

Contradiction between the Real Public Relations and the Existing System of Law in Terms of Legislative Policy

Mazurenko A¹ and Tsaturyan T^{2*}

¹Professor of Public Law Disciplines of the North-Caucasian Branch of the Moscow Humanities and Economics Institute, Russian Federation

²PhD, Assistant Professor of Theory and History of State and Law of the North-Caucasian Federal University, Russian Federation

Abstract

The paper is devoted to theoretical and applied problems of law-making policy in modern Russia. Reveals the object of research, its relevance, and the necessity of conceptualizing law-making policy as an important factor in modernizing the law-making. It is noted that the experience of leading countries suggests the impossibility of creating a viable legal system without the support of socially oriented and balanced law-making, based on optimization that is effective legislative creation policy.

Keywords: Law-making; Legislative policy; Conceptualization; Modernization; Efficiency

Introduction

Two decades of Russian reforms are accompanied by dramatic changes in the law. Virtually re-formed by all the main areas of legislation, a much higher level elevated the role of law as the principal means of regulating social relations. Its important role in the mechanism of state took the legislature. Legislating in the country is developing at an unprecedented pace. So, if 70 years of the Soviet Union was issued about 80 acts of the union legislation, but today only at the level of the federal parliament adopted 450 laws per year. But, despite these very positive changes, all the more clearly declare themselves the problems of Russian law-making, which urgently require modernization of its system, develop scientifically sound strategies and tactics in the named field, using new tools to address the numerous deficiencies making activity.

Expert's estimate that today one in every seven law contains serious errors. Typicality of lawmaking errors as unsystematic legal acts, their internal contradictions and unnecessary multiplicity, abundance in the legislation of declarative rules, are not equipped with mechanisms for implementation, as well as recurrence of similar mistakes over the years talk about their systemic nature. In addition, the lawmaker was not able to fully synchronize rovat federal, regional and municipal levels right creative process.

It is still not established a systematic, balanced approach to legal strategy and tactics do not become the norm mine if legal reform reliance on scientific analysis and prognosis, responsiveness to public opinion and qualified assessment of the likely consequences of decisions. Legislation in many respects does not manage to timely and adequately regulate already actually existing social relations of stimulate the development of new and necessary social relationships [1]. Too underestimated the value of the planning elements in lawmaking.

All of this suggests is still low as a law-making work, it lags far behind the economic, social, political and other needs of society, the large number of lawmaking mistakes and other errors in the legal regulation. Cope with the aforementioned problems with disposable, episodic action impossible. Requires a systemic response - legislative creation policy, which differs just a systemic nature, joining a number of tools lawmaking process in an interrelated mechanism.

Legislative creation of policy is a way to improve and update the law-making, improving its effectiveness. This type of policy is required

for forming opaque contradictory, and internally unified, coherent, consistent lawmaking process to make it systematic and legal certainty. In this context, there is an obvious need for a study of features, identifying the nature and development of the conceptual foundations of law-making policy as an important factor in modernizing the law-making in the Russian Federation.

Questions of legislative policy raised at the beginning of XIX century in the writings of the founder of legal positivism Austin. However, further legislative creation (legislative) policy has not been studied separately and in fact identified with the politics of law.

One of the first to the study of modern law-making policy turned Polenina. Followed by the individual aspects of the problem highlighted in the work of scholars such as Arzamas, Gdalevich, Goloskokov, Revelers, Davydov, Didikin, Zatonky, Zolotukhin, Ivannikov, Isakov, Kostenko, Lavrik, Malko, Mordovtsev, Ovchinnikov, Petrov, Rybakov, Jets, Subochev, Sumenkov, Selivanov, Trofimov, Shepelev, Shuvalov, Yatsenko et al.

At the same time on this subject is still suffering from a distinct lack of monographic studies. Preferential attention of Russian scientists in recent years has focused on analysis of individual problems of lawmaking, legislative technique, the genesis of Russian parliamentarism, etc. Questions directly to the law-making policy, mainly considered in the context of the research problems of modern Russian legal policies. The results of these studies have identified a number of discussion points, and sometimes just new, untapped facets of this complex phenomenon of political and legal reality. In the context of events in the country and the world changes, further in-depth analysis of demand questions about the nature and purpose of law-making policy, its social and moral principles, the impact on the processes of humanization of law, strengthening the rule of law, the

***Corresponding author:** Tsaturyan T, Assistant Professor of Theory and History of State and Law of the North-Caucasian Federal University, Russian Federation, Russia, Tel: 74992375540; E-mail: diannanotary@yahoo.com

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rights and lawful interests of individuals, building a democratic state of law and etc.

