The functions of legal awareness of children and young people

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***Abstract*:** *This article investigates the justice of children and youth nowadays, the designation its structure and functions. The author analyzes from the constructive approach: the existing interpretation of the term "justice functions", the types of functions and their level hierarchy. Describing the normative sense of children and young people justice, the author identifies its psychological basis and effective conditions for formation society legal culture. The article gives the author's approach to the understanding the structural components of the children and youth legal consciousness. Logical-normative, emotional- imaginative and fundamentally strong-willed blocks of justice are stressed. Opposite to the descriptive approach to the understanding justice, traditionally existed in the jurisprudence , the author proves, that a constructive approach to the formation justice lets measured, evaluated and used practically quantitative and qualitative characteristics and data of justice, which lets influence the management processes above justice, and, it means, raise its level in prevention social crime.*

***Keywords*:** *legal awareness; function; justice; normativity; youth; students; school*;

Introduction

The topic of the children and youth legal consciousness is very important due to the need to increase the level of legal culture in different states societies. Legal awareness is an integral part of the legal culture, and therefore an important element in determination the quality and legal culture level.

Science has had traditional descriptive approach to understanding the legal consciousness of the younger generation till nowadays, which did not allow measuring the quality of its performance.

The author's isolation of the other structure of justice and the legal consciousness functions, related to its blocks allows to develop and implement a set of measures in the state, which let increase significantly the level of legal awareness and legal culture of children and young people, those whom belongs the future.

Functions play an important role in the understanding of the legal consciousness in this population category. As it is correctly noted in the literature, "*justice would have lost all significance without the functions*" [1].

1. Functions and Structure of justice

Functions and structure are forming a pair, constituting the interrelated points of legal awareness of young people in general and individually. The structure as the way of organization, as relatively stable inner relations of legal ideas, opinions, assessments and guidelines of the whole system of legal awareness, on the one hand, and the functions as outer relations of manifestation of legal awareness of pupils in society, on the other hand, stipulate each other. The forming structure of legal awareness of young people predetermines the place of the element in the whole system of legal awareness and stipulates its functions. At the same time the influence of the function on the structure in the course of their interrelation is of defining character within the development of the system of legal awareness of

young people. The function is appeared to change incommensurably faster, than its structure, which is more conservative [2]. Changes of the functions entail changes of the structure through overcoming contradictions between new functions and the old structure.

The pair feature of functions and structure of legal awareness is not only of ontological, but also of gnosiological significance, because without studying the functions of legal awareness, there is no other way to penetrate the structure. In general, as it is emphasized in literature, "*the term of the function that is applied to system events is better to employ regarding its relevant elements and not the whole system*" [3]. This observation is particularly important, in my opinion, in reference to group legal awareness which legal awareness of young people belongs to. One and the same element, for instance, cognitive, can simultaneously be part of two or more systems. This explains the value of investigating the function of legal awareness of young people.

It should be borne in mind, however, that the issue of functions of legal awareness of young people is a not enough developed part of the theory of legal awareness. The scientists that are concerned with the issue usually limit themselves to an enumeration or a brief description of the functions of legal awareness in general. The subject of functions of legal awareness remains to be controversial in general and in particular regarding the young people. There is no unity in the definition of criteria and classifications of the functions of legal awareness, which, in its turn, causes a significant disparity in the notion as well as in the number of the functions, which are defined by different authors [4]. Obviously, this has a negative effect on the development of issues concerning the legal awareness. In the meanwhile, the functional aspect of the study is of particular importance in connection with the implementation of exact methods into the research of legal awareness, including mathematical methods [5].

2. The term "function" in the scientific literature

In the scientific literature, the term "function" is used in different ways, including the ability to act and the action itself, role, feature, value, competence, task dependence of one quantity on another and so on. Mr. Afanasyev, for example, treats the function as "*the form, the method of activity of the system and its components*" [6]. Without going into details, we should note that in the legal literature, the function of legal awareness is considered its property, feature, if used to achieve a certain goal. We agree with K. T. Belsky on the point that "*the functions of legal awareness serve as certain areas and ways of fulfilling its social role and mission, its inherent ways of influencing public relations*".

Functioning of legal awareness of the school youth, as well as of society, is closely associated with certain objectives. The fact that the objectives of socio - demographic groups in society have an objective character due to the social division of labor, sex and age criteria does not mean the negation of conscious objectives that pupils set in their behavior.

