



IMPROVING LAWMAKING IS A KEY STAGE IN THE DEVELOPMENT OF THE NEW UZBEKISTAN

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Abstract

The article examines, in today's context, the issue of how legal nihilism and legal idealism influence the improvement of lawmaking activity and the assurance of strict implementation of legislative acts. It also discusses the idea that legal nihilism and legal idealism are phenomena connected with society's general legal consciousness, legal culture, and legal thinking.

Keywords: lawmaking, legal nihilism, legal idealism, improvement, legal consciousness, legal culture.

Introduction

At present, studying the issue of lawmaking is of great importance as one of the most topical problems in the theory of state and law. At the same time, lawmaking and the process of shaping law are considered among the most complex types of state activity. This is because lawmaking is a form of state activity aimed at creating legal norms and subsequently improving, amending, or repealing them. It is the process of creating and developing a unified and purpose-oriented system of universally binding norms that, having the official status of special regulatory activity, governs social relations. The most important aspect of lawmaking is the drafting and approval of new legal norms. In this, first of all, the established tasks of state activity find expression in law.



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By its essence, lawmaking implies expressing the will of the state in law, in the form of legal prescriptions that have universally binding significance. At the current stage of development of lawmaking, above all, there is a clear manifestation of either the adoption of legal acts directly by the population of the country through a referendum, or the issuance by state and other administrative bodies of documents that contain legal norms. In some countries, one of the forms of lawmaking is judicial precedent. The significance of agreements with normative content between various legal subjects is increasing day by day.

The democratic nature of the procedure of lawmaking requires the active participation of parties, mass movements, business structures, and citizens' assemblies in the creation of legislation; it also requires their initiative and free, broad, and practical discussions envisaged in legislation. However, regardless of the form in which this process is carried out, it does not mean that lawmaking is merely a form of state activity, i.e., a form of the state's domination over society. The state creates the main part of legal norms through its bodies. If such norms are proclaimed by non-governmental organizations, their lawmaking powers are determined by the state [1; 307–308 pp.].

Of course, when speaking about state functions, it is appropriate first of all to address the forms of their implementation and, as one of these forms, to focus on lawmaking (or legislative activity) as one of the manifestations of the state's leadership over society. Indeed, regardless of the tasks of the state, its type, or the forms of exercising and organizing state power, lawmaking is carried out by the state.

That is why “lawmaking is a process that includes identifying and assessing the legal needs of society and the state, as well as the formation and adoption—according to established procedures—of legal acts by authorized subjects” [2; 75 p.]. This definition emphasizes the following important aspects: (1) understanding, studying, and analyzing a situation or process that requires legal regulation; (2) identifying the body (subject) authorized to adopt a particular legal act; (3) choosing the form of the act intended to be adopted; (4) drafting, adopting, or amending the legal act within the relevant procedure. Naturally, these aspects are interrelated and constitute a unified process.



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In its essence, lawmaking consists in elevating the will of the state to the level of law and expressing it as universally binding legal rules for all. Lawmaking is carried out by various state bodies that possess the relevant authority. Through the activities of state authorities and administrative (executive) bodies, the state creates the main body of legal norms [3; 71 p.].

Lawmaking is the type of state activity as a result of which the will of the people is elevated to the status of law and finds expression in a legal norm and in a specific source of law.

As noted above, alongside adopting new legal norms, lawmaking activity also includes repealing and amending obsolete normative-legal prescriptions. At the same time, the level and culture of lawmaking and, accordingly, the quality of adopted normative-legal acts reflect the high cultural development of the state and society and the degree of their democratic character. Natural legal norms, through the instrument of lawmaking, take the form of normative documents and turn into positive law—that is, law existing in the form of legislation.

Today, the political and legal reforms being carried out in our country, the reform and modernization of society, the development of democracy, and the strengthening of legal order are determined прежде всего by the level of development of legal culture and legal consciousness in society, by each individual’s correct understanding of their rights and freedoms and effective use of them, by conscientious fulfillment of obligations, and by basing one’s activity on the law. Conversely, if the opposite occurs, the negative influence of legal nihilism and legal idealism will undoubtedly emerge in the modernization of the rulemaking process and in ensuring strict implementation of legislative acts. Therefore, the goals set within the second priority area of the Development Strategy of the New Uzbekistan for 2022–2026—“Turning the principles of justice and the rule of law into the most fundamental and necessary condition of development”—are relevant precisely because they are devoted to these issues [4; 22 p.].

As we know, legal consciousness is understood as the totality of feelings, perceptions, thoughts, views, and ideas that express people’s attitude toward law—in other words, how people relate to law and what they think law should be. Legal culture, in turn, means knowing and understanding law and



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consciously fulfilling its prescriptions [5; 491 p.]. Issues related to regulating social relations by law, respecting the rights and interests of legal entities and individuals, complying with legal norms, knowing legal requirements, and treating them with respect—all depend on the level of legal culture among people.

