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TÍTULO: La conciencia jurídica como factor en la formación del estado de derecho.

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RESUMEN. El artículo analiza los temas de la conciencia jurídica en el estado ruso moderno y su desarrollo en el contexto de la formación del estado de derecho. Los autores analizan el nivel de conciencia jurídica en la sociedad rusa moderna, determinan su estructura, identifican problemas problemáticos para aumentar su nivel, caracterizan el nihilismo legal y sugieren formas de superarlo. Los autores examinan diversas opiniones en la literatura científica rusa y extranjera con respecto a los principios del estado de derecho, sus relaciones con la conciencia jurídica y la cultura jurídica de la sociedad rusa.

PALABRAS CLAVES: Estado de derecho, justicia, ideología jurídica, psicología jurídica, nihilismo jurídico.

TITLE: Legal consciousness as a factor in the formation of the rule of law.

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ABSTRACT: The article discusses the issues of legal awareness in the modern Russian state and its development in the context of the formation of the rule of law. The authors analyze the level of legal awareness in modern Russian society, determine its structure, identify problematic issues of increasing its level, characterize legal nihilism, and suggest ways to overcome it. The authors examine various views in the Russian and foreign scientific literature regarding the principles of the rule of law, its relations with the legal consciousness and legal culture of Russian society.

KEY WORDS: rule of law, justice, legal ideology, legal psychology, legal nihilism.

INTRODUCTION.

The processes of modernization, which have been actively developing recently in the public life of Russia, are taking place, as is known, in difficult and sometimes even in extreme conditions. They demand from Russian citizens of various age and other categories not only legal knowledge, a solid civic position, but also a rather high level of moral, legal culture and legal awareness.

In the process of formation of the rule of law, legal consciousness reflects legal reality in the form of legal knowledge and evaluative relations to the law and practice of its implementation [Komarov S.A. (2019), p. 411-412].

We note that public justice in the modern Russian state does not correspond to the essence of the rule of law, in which its activities are subordinated to the rule of law aimed at protecting dignity, freedom and human rights.

It is necessary to dwell on the study of the concepts of “legal consciousness” and “rule of law”, which are crucial in studying the problems of the topic of the article.

The authors examine the concepts of legal consciousness that exist in Russian legal science, draw attention to the fact that in modern Russia there is a rather high level of legal nihilism, characterized by an indifferent, indifferent attitude to law. To overcome it, it is necessary to change the qualitative characteristics of legal ideology and legal psychology that make up the structure of legal consciousness.

It is supposed in this work to study the theoretical aspects of legal awareness in the context of the formation of the rule of law.

DEVELOPMENT.

Research methodology.

Theoretical and methodological studies are presented in the works of foreign and Russian scientists on the development of legal awareness in the context of the rule of law. The work examined the current legislation.

In the process of knowing the content of the legal consciousness of other state-legal phenomena, based on the approach of S.A. Komarov, general scientific methods were used (formal-logical, sociological, systemic, structural-functional, concrete-historical, statistical, ascension from abstract to concrete, etc.); general logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.), and private scientific methods (comparative law, technical and legal analysis, concretization, interpretation, etc.) [Komarov S.A. (2019), p. 33].

Study results.

Updating the improvement of legal awareness is justified by the fact that large-scale political changes of the 90s of the last century not only had a negative impact on society, public morality, but also to a certain extent distorted the civic consciousness of a significant part of Russian citizens, violating their positive attitude to the state, law, and history, culture [Blankenburg E. (1997)].

This trend, unfortunately, continues to this day. This is facilitated by the general unfavorable state of the social environment in Russian society, the exorbitantly high level of property differentiation of the population, the alienation of people from general cultural and traditional values, and legal norms.

As the well-known teacher and philosopher N. V. Nalivaiko rightly notes, «the transitional state of Russian society to a new phase of its development leads to the fact that sociocultural meanings, stereotypes of activity undergo, if not a complete rethinking, then a new interpretation in the changed socio-economic and social -political conditions» [Nalivaiko N.V. (2008)].

In this regard, one of the most important tasks facing the Russian authorities and society today is the revival of legal values, the strengthening of their status in the public and individual consciousness.

The ideas of the rule of law are studied not only in the writings of thinkers of different historical eras (in the teachings of Aristotle, J. Locke, S. Montesquieu, E. Kant), but they are also analyzed in the works of modern researchers [13].

In the USSR, the ideas of the rule of law were alien to the dominant ideology. Only for the first time at the 19th All-Union Party Conference was the concept of building a socialist rule of law put forward. The Russian Federation became legal on June 12, 1990, when the Declaration on State Sovereignty of the RSFSR was adopted: "Russia is a democratic federal legal state" [2]. The rule of law is a state that in its activities is subject to the law, operates within the boundaries of the law, providing legal protection for citizens.

Article 1 of the Constitution of Russia proclaims that Russia is a rule of law [1]. In the scientific literature there are different views on the principles of the rule of law. However, they mainly come down to the rule of law, separation of powers, mutual responsibility of the state and the individual [Hertog Mark (2009)].

To implement the ideas and principles of the rule of law, a high level of legal awareness is required. The concept of "justice" is interpreted in the legal literature, based on the subjective approach of the authors. So, N. I. Matuzov, A. V. Malko define legal consciousness as a combination of views, ideas, ideas, as well as feelings, emotions, feelings expressing people's attitudes to existing or desired (permissible) law and other legal phenomena [Matuzov N. I., Malko A.V. (2014)].