Taking into account the present challenges, the scientists concerned with legal awareness speak in favour of its various functions. Thus, E. A. Lukasheva singles out the following *features of legal awareness: gnosiological, predictive, regulatory and the function of legal modeling [7]. V. A. Shchegortsov defines the cognitive, ideological and normative-predictive functions, as well as the function of regulation and modeling* [8]. K. T. Belsky considers *the basic functions of legal awareness to be reflective-cognitive, informational, evaluative, regulatory, educational and predictive* [9]. N. A. Bura *points out legal, regulatory and educational functions, as well as the functions of developing legal science and forming awareness* [10]. I believe that each of these classifications has the right to exist and, moreover, to be the subject of a scientific discussion.

However, it must be noted that significant differences in the name and description of the functions result from the differences in the features used for the classification. Taking no notice of all emerging problems in this regard, I note that the contradictions can be resolved to some extent by

establishing certain criteria for the classification of functions of social legal awareness and legal awareness of pupils at the formative stage. In my opinion, we should pay attention to the point that the functional aspect of social awareness helps to determine the results of changes of public awareness in the process of historical development of society and is characterized by two sides: internal and external.

3. The hierarchy of the justice functions

There is a hierarchy of functions in the system of legal awareness of youngsters according to their level. Each function of the corresponding level corresponds to the structural elements of legal awareness of the youth. The functions of different levels are closely interrelated. Each function is part of a more general function. In the course of the development each newly formed function serves for another, more general, more significant, which, in its turn, serves for another one, even more general, etc. till the primary function, which in our case is a *regulatory function*.

In contrast, the regulatory function is concretized, respectively: by the *teleological, transitional and praxeological functions*.

The next level is associated with functional elements characteristic of the different spheres of legal awareness of the youth. Thus, the teleological function can be differentiated into *cognitive, evaluative, behavioral*, which correspond to *logical-normative, emotional-figurative and principle-volitional* components in the structure of legal awareness of the youth. In the end, this makes it possible to measure them quantitatively, to determine their effectiveness.

The leading character of the regulatory function of legal awareness of pupils is determined by the properties of consciousness not only to reflect reality, but also to orient the behavior, the educational activities. Thus, the regulatory role of legal awareness of pupils manifests itself in the orientation of behavior. On this basis, students regulate and coordinate their behavior connected with the implementation of specific rights, including the right to education, give it a purposeful character, can predict the subsequent results. On the basis of the regulatory function of legal awareness of students are able to decide on the legal situation, to exercise a legal activity.

The legal awareness of pupils in the "hidden form" participates in the formation of social norms, especially legal, by making legal judgments about the values that under appropriate conditions can be transformed into the norm. For example, increased juvenile delinquency, which results from youngsters' negative attitude to law, is a signal for a lawmaker to take certain measures to reduce it. Thus, the legal awareness of pupils is indirectly involved in the creation of the value-normative system, which helps in regulating the behavior of members of society, the appropriate social control. An important part of this system is law.

4. Normative nature of justice

The question of normativity of legal awareness is of fundamental importance for understanding the content of the regulatory function of school youth legal awareness. The legal literature traditionally denies the normative character of legal awareness. This lays the basis of distinguishing legal awareness from other forms of social awareness, as well as of law itself. The denial of a normative nature of legal awareness is also a justification of lawyers' disagreement with the widely held proposition among philosophers of identifying law with other types of social awareness.

For the first time in the legal literature the proposition on the normative nature of legal awareness was expressed by I. E. Farber, who included this feature into its definition. Later this proposition was supported and developed by other authors. At the same time, critical comments were expressed on this point.

The denial of the normative character of legal awareness of pupils is not convincing enough as well as the attempts to justify the normativity of law by the deletion of this quality from legal awareness.

In contrast, the normativity of law, even in its traditional sense, could be justified by the normativity of legal awareness and result from it. The norms of law, in my opinion, have a normative character not because it is inherent, but because, being an expression of legal awareness, even though specific, they borrow the normative character, giving it a much greater force and clarity expression.

