LEGAL EXPERIMENT: ITS CONCEPT, CLASSIFICATION AND ROLE IN IMPROVING NORM-MAKING

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Abstract. This article describes the role of the legal experiment in the process of classification and rulemaking in the light of national and international experience. The article sets out the conclusions and recommendations for the legal experiment..
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Introduction. One of the most important conditions for the effective carrying out and implementation of reforms in our country today is the need to develop and implement quality laws that can directly affect the relations.

In this regard, the President of the Republic of Uzbekistan Shavkat Mirziyoyev rightly stated in his report that "... I think it is time to abandon the practice of adopting under the law acts and adopt directly applicable laws" (1).

In general, legal experiment is a type of social experiment, the problem of the effectiveness of some experimental legal norms in the process of its implementation is the analysis of the practice of their application in a limited time and space.

The Law of the Republic of Uzbekistan "On transparency of public administration" is a practical example. Before the adoption of this law, more than 600 seminars and roundtables, one international conference and one international roundtable were held in all regions of the country.

As a result, over the past eight months, about 700 different ideas, suggestions and recommendations have been received to improve the draft law.

As part of the legal experiment, a special Internet resource (www.legalexperiment.uz) was created and during the testing of the draft law carried out discussion of the draft law, for the heads of legal experiment subjects, journalists, representatives of non-governmental organizations relevant guidelines, in general, all information on legal practice is published regularly.

In general, in the drafting of this bill, the legislation of developed democracies in this area was studied, and they were compared with our national legislation.

Experimental activity consists of certain stages. At each stage of the experimental activity, different elements of cognition are combined, such as practical, rational (theoretical) and emotional cognition. The elements of knowledge can be clearly seen by analyzing the activities in the field of experimentation, highlighting its main stages, as well as considering it as a scientific method: the first – the preparatory stage, the second – the experimental stage, the third – the experimental data processing stage. In the above-mentioned experimental stages as a method of science in the classical sense, we propose to define its two main elements. We refer to cognitive tools as the first element – methods of practical action that achieve experimental goals; in them the specificity of the method finds its material embodiment.(2) In the second element we get the subject of knowledge – that is, what people's activities are focused on. The methodology of the experiment cannot be understood without taking into account the formation of the experimental activity – the process of

preparation, conduct and generalization of the experiment. If we consider experiment as a method of philosophical research defined by the logic of the cognitive consciousness of the New Age, then in this sense the experiment will be not only a means of knowledge but also its fundamental basis.(3) As a result, scientific experience should be considered as a cognitive procedure; The type of experiment and method of legal experiment, which is specific to the study of changes in the state of the observed object, depending on the artificial, reversible, clearly defined variable conditions, is a legal examination for a certain period of time. We will come to summarize all of the above, we define the current state of the doctrine of experimental doctrine in law as a way of knowing it in many ways, or actually studying a particular subject to obtain scientific information about it, which will be described in later sections of the study. As a way of knowing the legal experiment, According to V.S.Nersesyants, the essence of the legal method of knowing is to look at the world through the concept of law; legal experiment is a method of expressing legal knowledge and truth based on the concept of law.(4) Like Professor V.P.Malakhov, the legal method of knowledge, it is appropriate to look at it as a spinal method. (5) However, the author rightly points out that this method does not cover the process of forming the law itself. It is important to take into account that the content of the computational method is outside the human mind, because it includes the objective environment, specific cognitive objects that are objectively the object of the researcher. This conclusion follows from the fact that knowledge is information that is related to the object of knowledge. And the human mind uses this information, reveals the content of the objects of knowledge and the relationships between them, and thus draws relevant conclusions.

In particular, the United Kingdom's “Law on Freedom of Information”, the United States “Law on Government Transparency”, France's “Law on Citizens' Relations with Public Authorities”, South Korea's “Law on Public Disclosure”, Russia's “Law on Public Authority”, Estonia’s “On State Information” and other countries’ Legislative mechanisms played an important role.

Another effective way to identify failure in legal acts is a legal experiment. This institution is completely new to the Republic of Uzbekistan, it is rarely used and in practice is not properly regulated. The assessment of the partial regulatory impact of a legal experiment on legislation is also related to the administrative acts aimed at regulating a particular legal experiment.

