



SCIENTIFIC CONCEPTS AND THEORETICAL VIEWS ON THE CONCEPT OF “NORM MAKING”

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Abstract

This scientific article provides a comprehensive analysis of scientific concepts and theoretical views on the concept of "norm creation". At the same time, the author has developed definitions in order to form a unified approach to the concept of "norm creation".

Keywords: Law, norm, digitization, state, system, normative, expertise, institutional, legislation.

Introduction

Today, scientific research and analysis in the field of legislation is one of the most relevant scientific areas, fully covering all stages of the development of regulatory legal acts and the activities of the entities participating in these stages. Based on this, one of the scientific problems is to clarify the concept of norm-making, which covers all stages of the development of regulatory legal acts, in particular, to develop a theoretical and legal description of this concept.

It should be noted that most scientific and theoretical sources and research studies
There are a number of scientific approaches by scholars regarding the concepts of "lawmaking", "norm-making", and "legislative creation" and their different aspects.

A group of scholars consider law-making as a component of a relatively broad process of law-making. In their opinion, law-making is a process aimed at the formation and formalization of a legal norm, which lasts for a long time. This process includes such actions as: analyzing the social situation, understanding



the need for its legal regulation; creating a general idea of the future legal rule; developing and adopting a legal norm. The final stage of law-making is law-making [1].

According to HTOdilqoriev, the process of norm-making is a set of actions of norm-makers aimed at creating new normative legal acts, making additions and amendments to existing normative legal acts, as well as repealing outdated normative legal acts, in accordance with the procedure established by the Constitution. It includes identifying relations that need to be regulated by a normative legal act, preparing a draft normative legal act, discussing it, and adopting it [2].

“ normative creativity ” consists of two parts. The first part of the term “ norm ” means a rule or regulation that acts in a certain area of social relations that must be legally regulated. The norm also means regulating the behavior of certain subjects in a certain situation. The second component of the term under consideration, “ creativity ”, covers the procedure for developing and creating a normative legal act [3].

In our opinion, it is appropriate to describe the concepts of "lawmaking", "norm-making" and "legislation-making" directly from the perspective of the sources of law, based on the theory of law, without including the views of legal scholars SVSinyukov, TNMoskalkova and VVChernikov on the above-mentioned concepts of lawmaking and norm-making, as well as on the different aspects of these concepts.

In this regard, S. V. Boshno emphasized that the result of legal creativity provides sources of law [4].

According to V.Yu. Bagdasarov, “the subject of legal creativity is an external form of expression of law, from which it follows that the subject of legal creativity is not covered by the concept of the object of legal creativity, but is an integral part of the objective side of legal creativity. It is necessary to pay attention to the incompatibility of the legal text and the object of legal creativity. The legal text is a symbolic form in which legal norms (the object of legal creativity) are encoded. The text that arose as a result of legal creativity, like the subject of legal creativity, is not covered by the concept of the object of legal



creativity, but is an element of the objective side of legal creativity. At the same time, the object of legal creativity, along with the subject of legal creativity, including the form of an external sign (text), is included in the meaning of the term “result of legal creativity” [5].

According to the legal scholar S. S. Alekseev, the actual result of legal creation is legal norms [6].

In our opinion, the activity aimed at creating, amending, and repealing rules of conduct that are universally binding is "lawmaking," and it is appropriate to understand only the activity of developing, amending, and repealing regulatory legal acts as "norm-making."

At the same time, it is appropriate to understand the concept of "lawmaking" only as the activity of the state's legislative body in creating, amending, adding to, and repealing laws regulating social relations.

One of the manifestations of legal creativity is the issuance of orders of an individual nature, having official clarity, authorizing and imposing obligations by the head of a specific organization or institution.

Based on the above, "lawmaking" in terms of creating, changing, and repealing universally binding rules of conduct is a broader category that encompasses the concepts of "norm-making" and "law-making."

, a social survey was conducted among employees of territorial justice bodies (90 respondents) on the concepts of lawmaking, lawmaking, and norm-making .

According to the foreign legal scholar Ye. Vrublevsky, the concept of lawmaking can be viewed as a process that proceeds through all the procedures, from the stimulus of necessity, which begins with a legislative initiative, to the assessment of a final draft of normative documents [7].