The normativity of legal awareness is an expression of general properties inherent in the public awareness. It is the normativity of public awareness that explains the normativity of moral as well as of legal and political awareness. Rules of law can be considered to be rules only in connection with the fact that legal ideas and views, as set out in legislation and other legal acts, retain their normative character. This possibility becomes especially apparent when one considers the fact that legal awareness is in need of legal regulation in terms of rights and responsibilities.

What is the nature of the normative nature of legal awareness and how is it explained? In my opinion, such explanations are not always quite convincing. Thus, under the normativity of legal awareness we understand a person's awareness of his or her legal rights that corresponds to others' legal responsibilities, which represents the norm of a person's behavior, whose actions are limited through certain legal conditions. It should be also emphasized that the concept of normativity appears in legal awareness regardless of whether a person's duties are fixed in the formal legal rules of rights. Of course, this explanation draws criticism, since normativity seems to be a special property, rooted in awareness. Meanwhile, from the methodological perspective it is important to emphasize that the normativity of legal awareness is largely the result of reflection of the legitimacy, existing in the very social relations manifested in actual behavior of people. Finally, normativity is a universal feature of social life.

The reflection of the normative standards of behavior by legal awareness is typical not only for the period of emergence of law as a social phenomenon, but also for all stages of development of society, including contemporary society. This process is particularly evident in all areas of public relations, resulting from scientific and technical progress and demanding legal mediation due to their significance.

From stated above it does not mean that legal awareness is reduced to a simple copy of how people actually behave in practice, although it reflects people's practical behavior. In contrast, only the knowledge of laws of normative social relations can express needs in terms of rights and responsibilities, as well as evaluate the behavior of people in terms of its compliance with law.

The normativity of legal awareness in general and that of pupils in particular has its psychological basis. In my view, it may be the legal stance of an individual. In science, including criminology, an installation is considered the state of an individual characterized by its willingness to certain activities. Two conditions are required for this state: *a person's actual need and the situation of its fulfillment*. It is easy to notice some common elements between the emergence mechanism and the implementation of systems and the structure of legal norms. First of all, both the legal setting and implementation of legal regulations are related to specific needs of an individual. In addition, the situation of meeting individual needs can be stipulated by the hypothesis of a legal norm. And finally, the implementation of the legal setting can be considered as a disposition of the legal norm. As for the legal setting, it can be accepted as an essential element of normativity of legal awareness. This property of normative setting may be even deeper revealed in the light of the third factor set, its fixation achieved through multiple repetition of experience or of great personal value of experience. Both conditions are typical for legal behavior of young people in school. As the result of strong fixation of the setting "*it will be always represented in the mind as some certain content that arises on the basis of this setting. If the latest is actualized again, we will notice that the same content arises in the mind*" [11]. The recognition of the normative ideas of law and justice, equality of others' rights and obligations does not give reasons for their identification with the norms of law. Among these are only those normative ideas, which are recognized and expressed by the

state, provided through its support and protection up to application of constraint. One could even state that law to a certain extent is a normativity of legal awareness which has found public recognition and acknowledgment. The contradictions between them are the evidence of need for purposeful work related to the change in people's lives, bringing legislation into line with the needs of social development, which is already reflected in legal awareness. Another possible alternative involves improving the legal culture of that part of population that is not yet aware of the need for urgent legal transformations or does not understand them fully.

The recognition of the normative character of legal awareness of pupils presupposes an answer to the question of its regulatory significance, of the impact on behavior. Authors who deny the normative character of legal awareness, however, are forced to recognize its importance for regulating behavior. Obviously, - as I. F. Ryabko stated, - "*ideological and psychological forms of legal awareness significantly affect the behavior of people; but it is not advisable to put a sign of identity between this influence and the controlling force of legal rules, since it wittingly or unwittingly entails justification of law violation from the perspective of an individual's mental personality*" [12]. Of course, the legal regulation is of great importance. But this recognition does not remove the problem of the influence mechanism of different forms of legal awareness (ideological and psychological) on people's behavior. The idea of a normative nature of legal awareness contributes to certain progress in the study of this problem. Therefore, it is difficult not to agree with E. A. Lukasheva, who notes that the influence of some form of awareness, i.e. the influence on people's behavior, is a form of regulation of their social activities [13].

Conclusions

To sum it up, the legal awareness of young people in school should be viewed from the perspective of the constructive rather than descriptive approach. This makes it possible to build a solid view of the status of the structural elements of justice on the basis of the results of sociological investigations, to reveal its drawbacks and, what is more important, to prevent from their occurrence and development.