Formulation of the Problem

As a result, held in Russia over the past years did not fully effective law-making policy Gather elk contradiction between the real public relations and mi existing system of law to govern these relationships. This contradiction constitutes an important social problem that requires a scientific understanding and practical solutions.

Based on the foregoing, the purpose of this study is to examine the problems pravoobrazovaniya in Russia and propose a mechanism for law-making policy analysis capacity of its impact on development and modernization of lawmaking. Specifics of the study, as well as stated above objective, predetermined the need to use different methods of learning. His total was the ideological basis of dialectical-materialist approach to explaining the phenomena and processes of political and legal reality. First of all, we should highlight elements of this method as the application of universal principles of scientific knowledge: the objectivity and comprehensiveness, the concrete-historical approach and completeness of the study. In addition to the work used, and other scientific and special techniques such as analysis and synthesis, induction and deduction, systematic and structural approach, formal logic, specifically, sociological, statistical and other methods.

Results

For the modern Russian state is vitally important need is for comprehensive modernization of all spheres of his life, including law-making. It should be recognized that the problems of the last has always been and remain a subject of close attention of scientists, politicians, representatives of government, business and ordinary citizens. This circumstance is due to the need to constantly improve various forms of state guidance of society, an important part of which supports law-making.

Currently, we are witnessing the intense pace of legislative activity that allows a number of scientists say that Russia is experiencing a kind of "law-making boom" [2]. In this case, not all cases, the content of legislation legally impeccable. This is, in particular, according to the annual reports of the Council of Federation on the status of legislation in the Russian Federation. So, more than 80% (!) Acts of the federal legislation are the laws on making amendments and additions to existing legislation [3]. Correction lawmaking at the federal level has become an avalanche character. Even more depressing situation in Russian regions.

Existing legislation often lags behind the swift but the changing realities of life. Arising in this connection gaps generate a lot of outstanding issues and disputes over the implementation of the government, protection of individual rights, property, etc.

It should also be said about the randomness in the formation of an array of regulations, a violation of the priorities in the legal regulation, unbalanced vannosti in the current legislation, the enactment of new laws without linking them with existing, violation of the system connected bonds between the laws and regulations, between the laws and regulations of the treaty mi, lack of unity of terminology, which violates agreed sion system of legal acts of undue haste drafting important legal decisions, developed the practice of non-compliance with the rules of the legislative law-making machinery [4]. As rightly pointed out by Lopatin, laws are made and often without sufficient examination of the consequences of their implementation, there

linking with existing legislation and international law, in order to lobby for certain social groups [5].

These drawbacks in the development of legislation erode unity Noe legal space of Russia; pose a threat to its preservation. They generate a weakening of the legal system and its uneven effects throughout the country, opposition to the federal government and regional structures, legislative and executive bodies governmental; ineffective legal support for various sectors of the economy and social sphere, which is fraught with disruption of current and promising tive socio-economic programs; contradiction between the form mal rules and "shadow law" between official and actual skim relations; instability of the state and public institutions and little support for their population; contradictory relation solution of national or international law [6]. Existing problems in the legal regulation of GR move for an indefinite time the idea of forming and establishing the rule of law in Russia [7], whose foundation is based on the prin groin rule of law, the most complete support of the rights and freedoms of Che rights.

In the post-Soviet Russia was hyper trofirovannoy role of political factors, political ideology, not national, but the nature of the group, which resulted in a sharp change in ideological orientation pravotvorche properties. Leading vector orientation was for approval to the legislation of the liberal-democratic ideas, values and institutions, and mainly by borrowing Western models and standards. This method of law making was typical for Russia at the end of last and the beginning of this century. In recent years the situation has changed to some extent. Began to realize the truth that focus exclusively on the Western model of development does not meet the expectations of the majority grew sian citizens, and the borrowing of international achievements in the legal field should always be taking into account national circumstances and by adapting to the Russian reality [8]. Today, a change in ideological orientation in the law-making to the legal modernization in all spheres of society and state, a gradual shift from liberalism in the direction of the neoconservative ideology, involving social progress and updating based on respect for the traditional values.

It should be noted that the idea of modernization of the law was first contacted by representatives of the scientific community [9], and even a few years before the famous article of the Russian President "Forward, Russia!" Where he announced the principles of a new political strategy, which were later fleshed out in its annual Address to the Federal Assembly is in the form of the concept of comprehensive modernization of the country.

In our view, the main goal of modernization of lawmaking serves to create conditions for accelerated development of legislation. As rightly pointed VP Eagles: "The main thing - to be able to predict the life passes a law to simulate the situation in its scope. Unfortunately, most of our laws - its additions and changes to previously adopted basic laws. Proportion of catch-up lawmaking is large enough [10]. In other words, if we want to see the modernization of legislative drafting as a process of continuous updating of advanced legislation, you must actively engage to ensure law-making factors: programming, informational, political, legal, organizational, and others, to anticipate possible social relations, new and ever-changing needs of society and state. This is indicated, and ex-chairman of the upper chamber of Russian parliament Sergei Mironov: "To effectively address the challenges posed by our citizens, we must be proactive, raise the question of establishing the legal framework aimed at the prospect of creating conditions for implementing the strategic plans of the country" [11].

