Legal Culture of Modern Society: General Philosophical and 
Anthropological Analysis of the Category

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Abstract: This article is talking about the phenomenon of legal culture. The meaning of this category in legal science is still quite uncertain. The author is analyzing the main approaches to this notion and finally suggests that it should be analyzed from the point of philosophical-anthropological approach. To his mind it offers a great opportunity to connect cultural phenomenon and results of rational human activities in law sphere and to define legal culture as a sum of spiritual and legal values, using values (axiological) parameters to consider the relation between law and culture, considering rational (climatic, demographic and economic factors) and spiritual (traditions, features of the social regulation of the particular society) components. And finally to save the main idea - base cultural dominant of the particular society (philosophical component) and at the same time to take into consideration the objective components of social development and to form a unique valuable criteria for every ethnic group on their base.

Key words: Legal culture · Valuable criteria · Values · General culture · Philosophical-anthropological approach.

INTRODUCTION

The notion «legal culture» is rather discussable in legal science. However, in spite of active use in educational and scientific literature, there is no clear understanding of this phenomenon in legal science. The meaning of this category is still quite uncertain. But it is difficult to overestimate the importance of the phenomenon of legal culture. Well-known American scientist L. Friedman believes that legal culture is something that in fact is driving the whole legal process. «We are constantly talking about legal culture, almost without knowing anything about it. It is a barometer of public life, which is at the same time a special social force that determines how often a particular law applies or is broken in practice, how it is avoided or abused. The legal system without legal culture is not valid» [1].

First, it is reasonable to define the volume of the investigated category that is also often argued about. For example, Belgian lawyer, a representative of the communicative direction, Mark Van Hook, defines legal culture as «culture of lawyers as a professional group».

«When we are talking about legal culture - says professor Van Hook, - we usually imagine traditions, values and habits that exist in professional legal environment or among lawyers in general (internal legal culture)»[2]. Applied to the society in general, he uses the term «external legal culture».

In Russian legal science, such an approach is not an ordinary one. In Russian jurisprudence legal culture of the society and legal culture of a person were traditionally marked (sometimes legal culture of a group was segregated). Moreover, a large group of researches on the legal culture are characterizing legal culture of the society. The fact a category that Professor Van Hook calls an internal legal culture in the Russian legal science is supposed to be professional legal culture and is identified just as a type of legal culture of a group.

Staying in the tradition of the native science and taking into consideration the purposes of this research, it seems perspective to stay on the "wide" understanding of the phenomenon of legal culture that characterizes the legal culture as a characteristic of the society in general. "Narrow" understanding of the notion legal culture (just
as the culture of legal professionals) seems to be unproductive in cognitive and applied viewpoints, because primacy of the whole in front of the individual is an indisputable fact in our case.

RESULTS AND DISCUSSION

For a long time in Russian juridical science legal culture was considered as a term, that depends on ideology and economic superstructure. The retirement from clear installations, which were in the Soviet jurisprudence, the attempt of natural (axiological) understanding of this phenomenon led to the appearance of many alternative variants of the legal culture’s understanding.

It is possible to divide all approaches that are available at the present stage in the native and foreign science to the culture in general and to the legal culture in particular to the three main groups: anthropological, sociological and philosophical.

In the most common view the anthropological analysis defines culture as the set of all goods created by the human, in contrast of natural ones. Sociological - as a sum of spiritual values. Philosophical - understands legal culture as an analytical phenomenon, which is not directly connected with the development of society, it is a so-called veritable idea, which is pushing the borders of the human’s vital activities and allows him to achieve a certain maximum and to approach to the ideal - culture.

These three directions of differentiation can define some dominant conceptions of legal culture understanding in native juridical science, the most significant of which will be researched in details in this article.

For example, the legal culture from an anthropological point of view is a specific way of human existence in the area of law, specific method of social control which was created by human and which is focused on the impact on the behavior of individuals with an aim to achieve order and stability in the society. Humans’ behavior creates a law standard and it exists until a new form of the behavior in the same situation will be approved by the whole society. The main attention is paid to all types of legal activities, which can be understood in science as labor, management, state and authoritative activities of the competent authorities in the area of law, aimed at the fulfillment of public tasks and functions (creation of laws, justice, concretization of law, etc.) and satisfaction of public, group and individual needs and interests. One of the brightest representatives of the anthropological approach, N.L. Granat defines legal culture as a kind of creative activity: “it is not only the result but also the way of activity and in this case the spiritual legal culture is understood as a way of thinking, norms and standards of behavior and we are talking about a human it is usually expressed in his mentality”[3].

It should be noted that in spite of the unquestionable value and the progressiveness of this approach, it is in a bit one-sided, because it is rather impermanent. Its supporters cannot answer simple questions about how to concretize a certain abstract individual, who realizes the legal activity and who is subject-carrier of legal culture in this type of analysis.