There is a clear differentiation of logical-normative, emotional-figurative and practical-volitional components in the structure of legal awareness of pupils. They form the scope of orientation of an individual. In addition to it, we should highlight the sphere of motives and experience.

The legal awareness of pupils exercises several functions, whereby the regulatory function is considered the most important, defining their behavior. As I have stated, the regulatory function can not be separated from teleological, praxeological or transition functions, in which it is specified. The teleological function, i.e. purposeful, is associated with setting goals of individual behavior. The transition function provides a motion for individual behavior (it is determined by the motives of students). The praxeological function (associated with action, legal expertise, not just behavior) is expressed in practical attitude of the under-aged to the legal reality.

I should note that the important role for pupils is the function of goal-setting (teleological), which corresponds to the orientation of legal awareness of pupils. The following sub-functions can be identified in its framework: cognitive, behavioral and evaluative functions, which correspond to the following sets: logic-normative, emotional-figurative and practical-volitional.

The cognitive function is the result of the reflection of real life in the legal awareness of a student in the course of his or her educational process. The legal awareness of a student creates a certain picture of legal reality in his or her mind. In the course of studying students learn about legal phenomena, trying to understand what is forbidden and what is encouraged by law, what his or her rights and duties are. The

transition function of legal awareness corresponds to the scope of motives, whereas the praxeological function forms the sphere of experience in legal awareness.

The constructive approach to legal awareness of young people can be regarded as a combination of quantitative and qualitative assessments of orientation areas, experience and motivation of legal awareness, coupled with the characteristics of behavior in the field of law. This approach, in contrast to the descriptive one, allows formulating and meeting the challenge of measurement, evaluation and application of quantitative and qualitative characteristics and indicators of legal awareness.

Building on the results of the study on generalized mathematical models results not in a narrow, but in a solid conception of legal awareness of young people.

References

[1] K. T. Belsky, Forming and developing the socialistic legal awareness, M., 1982;
[2] E. V. Nazarenko, Socialistic legal awareness and socialistic lawmaking, Teză de doctorat, (Drept), Kiev, 1970; L. P. Bueva, Social environment and personal awareness, M., 1968; N. Y. Sokolov, Professional awareness of lawyers, M., 1988; N. Y. Sokolov, V. A. Levansky, Experience of practical sociological research of legal awareness and legal culture, Leks, Rusika, 2005, №1;
[3] N. A. Bura, Functions of public legal awareness, Kiev, 1986; A. R. Ratinov, The structure of legal awareness and methods of its investigation. // Methodology and methods of social psychology, M., 1977; N. Y. Sokolov, Professional awareness of lawyers, M., 1988;
[4] I. E. Farber, Legal awareness as the form of social awareness, M., 1963; V. A. Chefranov, Legal awareness as variety of social reflection, Kiev, 1976; T. N. Radko, The notion and types of functions of socialistic law. Incl. in the book: The issues of theory of state and law, Saratov, 1971; I. F. Pokrovsky, Forming personal legal awareness: Absract. D. Sc. L., 1961; V. A. Shchegortsov, Legal awareness as an object of socialistic investigation, M., 1976; N. A. Bura, Functions of public legal awareness, Kiev, 1986;
[5] V. A. Levansky, Modeling in the social-legal investigations, M., 1986;
[6] V. G. Afanasyev, Systemacy and society, M., 1980, p. 131;
[7] E. A. Lukasheva, Socialistic legal awareness and legitimacy, M., 1973, p. 105-106;
[8] V. A. Shchegortsov, Sociology of legal awareness, M., 1981, p. 31-34;
[9] K. T. Belsky, Structure and functions of legal awareness, M., 1996;
[10] N. A. Bura, Functions of public legal awareness, M., 1980;
[11] N. Y. Sokolov, Professional awareness of lawyers, M., 1988;
[12] I. F. Ryabko, Legal awareness and public legal education, Rostov-na-Donu: Rostov University Publishing House, 1969, p. 65;
[13] E. A. Lukasheva, Socialistic legal awareness and legitimacy, M., 1973, p. 65;
[14] Pevtsova E. A., Theoretical and legal framework to overcome the legal nihilism and the formation of the legal culture of children and young people, M., 2012;