Problem of advanced development of legislation, understood as a

priority the modernization of domestic lawmaking, is able to solve a scientifically sound and socially oriented legislative creation policy in the formation of a leadership role to play in the modern Russian state is interested and active participation of civil society actors.

This poses a problem of legal science to develop new means of influencing law-making to its modernization. Under such an upgrade should be understood as a process of permanent renewal, updating ideas and plans of lawmaking, which allows mobile link law-making activities with socio-economic, political, legal and spiritual needs of society, to make lawmaking more flexible and adequate to the challenges of time.

The complex is available today in this field defects, and, above all, the backlog of lawmaking by the objective needs of society adversely reflects is on state-legal development of the country, which ultimately leads to social unrest, riots, the threat of destabilizing tion of public-private relationships. Deformation of the social mechanism of lawmaking, not only affect the state of the law-making and the quality of legislation, but also imply a more profound implications, affecting law enforcement, legal behavior of citizens and the state of justice [12]. In terms of modernization of the legal system is one of the main objectives - the removal of these deformations, the improvement of the social mechanism of lawmaking, which rye can be achieved, including through the country's competent law-making policy of maximum objective consideration of the interaction of all factors that have a direct or indirect influence on the development of Russian law-making.

Conclusion

The scientific novelty of this paper is that the author, based on research carried out by him, worked out the theoretical and practical recommendations concerning the need for law-making policy as a factor in modernizing the law-making in contemporary Russia. The novelties of these results is also reflected in the fact that in the paper by studying a variety of sources, carried out a systematic theoretical analysis of this phenomenon, characterized the current state of lawmaking, identifies their shortcomings, are named by their causes. Theoretical analysis of law-making policy organically amended application. Developed specific proposals for overcoming the identified deficiencies, formulate new approaches and conclusions relating to the appointment and place of law-making policy in the Russian socio-legal and public policy practices, revealing the possibility of its positive impact on law-making process. Substantiated the leading role of higher authorities in establishing an effective law-making policy.

These and other findings supplement and concretize this growing and highly demanded in modern conditions the direction of legal science, which is a legal policy, as well as enrich the theory of lawmaking and the whole general theory of law with new approaches to solving practical problems of law-making activities. The theoretical significance of the article is that its justifications for the concept of law-making policy, fills a gap in legal science, on the conceptualization of this type of legal policy. They clarify and update the largely conceptual apparatus on the above issues, as well as contribute to the development of the theory of lawmaking and in general the general theory of law, promote better understanding of the problems dealt with in science.

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The practical significance of this work is that developed and justified in its findings and recommendations to improve the lawmaking process can be used in a real law-making in research and development of general theoretical and industrial problems of law-making policy in the educational process in teaching courses of the theory of State and Law, Problems of Theory of State and Law, special courses on legal technology, legal and law-making policies, issues and law-making, etc. In addition, they can serve as a basis for further research into the formation and implementation of Russia's law-making policy.

References

1. Report of the Council of Federation 2009 "On the status of legislation in the Russian Federation/Official site of the Federation Council of Federal Assembly of Russian Federation.
2. Komarov SA (2003) The General Theory of State and Law. Pigolkin as Federal framework of Russian legislation Value legislation of the Russian Federation radios and legislation of the Russian Federation.
3. Mironov SM, Burbulis M (2009) Report of the Council of Federation, 2008 "On the status of legislation in the Russian Federation" under the general 495-496.
4. Komarov SA (2005) II' in, AV Optimization of the law-making in today's Russia, Questions of Theory and Practice.
5. Lopatin VN (2004) Constitutional law and law-making problems in Russia. Journal of Russian law.
6. The concept of development of Russian legislation in order to ensure uniform of legal space in Russia (2002) Journal of Russian law.
7. Ilyin AV, Kosopkin AS (2000) Theoretical, legal and practical problems of lawmaking in modern Russia and the ways of their possible solutions.
8. Lukyanov EG (2007) Some problems of lawmaking in modern Russia Legal.
9. Goloskokov LV (2005) Modernization of Russian law: an information-theoretic approach. Proceedings of scientific-methodical seminar in the Saratov branch of the Institute of State and Law.
10. Modernization as a process of renewal of society (2010) Parliamentary newspaper.
11. Laws should not lag behind in life (2010) Parliamentary newspaper.
12. Lukyanov EG (2010) Some problems of lawmaking in contemporary Russia.

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