

The Ethical Aspects of Higher Juridical Education in Modern Russia

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Abstract: This article observes the situation with the higher juridical education in Russia nowadays. The lack of the moral basis of young lawyers and students of Law schools is being discussed. The author is trying to prove that the most important part of juridical education is creating the ethical basis of future professionals.

Key words: Higher education • Morality and law • Sense of the law • Culture • Moral basis

INTRODUCTION

Creating a professional lawyer is the main goal of the whole juridical education system. However, a modern professional lawyer is not just a set of knowledge and certain instrumental skills, but also a certain organization of consciousness, personality, values, that help a person to become realized in society and professional life, efficiently perform professional functions and, as a result, achieve professional goals. It must not be forgotten that the huge problem field of modern jurisprudence in its subject-professional field, is the orientation of young professional lawyers on achieving their aims whatever it takes. Moreover, the monetary compensation is much more important for them than moral ideals of the profession. And in this sense, one of the most important tasks of the modern juridical education is the formation and development of moral qualities and orientations of future lawyers.

The ethical coloration of juridical education can be explained by two main factors. First, the close relationship of moral and legal regulation that requires a lawyer to have good knowledge and understanding of ethic standards, the ability to align moral requirements with the legal rules. Secondly, the necessity of professional consciousness and professionally important qualities of the lawyer, the most important of which are moral standards of the person.

According to O.V. Afanasyeva, the law (or sometimes called juridical) ethics - is the science about the application of general rules of morality in the specific conditions of the activity of judges, prosecutors,

investigators, lawyers, about the implementation of ethical principles and requirements in the investigation and resolution of subordinate to the court criminal cases [1]. Therefore, legal ethics examines the application of general rules of morality in the specific conditions of the judicial and investigative activities and do not create any special ethical standards for judges, prosecutors, investigators and lawyers.

Lots of famous Russian and foreign lawyers say that the problem of ethical immaturity and moral indifference of modern students studying law and young professionals working as lawyers is now extremely urgent. This problem has been well recognized already. And it is so actual that it has even reflected several changes in the legislation. On the May 26, 2009 the Russian President signed Decree № 599 "Juridical higher education in the Russian Federation improvement measures"[2]. According to the Decree the Cabinet of the Ministers of the Russian Federation is entrusted to create the special state standards for the development of high juridical education and organize public discussion of them. This standards should expand the practical part of the basic educational programs and «create students' intolerance for corrupt behavior and respect to the rights and the law». Let's try to observe all this in details.

RESULTS AND DISCUSSION

The relationship between law and morality reveals itself the most clearly in the case of problems, connected with the use or restriction of personal or property rights in certain areas of communication and regulation,

especially in the field of struggle against crime. Punitive legislation comes from the fact, that even the part of citizens, which violates the law and is punishable, is protected by the same punitive laws, for example, from unfounded suspicions and accusations. Moreover, the same laws provide the protection of life, material and spiritual interests and benefits of crime victims. In this field of our legislation changeable variants of the subject of regulation can be seen, what is more, some of the areas and measures of the punitive impact evolve from forbidden ones (morally condemned and punishable by law) to the status of protected by law. As such in a number of Western European countries became so-called sexual minorities, consumers of different kinds of drugs, etc. [3].

Significant ethical gaps are also constantly arising during the trial, for example, in the case of outspoken partiality or corruption of so-called guardians of law or trial participants. Defense lawyer, who gains access to the materials of accusation, may construct a debriefing of the victim and the accused in such way, that the answers will lead to an unjustified mitigate of guilt and to unfairly reduce of the severity of punishment as a result. A special topic is such form of punishment as the death penalty, the moral and legal aspects of which are often discussed.

A number of collisions in the relationship between law and morality are arising during the regulation of transplantation of human organs and tissues, the operations of artificial fertilization and implantation, the implementation of operations and other medical treatments[4].

In the area of civil-law controversies the special category of violations of the moral and legal requirements may contain not so much the breaches of contractual liabilities, but the liabilities of the offenses connected with trespass. This is especially relevant for cases of malicious slander, illegal invasion into privacy or release of dangerous to the health or low-quality products. Breach of contractual liabilities and the harm caused by this can, in some cases, develop through the border of the areas of the private law and grow to the limits of public law violations. Thus, they can become the subject of mixed morally-legal assessment, that become the revealing subject of such variants of permitted and forbidden in which morally forbidden ones may be represented [5]. On the broader socially-legal positions all contractual obligations are penetrated with some moral constraint (the force of moral coherence of the assumed obligation when "the contract is the law for two"). The strength of moral coherence in such cases contributes to caring for

removing the social and private benefits and may, in some cases, exceed its last undisputed paramount importance in the perception of direct participants of the arrangement.