N. N. Voplenko believes that the legal consciousness "This is not only the result of the reflection of the object, but also a means of influencing the object, the entire legal system of the state" [N. Voplenko (2000)].

V.V. Lazarev gives a more detailed definition: "This is a relatively independent sphere or field of public, group or individual consciousness (along with political, moral, aesthetic, etc.), reflecting legal reality in the form of legal knowledge and objectified assessments of existing law , as well as in the form of socio-legal attitudes and orientations, performing the role of an internal regulator of legally significant behavior" [V. Lazarev (2015)].

According to V.V. Safronov, legal consciousness is "one of the forms of social consciousness, presented in the aggregate of psychological, ideological and behavioral components expressing the attitude of individuals, social groups, society as a whole to the current or desired law, to the behavior of people in the field of legal regulation" [Safronov V.V. (2008)].

S.A. Komarov believes that "justice is a complex phenomenon, a set of ideas and feelings that express not only knowledge of law, but also attitude to it, respect for it as a social value, as well as assimilation of skills of legal positive behavior" [S. Komarov (2019), p. 410].

Legal consciousness is an objective enduring phenomenon. It is characteristic of the legal system, the political structure of society and the prospect of the development of the state depends on the level of everyday, professional and scientific legal consciousness [L. Fridman (1975)].

Legal consciousness fully reflects legal validity through legal knowledge and assessment of legal reality.

In modern Russia, a high level of legal nihilism can be traced, characterized by an indifferent, indifferent attitude to the role and significance of law.

To overcome this negative phenomenon, it is necessary to change the qualitative characteristics of legal ideology and legal psychology that make up the structure of legal consciousness.

The basis of legal ideology is knowledge of law, which provides a person with rights and obligations, handles prescriptions, permissions and prohibitions. In this regard, the words of the great Russian philosopher I. A. Ilyin are relevant: “The people need to know the laws of their country with dignity; it is part of the legal life. Law speaks the language of consciousness and refers to conscious beings; it affirms and denies, it formulates and demands - so that people know what is approved and what is rejected, and recognize the formulated demand)” [I. Ilyin (1994)].

If a person strives for legal knowledge, then he must understand their content and understand it as an objective need for the progressive development of the state and society.

This knowledge will significantly increase the level of perception of the legal realities of the Russian state in the process of realization of the rights and freedoms of the individual, separation of powers, political pluralism and judicial practice. Accordingly, this will be reflected in the legal ideology, which reflects the legal views, principles and requirements of society, various groups and segments of the population.

The ideological preparation of a person allows him to control experiences, emotions, feelings, etc., that is, what constitutes the content of legal psychology.

Legal psychology reflects the attitude of the individual to the level of knowledge of law, social norms, the implementation of which are in the habit, includes self-assessment of the legal state of the individual - criteria that allow you to evaluate behavior in accordance with the principles and norms of law.

In this regard, legal consciousness contains mental processes that manifest themselves in real legal behavior. The person must be aware of the content of the instructions addressed to her, to adequately respond and choose the necessary behavior. Ultimately, the recognition and non-recognition of law depends on legal psychology, and the latter, unfortunately, dominates the mass legal consciousness.

To overcome the low level of legal awareness of the population, not only legal education and upholding of respect for the law, but also other forms are required.

One of the forms is the organizational activity of the state. The rule of law should create conditions for the development of legal literacy and legal awareness of the population, and state bodies should provide the necessary information to the population on how to protect their rights and access to qualified legal assistance.

In 2011, the “Fundamentals of the state policy of the Russian Federation in the field of the development of legal literacy and legal awareness of citizens” were adopted in Russia, which contained the important provision that “The development of the rule of law, the formation of civil society and the strengthening of national harmony in Russia require a high legal culture, without which such basic values and principles of society as the rule of law, the priority of man, his inalienable rights and freedoms, and the provision of security cannot be fully realized protection of public interests” [9].

Legal culture is broader than legal awareness, since it includes not only ideological and psychological factors, but also legally significant behavior [Cotterrell R. (1997)].

In the Fundamentals, it was noted that the formation of the rule of law and civil society should be based on achieving a high level of legal culture and legal awareness, without which it is impossible to implement the principles of the rule of law.

The solution to this problem is played not only by strengthening the institutions of state power, improving the normative field and eliminating contradictions in the legislative body, but also by fully educating citizens, including legal [11]. It, as well as in general, humanitarian education, coupled with upbringing, fulfills the most important functional load and not only carries out the transfer of information about the law, and then, in practice, helps to ensure the full interaction of subjects of legal activity.

CONCLUSIONS.

The strengthening of the role of legal awareness as a factor in the formation of the rule of law is dictated by the lack of legal knowledge among the population, narrow awareness of citizens on the most important issues of Russian law, and lack of transparency in the activities of state authorities and local self-government.

To overcome legal nihilism and increase the level of legal awareness, it is necessary:

- Creating the necessary conditions in the field of guarantees of the rights and freedoms of man and citizen.
- Forming a sustainable perception and respect for laws in society.
- Developing a system of incentives that promote inculcation of law-abiding behavior in the population.

To achieve these goals, it is necessary to use the whole mechanism of the Russian state, including public associations, educational and scientific institutions.

Conflict of interest.

The authors confirm the absence of a conflict of interest.

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