ensure the functioning of society as a whole against the backdrop of the struggle and compromises of various forces that are ultimately interested in working out a certain program for carrying out common affairs. Thus, the degree of development of legal culture in a society with diverse interests in all spheres demonstrates not only the effectiveness of protecting the interests of the state and its citizens, but also demonstrates the ability of people to be resistant to destabilizing influences.

Legal culture is unthinkable without mastering the law. It allows to distinguish such typological features of the quality of a person and a citizen as knowledge and understanding of the essence and principles of law, its value properties, the degree of perception and respect for the law, the degree of conviction in the fairness of law and justice, the habits of observance of legal regulations, the ability to ensure the realization of law.

Understanding the phenomenon of legal culture is relevant both for the theory of law itself and for the formation of legal awareness and legal culture of citizens. In fact, it is the right, logically and historically, to realize everyone's freedom, giving it certainty and truly human value.

At present, there are a lot of problems in the process of forming a legal culture. This is, first of all, the legal illiteracy of the population, a complex process of law-making, a frequent contradiction of normative and legal acts of reality, as well as the not developed ideology of a strong rule of law and, as a consequence, legal nihilism, the denial of moral principles. To address these and other problems, a purposeful policy of the state is needed to improve the level of the legal culture of the society through the processes of lawmaking, the legislative process, as well as the media, fiction, cinema and art. The formation of a positive attitude towards law, law, citizens' knowledge of their rights and duties to the state and society are the main tasks in the process of forming a legal culture [4; 243].

It is worth saying that in the modern understanding of legal culture there are many poorly studied moments and unsolved problems, the solution of which requires a certain methodological approach, which is based on the peculiarities of the law itself. These features include:

- 1) there is a clear allocation of a social object, in relation to which the very concept of «legal culture» is formulated;
- 2) there is a definition of the structural content of legal culture, i.e. presence of the composition of its main components;
- 3) the availability of an understanding of the features of the quality of legal culture and its differences from the state of «outside the legal culture»;
- 4) determining the place and role of legal culture in the system of categories of theory of law.

The study of legal culture directly depends on the available scientific research of this concept. To date, there are many definitions and approaches of domestic and foreign scientists, the essence of which is reduced to an attempt to reveal the nature and nature of this phenomenon.

For example, according to the well-known domestic scholar-lawyer Ibraeva A.S. «... legal culture is a combination of positive phenomena in the legal life of society, as well as the extent to which the society assimilates legal values. The future of civil society depends on the level of the legal culture of society. Forming legal culture is a complex process. In the Republic of Kazakhstan, civil society passed the initial stage of formation. In the Republic of Kazakhstan, the legal foundations of civil society have been created, the necessary laws have been adopted, and at the level of legal awareness, the principle of the rule of law has been affirmed. The problem of realizing the principle of the rule of law is rooted, in our opinion, at the level of local executive bodies and the system of local self-government. That is why the issues of legal culture have a practical character» [5; 7].

We agree with the scientist's opinion that work with the population to raise the level of legal culture must begin, first of all, at the level of local executive authorities. It will be really practical. Existing state programs and concepts are mainly developed at the national level, which indicates the need to create a revitalization of this work at the local level.

The position of the Russian scientist, V.V. Gulyaikhin, who believes that «... legal culture is a very complex and changing phenomenon of a person's social life. The definition of its essential properties by scientists occurs within the framework of a specific methodology, in which all its «living» components do not fit into the «Procrustean lozhe». Therefore, at the modern level of the evolution of the theory of legal culture, scientists usually take a pragmatic position and are satisfied with the «working» definition that they use in the framework of either a specific study or in the context of a certain methodological approach. Therefore, based on the foregoing and remembering that practically all definitions have inevitable shortcomings, we formulate our own definition of this concept. The legal culture should be understood as the spiritual and material system of the legal life of a society determined by the socio-economic system and assessed based on the achieved level of development of legal awareness, legal activity, legal technique and the evolution of man as a subject of law» [6].

In addition to the above definition, it is worth noting the fact that the legal culture also represents a certain level of legal psychology, the content of which is based on ordinary legal ideas and emotions in relation to legal phenomena and processes in society and the state. Moreover, in studying the legal culture it is important to take into account its historical nature, the direct relationship with the social structure of society.