The Decree “On Radically Improving the System for Raising Legal Awareness and Legal Culture in Society” states that raising legal awareness and legal culture is one of the most important conditions for ensuring the rule of law and strengthening legality, and that insufficient work on instilling in the public mind the idea of maintaining a balance between personal and societal interests also has a serious negative impact on ensuring the rule of law [6; p. 2]. In this regard, it can be noted that the most significant shortcoming in many adopted laws is the existence of gaps in procedural mechanisms that ensure the implementation of legal provisions. This, in turn, makes applying such acts considerably more difficult, leads to non-enforcement of laws and to legal nihilism—i.e., the denial of any legal norm—and reduces the effectiveness of law-enforcement practice. Indeed, today, in order to eliminate these shortcomings and to enhance the significance of the legislative process, members of parliament are continuously carrying out research and effective work.

At present, within the system of tasks aimed at ensuring justice and the rule of law, modernizing the rulemaking process, guaranteeing strict implementation of legislative acts, and raising legal culture among the population—especially among youth—the issue of eliminating legal nihilism manifested in the consciousness and activities of members of society is extremely important. Therefore, it is necessary to reflect on legal nihilism and legal idealism, because these phenomena inevitably affect, to a certain extent, the level of legal consciousness and legal culture in society.

The term “nihilism” comes from the Latin word *nihil*, meaning “nothing” [7; p. 585]. Scholarly and educational literature distinguishes several types of legal nihilism. In particular, the Russian legal scholar Professor N. I. Matuzov identified the following manifestations: deliberate violation of laws and other normative acts; mass non-compliance with legal rules; adoption of mutually contradictory legal acts; substitution of legality with considerations of



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“expediency”; conflicts between representative and executive authorities; violations of human rights; and the existence of a theoretical form of legal nihilism (as reflected in scholarly literature).

In our view, legal nihilism is an element of social consciousness, expressed in indifference and in the contempt, disrespect, or denial by legal subject(s) of existing legal norms. Legal nihilism manifests itself in the following forms: a theoretical form (the denial of law by scholars, thinkers, political analysts in certain sources) and a practical form (in active and passive variants) [8; p. 652]. Legal nihilism is a rather complex phenomenon, and combating it is not an easy task. At the same time, the ways of combating it may vary. These include: socio-economic reforms; changing the content of legal regulation; bringing the content of legal norms closer, as much as possible, to various segments of the population; changing the nature of judicial activity and raising the authority of justice by cultivating respect for the courts; improving law-enforcement practice; and conducting theoretical work in these areas, among others.

All of the above, in general, is aimed at increasing society’s legal culture. Thus, the presence of a high level of legal culture will clearly lead to a reduction in legal nihilism.

If legal nihilism means disregarding law or denying it, then legal idealism means excessively overestimating law and idealizing it. Both phenomena are the result of legal illiteracy, insufficient development of legal consciousness, and a low level of political-legal culture. Although legal idealism is not as outwardly visible as legal nihilism, it causes no less harm to the state and society than legal nihilism.

Thus, both legal nihilism and legal idealism—phenomena that “feed” each other—should be viewed as undesirable manifestations of a general lack of legal culture. In both cases: first, laws are disregarded, openly violated, not enforced, not valued, and not respected; second, conversely, laws are treated as “miraculous” documents capable of solving all problems instantly. Therefore, without eliminating these phenomena, it is impossible to realize the idea of a rule-of-law state and the supremacy of law.

Consequently, legal idealism—unlike legal nihilism—places an excessively high value on the role of law in society. The source feeding both phenomena is



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the same: legal ignorance, “illness” of legal consciousness, and weakness of political-legal culture. For this reason, it can be said that they are “two sides of the same coin” [9; p. 585]. The weakness of laws and their lack of practical viability may form distrust and indifference among the population. Indifference to law, in turn, gradually leads to indifference to power. Thus, legal nihilism and legal idealism are phenomena connected with society’s general legal consciousness, general legal culture, and legal thinking.

Importantly, in building a democratic rule-of-law state in our country, special attention must be paid to implementing large-scale measures aimed at raising legal consciousness and culture among the population—especially among youth—so that every citizen knows their rights well and can defend them. The effective fulfillment of this task depends on many factors, from the proactive activity of state authorities in creating the necessary conditions to the willingness of each citizen of independent Uzbekistan to participate actively in democratic reforms.

Based on the above analysis, it should be emphasized that in our country the deep formation of the moral and legal foundations of civil society, raising citizens’ legal consciousness and political activity, and establishing a modern educational legal culture are of great importance, which has served as the reason for studying these issues.

In conclusion, in modernizing the rulemaking process in society, ensuring strict implementation of legislative acts, raising legal consciousness and legal culture, and consistently communicating to the population—especially to youth—the substance and essence of the socio-economic reforms being carried out in our country, the laws being adopted, and state programs, it is crucial to form a systematic approach; to widely promote ideas of maintaining a balance between personal and societal interests; and to strengthen cooperation between state authorities and administrative bodies, including law-enforcement agencies and civil society institutions, in conducting targeted legal advocacy, as well as to conduct in-depth research into the scientific foundations of raising legal awareness and legal culture among the population—since these issues are of great significance for enhancing legal consciousness and culture in society.



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