In constitutional law the greatest relevance in terms of the relations between law and morality got the problems associated with the guarantees of some group interests (the so-called constitutional rights of minorities), as well as clarification of the limits of the private sphere that should be protected from the invasion [6]. For example, should it be considered as invasion into private life if the screening of the film on the obscene (morally) content is held in hours traditionally framed for the children's and youth programs.

All this clearly shows that legislative and enforcement activities will only be effective when they are paired with moral regulation, taking into account the moral principles and values of the society. Or the law in general and specific enforcement decisions will not be understood by the society or perceived as unfair and as a result will be the main reason for legal nihilism.

In addition, the activities of the lawyer have specific features that place high demands on his business and moral qualities. V.V. Grib notes, that knowledge of social norms, strong immunity to legal nihilism and antimoral norms, education, that excludes motives of personal partiality, spiritual deafness, subjectivism, abuse of power, morally stable human – these are the main qualities in the character of the lawyer [7]. Besides, the intellectual qualities (the developed logical thinking, good memory), characterological (dedication, honor, conscience, responsibility, integrity, moral courage, fairness), communication skills (sociability, sensitivity, balance) and also features of self-esteem (self-criticism, a sense of dignity) are marked.

Features of the professional activities of the lawyer have their manifestations in the activities of individual representatives of law enforcement officers and agencies. In this sense, the concepts of "judicial ethics", "legal ethics", "ethics of police officers" and so on are applied.

In our opinion, the professionally important qualities (PIQ) of a lawyer is a special group of qualities that reveal a person's ability to follow the rules of professional ethics and human morality. Speaking about the formation of personality of the lawyer, it must be started from the generally accepted in the theoretical and legal science thesis about the moral conditionality of the law. Ethical issues are an integral part of the law and they have to become an integral part of the training of the lawyers. Right is a way to ensure social justice and also one of the basic principles of law. Correspondingly, a lawyer, no

matter how pathetically it sounds, should be a fighter for social justice. At the same time a lawyer must act by adhering to a system of pure legal means and on the basis of the presumption of social justice of the law (at least, as long as it is proved otherwise). A large part of the negative realities of modern life, including the deformation of social legal awareness, in our opinion are caused by the image of a lawyer (especially of representatives of law enforcement agencies) that exists in the brains of today's Russian people. Indifference, formalism, bureaucracy, frank careerism, cynicism, moral liability, self-serving duplicity and hypocrisy - this are unfortunately typical features of an average representative of law enforcement faced by the average man. And that is the worst, in the absence of strong moral principles and outside the compliance with universal human morality, a lawyer can be a brilliant "specialist", showing a solid set of well-developed professional skills and individual professionally important qualities, there may be presented the professional knowledge, skills and abilities (for example, deep knowledge of the law, an ability to write legal documents, perfect public speaking skills), developed intelligence, excellent communication skills (the sense of charm, eloquence and ability to provide psychological effect on people), motivation to succeed and self-confidence, healthy ambitions (or unhealthy yet?) and expressed particular abilities (such as investigative, detective and other) and much more. Such a person we will certainly appreciate as a person with a high level of professional suitability and characterize this person as a very good professional. In doing so, we absolutely don't mind the moral side of the personality of the person. He can still be that professional but without any moral sense, respect to people whose rights he should protect and so on. In fact, all the foregoing qualities can be implemented on the basis of respect for the law and legal values, but they can be implemented also without it. Moreover, the entire brilliantly stated set can be very successfully used in order to evade the law, to the personal benefit at the expense of the legally protected interests, with neutrally indifferent or even nihilistic attitude to legal values. And the most interesting is that the goal - anti-social or even criminal - in this case, most probably, will be achieved at the expense of perfectly formed particular professionally important qualities of the lawyer.

So, a significant part of professionally important qualities are ethically neutral. And without a strong moral basis, they can be turned into a service to the law, as well as in violation of it.

The generated moral basis and a strong value system of the lawyer make him a real person and as a result a real completed professional. We mean that moral core generates personal maturity, at which the person is not just a well-designed and well-functioning mechanism to achieve certain goals, like an animal with highly trained reflexes. He becomes exactly a person, who is able to do, perhaps, the most difficult thing in life – actually, the human choice, the choice between good and evil, ethical, moral choice. From this very moral maturity arises an ability to take responsibility for the decisions taken and courage in the very fact of such decisions and developed sense of justice as an integral personal quality. And do not we expect this from the professional lawyer?

CONCLUSION

This all proves, in our opinion, the importance of moral and ethical component of professionally important qualities of the lawyer and draws attention to the existence of an adequate sense of law and morality that every real lawyer should have as his main professional quality. Thus, to our mind, it is necessary to supply the list of PVQ of the lawyer by distinct group - the ethical (moral) qualities.

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