Legal culture is a socio-psychological phenomenon that is valuable only in a socially heterogeneous, contradictory society, where a legal culture can act as legal regulators of life support for this society. Legal culture has its specific content, which distinguishes it from such social phenomena as law, legal relations, etc. In essence, it reflects the level of development of legal values both of society as a whole and of individuals, their level of ability to create and effectively apply legal means to achieve their goals [7; 258].

Legal culture has a complex internal structure and at the same time has many socio-political connections in its content. This is not surprising, because Being a part of the general culture of a society, legal culture shows all the changes and deformities to which the general human culture of a society is exposed in general. It should be noted that legal culture not only boils down to knowledge of laws and the norms of law by every person, but shows how successfully an individual can realize himself in the legal field, how much civil responsibility and civil debt to the state are developed in him. In the opinion of N.A. Klevtsova. the main prerequisite for the study of legal culture is the awareness of the need for an in-depth development of the set of theoretical and applied problems of the formation of a system of human rights and duties that are directly dependence on the changing economic, political, social conditions of society [8; 134].

For example, A.V. Petrov believes that the legal culture must be viewed from its essential side, which will allow it to concentrate in it those legal phenomena and processes that correspond to the laws of legal reality, to all elements of its content and forms. Here it is quite appropriate to talk about the fact that the legal culture accumulates in itself and translates the totality of progressive elements of legal reality. The only question is what exactly should be attributed to these elements of value for legal reality and where that particular criterion that allows us to separate the «grains from the chaff» and distinguish between what is progressive and what is regressive [9; 201].

The position of S.V. Boshno is interesting, which considers that the legal culture is a component of the general culture of society (person), i.e. it obeys the general laws of the formation of culture. To form a legal culture, it is necessary:

- 1) the existence of a large social group that will be the bearer and custodian of culture and its values;
- 2) the existence of small social groups that will act as direct conductors (translators) of culture for individuals;
- 3) a strong dominant legal culture is necessary, in this case countercultures are not dangerous for it [10; 7].

According to A.S. Bondarev, legal culture does not represent a certain number of legal values or their characteristics. Legal culture is a specific property of subjects of law, i.e. it shows the level of their development in the legal field, the success of their abilities at a qualitative and effective level to use all the necessary legal means to achieve their legitimate goals [11; 13].

For example, the domestic scientist G.R. Absattarov believes that «... firstly, the legal culture of the Kazakh people is the initial defining ideas, demands, attitudes that make up the moral and social basis of the maturity of the Kazakh society; secondly, the main requirement for the legal culture of the Republic of Kazakhstan is the improvement of the quality and level of the social and legal life of society and the individual. This can be expressed in guaranteeing the status of citizens, in the consistency and predictability of the actions of Kazakhstan's political power. Today it is important that the solution of the urgent problems of the legal culture of Kazakhstan as a whole promotes the unity of society and social progress, the stability of a democratic, just society» [12; 189].

Formation of legal culture directly depends on the level of legal education in the country. The quality of higher legal education is an indicator of the development of the entire legal system and the readiness of the society to realize itself in the legal field, to participate in all processes occurring in the country.

Based on the above approaches to understanding legal culture, we can conclude that in the legal science there are various theoretical and methodological approaches to the legal culture, which gives us the opportunity to identify certain reasons for its structuring. These grounds differ in:

- 1) subjects, i.e. holders of legal culture, on its objective and subjective components;
- 2) in terms of the ratio of public and individual interests;
- 3) by the presence of ideological and socio-psychological values;
- 4) on behavioral and value components;
- 5) on the level and degree of legal knowledge obtained;
- 6) on the degree of consolidation of legal knowledge in the mind, implementation in practice.

For a more complete analysis of the structural elements of the content of legal culture, it is very important to take into account the general meaning of the term «culture», which means a certain level of development of social relations, as well as a synthetic characteristic of the person himself, the level and measures of his personal development. Today, unfortunately, there is a certain devaluation of traditional values of legal culture, and in turn the formation of modern values that would correspond to a developed rule of law, face a certain degree of immaturity of socio-economic and political conditions. Favorable social conditions are the determining factor in the development of a common culture, which, as a rule, is reflected in its content. The main role in shaping the development of the legal culture of the society is played by the awareness and realization of existing public interests and needs. Legal culture is formed only where there is a systematic reproduction of its conditions, ensuring the unity of the system of legal knowledge and values. The normative level of legal culture permeates almost all levels of basic public interests, i.e. sphere of legal consciousness, legal ideology, value orientations, etc.