As many researchers have pointed out, legal experimentation plays a very important role - it allows to test the current model of legal regulation, which in turn serves to test its effectiveness, to assess the risks involved. In addition to the above, we believe that this method will serve to improve the creation of norms in our country. (6)

The legal experiment will also help to improve the quality of legislation, identify and correct existing failure in a timely manner. However, for a legal experiment procedure to be effective, it is necessary to clearly indicate the procedure for conducting it, as well as to formulate criteria for evaluating the results of the experiment.

In particular, he is interested in the French experience in improving legal regulation. The right to conduct a legal experiment is enshrined in Article 37.1 of the French Constitution, as well as in the organic law "On Legal Experiment".

The control over the experiment is exercised by the Constitutional Council. it determines, first of all, two parameters - the accuracy of the formation of the subject of the legal experiment, as well as the date of its conduct. It is clear from the practice of the French Constitutional Council that, in fact, in addition to the two requirements mentioned above, the content of a legal experiment is also examined in accordance with the norms of the French Constitution, in particular the rights of citizens. The regulatory framework does not mention the evaluation of the results of a legal experiment, but such an assessment is certainly carried

out and serves as a reliable guide in making the final decision on the need to introduce a particular norm or to recognize this idea as unrealistic for certain reasons. (7)

In science, experimentation is manifested as a unit of scientific knowledge and practical activity. In the context of the transformation of science into a productive force of society, the importance of experiment as a scientific and practical experiment increases.

The need for experimentation arises more often in the following cases:

Lawmakers are radically reforming the organization of economic benefits, labor and wages;

In the implimantion of new forms of family relationships;

When an attempt is made to radically change the types and bases of legal liability.

The experiment was considered a cost-effective form of preliminary assessment of the effectiveness of regulatory documents to solve a problem that requires special regulation by the legislature and provide an optimal solution.

A legal experiment is a science-based experiment that allows you to follow the law-making and law-enforcement activities and recreate it in repetition.

The principles of legal experimentation are:

legitimacy;

democracy;

scientific;

professionalism;

transparency;

structural(8)

The characterization of any legal phenomenon, including a legal experiment, would not be complete without its division into groups. As a result of the analysis of the results of the legal experiment, one of the following decisions is made:

Transformation of the experimental norm into a legal norm;

By making changes and additions in the transformation of the experimental norm into a legal norm;

On the inexpediency of turning the experimental norm into a legal norm (9)

The division of a legal experiment into groups is based on its structural structure, which at the same time allows to classify the legal experiment in different ways and to gain a deeper understanding of the nature and social significance of this legal phenomenon.

There are four components to a legal experiment:

subject of legal experiment;

the legal basis of a legal experiment;

object of legal experiment;

the result of a legal experiment. (10)

The classification of legal experiments allows a deeper understanding of their place and role in lawmaking, the emphasis on the specific features and qualitative characteristics of each species, and a deeper understanding of their nature and social goals. Depending on the level of the state body (the subject of the law) that decided to conduct a legal experiment, depending on which legal norms act as a factor of experimentation, the following legal experiments can be distinguished:

international, where international legal norms act as an experimental factor;

includes testing of legal norms adopted by federal, federal government agencies;

regional, designed to test the effectiveness of the legal norms of the constituent entities of the Federation (or other regional legal norms applicable in the federal region);

local, to test the impact of the legal norms of local authorities;

local legal experiments are aimed at testing the effectiveness of the impact of certain local legal norms, that is, the norms adopted and in force within specific enterprises, institutions, organizations.

According to the legal force of experimental legal norms can be divided into:

Law (for example, on real estate taxation);

under the law acts (for example, the creation of a state system that provides free legal assistance to low-income citizens).

One of the latter is a special group of departmental legal experiments.

Depending on the area of social life in which the norms of the experiment are the subject of legal regulation, the law has a specific convention in industry, transport, communications, construction, agriculture, education, health, social security, labor, culture, state building, judiciary and other areas. can be divided into experiments.

Depending on whether or not the legal norms of one or more sectors are tested within a particular legal experiment, the network can be divided into legal experiments (e.g., use of new forms of correction and adaptation discussed in institutions to improve compulsory labor management) and cross-sectoral legal practices (e.g. to organize justice for children).

According to the chronological criterion, legal experiments are distinguished by:

project (from now to future);

retrospective or "post-factor" (directed from a certain moment in the past to the present);

assess the status of the process at a particular time.

Hypotheses are divided into parallel and serial experiments according to the logical structure of the proof.