MKNajimov defined “norm -making as a process that includes the identification and assessment of the legal needs of society and the state , the formation and adoption of legal acts by authorized entities in the established procedure, and emphasized its following aspects. Norm-making is a process that includes the identification and assessment of the legal needs of society and the state, the formation and adoption of legal acts by authorized entities in the established procedure; determining the body (subject) authorized to adopt a particular legal



act; choosing the form of the act to be adopted; preparing, adopting or amending a legal act within the framework of the appropriate procedure.” [8].

Although there are theoretical approaches to the concept of norm-making in scientific literature, it can be shown that our national legislation has not developed a clear legal definition of the concepts of "norm-making initiative", "norm-making activity", and "norm-making subjects" based on the analysis of norms in the field.

Based on the organizational and legal nature of norm-making, it is worth noting that this activity has the following specific features:

Firstly, this activity directly covers the stages of preparing draft regulatory legal acts, which are one of the sources of law, conducting their legal expertise, and agreeing with interested bodies and organizations, discussing them, and adopting (issuing) them;

secondly, the adoption of a regulatory legal act by a person or body authorized to adopt it;

thirdly, the existence of separate procedures for implementing lawmaking activities, which is one of the main areas of this activity, in accordance with the procedure established by law;

fourth, the participation of local residents in these activities.

of the President of the Republic of Uzbekistan No. PF-5505 dated August 8, 2018 “On Approval of the Concept for Improving Normative Activities”, does not provide for the concept of “Normative Activities”, Section 3, Clause 1 of this Concept indicates the stages of the norm-making process, such as the promotion, development, coordination, introduction and monitoring of implementation of normative legal acts.

Legal scholar VVTrofimov identified populism, democracy, science, legality, and systematicity as principles of lawmaking [9].

Speaking about the stages of the norm creation process, theorist scientist MKNajimov divided this process into 8 stages:

1. Initiative to develop regulatory legal documents.
2. Project development.



3. Posting projects that affect the implementation of entrepreneurial activities on the Unified Interactive Public Services Portal.
4. Legal review of the project by the legal service.
5. Coordination of the project with interested bodies and organizations.
6. Conduct legal examination of the project in judicial bodies.
7. Adoption of a regulatory legal act.
8. Normative creation is carried out in stages, ensuring the appropriate delivery of the normative legal act to the executors and the population, and organizing control over the implementation of the normative legal act.

In our opinion, one cannot disagree with the views of the legal scholar MK Najimov on the stages of the norm-making process, given that the stages of norm-making activity begin with the formation of preliminary proposals that serve as the basis for the development of a draft normative legal act, planning project development activities, and organizing the preparation of projects .

Normative creation is an activity that includes the following processes: formation of initial proposals that serve as the basis for the development of a draft regulatory legal act, planning project development activities, organizing project preparation, project development, passing the project through legal and other types of expertise and state registration, project discussion, coordination of the project with interested bodies and organizations, participation in the review of the project, and submission of the project for review, acceptance and approval.

According to legal scholar MK Najimov, the following criteria are considered when dividing norm-making into types: "subjects of norm-making, that is, a person or body authorized to adopt a specific act; procedures for adopting norm-making acts (lawmaking process, individual or collective decision); types of normative legal acts (laws, by-laws), etc. "

ZMIslomov, on the other hand, has indicated such types of law-making as direct law-making by the people, law-making by state bodies, and law-making by officials [10]. In our opinion, from the perspective of the process of developing, amending, and repealing laws and by-laws, it is appropriate to divide normative activity into two main types: lawmaking and by-lawmaking.



It is also appropriate to define the concept of "normative drafting techniques", which applies to all types of regulatory legal acts, as a set of rules, methods and tools used in the development, legal and technical formalization, and adoption of draft regulatory legal acts.

The legislation of Uzbekistan does not contain the concepts of "normative creation", "normative initiative", "legislative initiative", "normative technique", "normative subjects", which are widely used in the field of norm-making.

An analysis of the experience of advanced foreign countries shows that these concepts are defined in the legislation.

Accordingly, it is proposed to define the aforementioned concepts in national legislation, based on the application of the law in practice.

Also, based on the legal nature of rule-making activities, it is proposed to establish the following in legislation, along with general legal principles: "the priority of generally recognized principles and norms of international law", "the systematicity and comprehensiveness of legal regulation of social relations", "the stability of legal regulation of social relations".

The statement of the above-mentioned principles, in turn, serves to improve the quality of rule-making activities and ensure consistent and uniform application of a single law.

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