Sociological direction, that is analyzing law at two levels - as a characteristic of legal evolution of the society at a certain stage and as a qualitative characteristics of the perception of law and legal behavior of the individual - is very important for modern legal science, as it allows us to take into consideration the socio-cultural conditionality of the law. The main emphases of this approach are the concept of value, the search for the social patterns, the dependence of the individuals’ legal culture from the legal culture of the society in general.

A well-known Soviet and Russian lawyer, S.S. Alekseev, can be regarded as one of the pioneers of the sociological approach. He defined legal culture as a “legal wealth” of the society. It should be noted that representatives of this approach are sincerely sure that if the level of legal culture increased it would raise the level of culture in general. So, S.S. Alekseev offered to state that our country is democratic, that there is high level of organization of rights and duties, the strict order and responsibility, the warranty of rights and freedoms of the individual and so on, assuming that the simulated movement in this direction would cause a real qualitative leap of the legal and, finally, cultural life of the society [4].

Evaluative (axiological) approach is very important for science in general, as it says that legal culture includes everything that is good for the particular society. As N.N. Voplenko rightly pointed on the fact that, from a certain point of view, legal culture of the society is the process and the result of human creations in the area of law[5]. Looking forward, we should mention that in spite of all good features of this approach, it usually leaves a question of what is supposed to be a legal value, legal good. Value criterion is not formulated by its follows, or formulated too indefinably.
G.I. Baluk defines legal culture as "a sum of all values that have been created by people in the area of law [6]," V.P. Sal’nikov - as a phenomenon, that "combines all the progressive values, created by people in the area of law [7]." It is easy to notice the same things in the quotes- there is an indication of value in all of them, but there is nodefinition of this notion.

The question about understanding of the value belongs to the category of the interdisciplinary ones. The easiest variant is to understand the value as a banal culture, but understand the unique cultural base dominant of the Russian society and accept it as a basis for the subsequent analysis of legal culture.

So, valuable orientations determine the behavior of a human and compose the force of personal pursuit for a goal, his motivated choice of actions, according to the ideals and personally meaningful aims[8]. Actually, an individual is unable to create a unique system of values only for himself. It will be based on so-called "ancestors’ memory". Consequently, the system of valuable orientations of a particular person will finally be a combination of universally significant values. So, we come to the necessary reflection through this definition-a human will implement his act of behavior, including legal type of it according to the values shared by him. As a result, the definition of legal culture as a set of legal valuable orientations comes from the plane of clear theoretical into the one that is directly regulating legal behavior, as K.V. Aranovskiy noticed... to build his behavior, a person needs an aim-an aim is attracting him. So, valuable orientations play the role of an aim in this case.

We allow ourselves to agree with the author, but with one important clause - it is necessary to clearly define the criteria for determining the values of the particular society. Otherwise we risk to include in the definition of anti-culture some things which actually have an important positive value for the particular society. We offer to move away from Western European standards of determining the legal value if we are speaking about Russia for example and to analyze this phenomenon from the perspective of the unique culture of the particular nation. For example, legal nihilism of the Russian society, that is being widely criticized in last 20 years, in our opinion is nothing more than an individual Russian rejection of Western European valuable legal standards. And we must not fight with legal nihilism as a component of anti-culture, but understand the unique cultural base dominant of the Russian society and accept it as a basis for the entire system of legal values. This confirms the well-known Russian jurist A.V. Polyakov, who characterizes the Russian legal nihilism with these words: "Actually, the Russian legal reality gives enough reasons to see in it sometimes the disrespect of the law. But, strictly speaking, this testifies not about legal nihilism (the negation of the valuable meaning of the law), but about a kind of "instrumental" approach to it, i.e. about understanding it as a one of the many instrumentsto achieve a purpose, a set of which varies depending on the particular life circumstances. Therefore, even so the Russian public sense of justice is substantially different from the western one, it would be wrong to characterize it as a purely nihilistic."[10].

CONCLUSION

To our mind, the philosophical-anthropological approach can put all this diversity in the right order because it suggests to explore legal culture as a combination of cultural phenomenon and results of rational human activities in law sphere. However, social life in all of its manifestations cannot be investigated from the viewpoint of purely rational considerations, as well as with using only the technical methods. The philosophical-anthropological approach, that we offer, allows us to connect these areas and to define legal culture as a sum of spiritual and legal values, using values (axiological) parameters to consider the relation between law and culture, considering rational (climatic, demographic and economic factors) and spiritual (traditions, features of the social regulation of the particular society) components. So, the proposed methodology allows us to save the main idea - base cultural dominant of the particular society (philosophical component) and at the same time to take into consideration the objective components of social development and to form a unique valuable criteria for every ethnic group on their base.
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