When the activity approach to the definition of legal culture reveals its content, expressed in the form of ways of people's activities and the forms of their interaction in the system of legal relationships.

Legal culture under this approach is an element of a common culture that represents a certain specific way of human existence in the legal sphere.

To implement socially useful behavior of a person, certain mechanisms of its regulation are necessary, i.e. actions that organize, organize and direct the legitimate activity of a person in society and in various social groups. Regulators of such lawful behavior can be represented as «external», i.e. social and «internal», i.e. psychological.

Legal culture has a close connection with other types of general culture (economic, moral, professional, etc.). We can distinguish three main components of legal culture:

1) the cognitive component, i.e. knowledge of the law, legal and illegal conduct and their consequences. The cognitive component contains judgments (opinions) of an evaluation nature. On the basis of these judgments, the attributes are attributed to the qualities of «utility-harmfulness», «desirability-undesirability», «acceptability-unacceptability», etc. ;

2) the affective component is the emotional attitude to the law. The emotional component contains certain feelings about the social object, i.e. «Pleasure-displeasure», «sympathy-antipathy», «love-hate» etc.

3) the conative component (behavioral). The co-operative component signals readiness for a particular action and contains tendencies of readiness for behavior relative to social objects.

The process of forming a legal culture has its own peculiarities, expressed in certain problems in creating a foundation for raising the level of legal culture of the population. The main difficulties in the formation of a legal culture include:

- 1) unformed civil society;
- 2) the absence in society of the unity of culture;
- 3) a large stratification in the social strata and a deep differentiation in one social group;
- 4) the crisis in the education system, expressed at all its levels;
- 5) reforming the law enforcement system without subsequent effectiveness;
- 6) the destruction of the institution of family and marriage;
- 7) lack of measures to prevent corruption;
- 8) lack of continuity of cultures between changing generations;

Thus, it can be concluded that the process of forming a legal culture requires a purposeful systematic work of all stakeholders, including a set of institutions of civil society, each person and the state as a whole.

Having studied a small part of the existing approaches to determining the nature and essence of the legal culture, it becomes obvious that the formation of a legal culture and its development is possible only when solving the following problems:

1. It is necessary to provide the necessary orientation in the fundamental principles and principles of the legal system of the state. This means the division of the principles of the legal system into: sectoral, interdisciplinary, constitutional. Knowledge of these principles allows an individual to understand the essence and content of law, to form his own legal knowledge and beliefs.

2. To expand the volume and increase the level of legal behavior of the addressees of the law, it is necessary to create a certain base. This should be done to create a social maturity of citizens and legal literacy, which will characterize their legal behavior. And this in turn will be a prerequisite for the normal functioning of the state with a high level of legal culture.

3. It is important to train highly qualified legal cadres, they are the «face» of the legal system, their activities are directly related to the implementation of state legal policy;

4. Higher professional education should meet international standards. Educational programs of legal specialties should include training courses, the study of which will form the professional competence of graduates of legal specialties;

5. Scientific research should not be limited to theoretical results. Their practical implementation is important. Existing scientific achievements in the field of studying and analyzing legal culture should be used in the development of state programs, concepts, etc.;

6. It is necessary to provide direct bearers of rights and obligations, conditions of struggle for their legitimate interests. This means creating conditions for excluding legal passivity, instilling a sense of justice and justice for every citizen.

7. It is necessary to carry out a permanent work to prevent offenses. It is important to fight against legal nihilism, poor public awareness of existing laws, and to constantly work on improving legislation.

8. It is necessary to pursue a policy of legal activation of the population. Stability of law and order in society directly depends on the activity and effectiveness of each individual with violations of the rule of law.