In a parallel experiment, conclusions about the effectiveness of innovations are drawn by comparing the conditions in the experimental and control groups. The next experiment analyzes the status and dynamics of the "pre-" and "post-research" research objects before the entry into force of the experimental legal norms.

In general, legal experiments are consistent and are also manifested in the fact that the same social group is considered an experimental control group before and after the introduction of experimental factors. There will be no need for another special control group, as a society outside the experimental group can perform such a task.

In order to verify the compliance of a legislative idea or an explicit and proven idea with legal requirements, to correct their wording, to clarify details, to develop a mechanism for their implementation (for example, on the organization of judicial commissions) and to clarify (for example, correction of convicts) and the use of new forms of adaptation, on improving the management of correctional facilities) legal experiments can be considered decisive.

Legal experiments are one and many, depending on whether one way of solving a social problem during a legal experiment is approved by law (one legislative idea) or two or more solutions of a social problem (two or more legislative ideas) exist at the same time. divided into options. Legal experiments can be classified as positive (e.g., on the establishment of jurisdiction courts) and negative (e.g., on the organization of public order protection by local governments), as the idea of lawmaking has been experimentally confirmed and generalized by relevant legal norms. However, negative legal experiments can also be socially beneficial because they prevent harm and other negative consequences that may result from the widespread introduction of relevant legal norms. Moreover, negative legal experiments, like positive legal experiments, undoubtedly have heuristic value.

Depending on the subject of legal regulation of experimental norms, legal experiments can be divided into constitutional law, civil law, criminal law, administrative law, financial law, environmental law, criminal law, and so on. By the nature of experimental

legal norms, legal experiments are substantive (e.g., on real estate taxation) and procedural (e.g., on the formation of a jury); and according to their functional orientation, they are divided into types of regulators (for example, the development of models of local government) and security (for example, the organization of public order protection by local authorities).

Depending on the novelty of the study of the legal norm or the novelty of the conditions for its implementation, legal experiments can be classified into groups such as the effectiveness of new legal norms and the effectiveness of existing legal norms. According to the chronological criterion, legal experiments can be divided into short-term (up to one year), medium-term (one to five years), long-term (more than five years) types.

Depending on the level of effectiveness, legal experiments have achieved set goals, confirmed or rejected a hypothesis based on a legal experiment, failed to achieve the goals of a "successful" or legal experiment, for example, there are no clear criteria for evaluating results; deficiencies are classified as "failed". In the first case, the maximum or high level of efficiency of legal experiments is considered, and in the second case, the level of efficiency is considered to be minimal (zero) or low (for example, in cases where conclusions are drawn, but their reliability is not high).

Depending on the purpose, legal experiments can be divided into the following types:

basic (aimed at determining the effectiveness of experimental legal norms);

controller (aimed at verifying and confirming the results of the main experiment).

We can divide into one-factor and multi-factor experiments according to the specific features of the task. A hypothesis about the effects of an experiment on a single independent factor is considered a multifactorial hypothesis if the whole set of interacting factors is tested. V.V. Lapaeva recommends that legal experiments be divided into the following types:

aimed at improving lawmaking (for example, the development of models of local government);

aimed at improving the implementation of existing norms (for example, the use of new forms of correction and adaptation of convicts, improving the management of correctional work). The second type can also be considered as a specific type of legal experiment.

It should also be borne in mind that a legal experiment can take the form of a test not only in new legal norms in certain cases, but also in the form of an experimental suspension of the application of certain legal norms. The second type may provide information on the possibility of repealing existing legal norms or replacing them with other legal norms and other social norms (ethical, corporate, political, business, etc.). In the UK, for example, the death penalty was suspended for five years as an experiment. At the end of the trial, the death penalty was finally abolished.

Today, the legal-scientific knowledge of the science of legal experimentation has certainly been advanced. At the same time, the development of scientific solutions to the problem continues to lag behind the demands of life. For example, the concept of legal experiment and its relationship with other social experiments has not yet been clearly defined.

In our view, the institute of legal experiment and its structure, function, limits of its implementation and the legal status and guarantees of the participants of the experiment are not sufficiently developed. No specific criteria have been considered in which cases it is useful or necessary to carry out legal experiments. There is no normative legal document defining the procedure for organizing and conducting a legal experiment, recommendations and guidelines for their scientific organization, and regulating the objective examination of the results.