The solution of the set tasks in the field of raising the legal culture is based on the development of the main directions for enhancing the legal culture. We offer the following directions:

1) analysis and study of such concepts as «law» and «legality»;

2) constant improvement of the legal framework in the field of legal policy;

3) development of the level of legal activity;

4) development and assimilation of scientific research achievements in a given field;

5) analysis, processing and systematization of the results obtained, definition of new goals and objectives.

Thus, it can be argued that it is impossible to raise the level of legal culture without complex measures on the part of the state, without creating conditions under which society can realize its rights and freedoms. Each individual and society as a whole should be aware of the need to participate in the socio-economic and political life of the state, to contribute to the development of the state.

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А.С. Ахметов

Қазақстандық қоғамның құқықтық мәдениет феномені

Мақала азаматтық қоғамның құқықтық мәдениетін талдауға арналған. Мақаланың мақсаты болып демократиялық мемлекеттің даму үрдісінде Қазақстан Республикасы құқықтық мәдениетінің құндылықты бағыттарын бөліп көрсету табылады. Автор құқықтық мәдениеттің құрылымы мен оның ерекшеліктерін түсіну мақсатында бар көзқарастарды талдап зерттеген. Сондай-ақ демократиялық мемлекеттің дамуы мен азаматтық қоғамның қалыптасуы үрдісіндегі Қазақстан Республикасының құқықтық мәдениетінің құндылықты аспектілерін зерделеуге ерекше көңіл бөлген. Сыбайлас жемқорлыққа қарсы мәдениетті қалыптастырудың негізгі факторлары сыбайлас жемқорлыққа қарсы білім және тәрбие болып табылатынын, сонымен қатар жеке тұлғаның құқықтық мәдениетінің деңгейін арттырудың зор маңызы бар екенін қорытындылаған. Одан басқа, азаматтық қоғамның қалыптасу үдерісіндегі құқықтық мәдениеттің қызметтерін қолданудың құндылықтық аспектілері зерттелген. Ғылыми жұмыс құқық табиғаты, құқықтық мәдениет, азаматтық қоғамды қалыптастыру процесіндегі оның құндылықтық бағдарлары мәселелеріне қатысты қазақстандық және шетелдік авторлардың ғылыми зерттеулері негізінде жазылды. Соңында азаматтық қоғамның басты қағидасы тұлғаның қоғамда еркін және жан-жақты дамуы, сондай-ақ азаматтың өзінің міндетін түсініп, құқықтар мен еркіндіктердің жиынтығымен және де қоғам алдында өз әрекеттері үшін жауапкершілік міндеттерімен қамтылған қоғамның еркін мүшесі болып табылуынан азаматтық қоғам басталатыны туралы қорытындылар жасалды.

Кілт сөздер: құқық, мәдениет, тұлға, құқықтық мәдениет, демократиялық мемлекет және оның құндылықтары, азаматтық қоғам, құқықтық білім беру, құқықтық тәрбие.

А.С. Ахметов

Феномен правовой культуры казахстанского общества

Данная статья посвящена анализу правовой культуры гражданского общества. Её цель — выделение ценностных ориентиров правовой культуры Республики Казахстан в процессе развития демократического государства. Рассмотрены сущность и структура правовой культуры и ее особенности. Особое внимание автором уделяется изучению ценностных аспектов правовой культуры Республики Казахстан в процессе развития демократического государства и формирования гражданского общества. Автор приходит к выводу, что основными факторами формирования антикоррупционной культуры являются антикоррупционное образование и воспитание, также большое значение имеет повышение уровня правовой культуры индивида. Кроме того, изучены основные подходы к пониманию правовой культуры. Научная работа написана на основе научных исследований казахстанских и зарубежных авторов по вопросам природы права, правовой культуры, ее ценностных ориентиров в процессе формирования гражданского общества и правового государства в Республике Казахстан. Автором сделан вывод о том, что главным принципом гражданского общества выступает свободное и разностороннее развитие личности в обществе. Подчеркнуто, что гражданское общество начинается с момента появления гражданина как свободного члена общества, осознающего свое предназначение, наделенного совокупностью прав и свобод, обязанностью нести ответственность за свои поступки перед обществом.

Ключевые слова: право, культура, личность, правовая культура, демократическое государство и его ценности, гражданское общество, правовое образование, правовое воспитание.

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