To date, the specific features of the legal experiment and its role in various areas of law have not been adequately explored. It should also be noted that due to the nature and

procedure of legal experiment in each state, it is expedient to consider the issue of consolidating the results of legal experiment in each state in the highest laws of the country as an additional guarantee of civil rights.

For example, the French Constitution clearly states the following provisions on legal experimentation:

laws and regulations may be of a limited subject matter and of an experimental nature for a limited period of time;

Territorial communities or their associations, in accordance with the law or regulation, in limited subject practice and for a limited period of time, depending on the specific working conditions, except in cases provided for by organic legislation and endangering certain public freedoms or the basic conditions for exercising a particular right guaranteed by the Constitution and their implementation may deviate from the legislation or regulatory rules governing them.

In this regard, the following is noteworthy:

First, these provisions were included in the French Constitution as part of a constitutional reform aimed at decentralizing power and protecting the rights and interests of citizens.

Second, in France, prior to these corrections, experimental practices were developed that allowed to test the effectiveness of this method and the possibility of adopting some experiments in the study of this issue of the work.

Third, the interest in experimentation in a country with "rationalized" parliamentarism is combined with high traditions, the principles of equality and democracy, which allows for real interest and further study of the results obtained.

In conclusion, the importance and significance of the legal experiment is as follows:

Legal experiment is the most important tool of scientific-theoretical investigation, which coincides with the criteria for establishing objective truth about state-legal phenomena;(11)

The results of the experiment have the power to develop the laws of scientific knowledge of legal relations, to improve and strengthen the legal order in society, to know the limits and methods of objective influence of human consciousness on the developing processes;

The legal experiment has a special place in the process of norm-setting;

Checking the effectiveness of the legal norm;

Study of the consequences of the implementation of the legal norm;

Determining the most appropriate and appropriate option of legal regulation.

Conclusion

Legal experiment is the most important type of social experiment. It is a limited-scale trial of alleged legislative innovations organized by the competent legislature to examine the effectiveness, usefulness, and cost-effectiveness of experimental legal norms and to develop optimal options for making decisions that will have a general impact in the future.

Thus, the legal experiment is both a method of scientific knowledge and a method of changing the legal reality, which determines its role in increasing the effectiveness of the legal regulation of social relations. Legal experiments demonstrate the legitimacy of socio-legal processes and the ability to effectively manage these processes.

The reasons for the need for legal experiment are the lack of knowledge in anticipation of the consequences of the adoption of a number of legal norms, the difficulty of "taking into account" the effectiveness, usefulness and cost-effectiveness of planned legislative innovations in various fields, including management.

A legal experiment is also a real, active, practical, innovative, regional, controlled experiment that performs epistemological (cognitive), transformational (management), and prognostic functions. The analysis of the importance of the legal experiment in ensuring the effectiveness of the legal regulation of social relations, the stages of its implementation allows us to draw conclusions about its procedural significance.

In general, the negligence of any industry can be noted in the practice of legal experimentation.

Perhaps the problem of ensuring the effectiveness of legal experiments is important in Uzbekistan, because there is a lack of confidence in the current method of scientific communication, that is, a guarantee of increasing the effectiveness of legal regulation of public relations. However, the effectiveness of a legal experiment can be defined as the ratio between the result actually achieved and the purpose for which the legal experiment is conducted. An improperly organized legal experiment and a superficial assessment of its results can be very detrimental.

Due to the nature and order of each state-law experiment, it may be appropriate to consider the issue of consolidating the results of each legal experiment in the highest laws of the country as an additional guarantee of civil rights.

It is also possible to create a theoretical basis for a legal experiment based on certain areas of law in science. That is, the competent authorities and officials have a certain knowledge of the possibility or impossibility of working on a specific legal issue, land law or other areas of law, working to ensure the implementation of legal guarantees of citizens and legal entities in the implementation of legal activities.

Overcoming the identified shortcomings will help to increase legal mind and legal culture, taking into account the rights and interests of the participants of the relevant legal experiment. It also helps to eliminate quasi-experiments that pursue other illegal goals and distort the idea of legal experimentation.

Consideration of this issue in the framework of the theory of legal experiments has led to invaluable experience conducted in past experiments and currently used to improve legislation, which is a method of legal reality considered both in the regulation of social relations and in the possibility and needs of further research.

One of the most modern and advanced methods of norm-setting activities is the conduct of legal experiments in world practice and the implementation of their results in real life. Of course, this method provides an opportunity to get real scientific and practical advice and conclusions on how to develop the draft legal norms.

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