JOURNAL OF INTELLECTUAL PROPERTY AND HUMAN RIGHTS

Volume: 3 Issue: 4| April – 2024 ISSN: 2720 - 6882
http://journals.academiczone.net/index.php/jiphr

Legal Science: State and Prospectsresearch in the Republic of Uzbekistan

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Abstract: In this article, the author assesses the state and problematic aspects of the theory of state and law, branches of civil and administrative law, the integration of scientific and educational activities in universities of Uzbekistan from the perspective of the new draft law of Uzbekistan "On Science". In the article, the author reflects on the prehistory of legal science in Uzbekistan, evaluates the periods of its development and identifies problematic aspects in certain areas of law at the present time.

Keywords: Analysis, background of legal science, Uzbekistan, problems, university science, theory of state and law, administrative, civil law.

In this article, I analyze the state of certain areas of legal sciences in Uzbekistan and, taking into account the volume and complexity of the topic, I pre-determine the scope of the topic, limiting it to: - the background of legal sciences in Uzbekistan, the identification of problematic aspects in the theory of state and law, civil and administrative law, the author's assessments tasks of integrating scientific and educational activities in universities of Uzbekistan.

Brief background to the state of legal sciences: The prehistorical premises of the legal system are important in order to explain how it came into being, on what basis it developed, which legal theories are difficult to deny today due to their time-tested nature and modern practical relevance, and which can be refuted due to their practical inconsistency. Scientific theories change from time to time, and what he says in favor of a theory is its "validity." When new phenomena are discovered that the theory cannot explain, it is discarded." It is well known that the results of science are the achievements of many years of work by individuals and the schools, institutes and universities they created. Thanks to the works of scientists of Uzbekistan, textbooks, monographs have been created, articles have been written on all branches of law, and legislative proposals have been developed for existing and upcoming laws. The legal science of Uzbekistan developed within the history of the state and rights, and, along with it. Without specifying the bibliography of famous and valuable works of legal scholars of the 19th and 20th centuries, I note that the contribution of scientists from Central Asia and other countries on the history and theory of state and law, civil, criminal and other branches of law, the culture of the peoples of Central Asia became the fundamental basis for subsequent studies of law and state.

The history of Uzbek law can be divided into periods in which it was formed and transformed. A.Saidov identifies four periods in the history of Uzbek law [1]. The first is the ancient period of Uzbek law, from the moment of the emergence of the state and law on the territory of Uzbekistan until the establishment of Muslim law (from the beginning of the first millennium BC to the 7th century AD). It is known from sources that before the arrival of the Arabs, the peoples of Uzbekistan were guided by the Avesta, the holy book of Zoroastrianism. The second is the period of Muslim law, from the moment the Arabs arrived in Transoxiana and the establishment of the Muslim state and law until the colonial conquest of Central Asia by Russia (from the 7th century to the second half of the XIXth century). This is the era of the Muslim legal civilization of Transoxiana. From a purely legal point of

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view in the XII-XIV centuries. The influence of Mongol law, namely Genghis Khan's Yasa, was more negative than positive, due to the fact that the Mongol conquerors introduced an element of non-religious origin into administration - excessive centralization of government, which turned out to be extremely durable. As V.V. Bartold noted, "... even when the dominance of the Mongols was replaced by the dominance of Turkish military commanders or leaders of native dynasties, the laws of Genghis Khan remained in force"[2]. Religion, traditions, customs, today are again acquiring scientific and educational significance, and have practical significance in the regulation of social relations. The third is the colonial period of development of Uzbek law, from the conquest of Central Asia by Russia and the establishment of Soviet power in Uzbekistan and up to the declaration of state independence (from the second half of the 19th century to 1991). Colonial law in the Turkestan region consisted of the laws of the Russian Empire and legal acts of regional validity.

The socio-political processes of this period in the Turkestan region reflected all the contradictions of development at the turn of the 19th-20th centuries, both at the global and regional levels. Political and state-legal instability and uncertainty, foreign policy tension, and economic recession determined the success of social democratic ideas and further aggravated the crisis both in the metropolis and in the region. Global catastrophes of a global nature (World War 1, revolutions of 1917, civil war, World War 2) that took place in history could not but be reflected in the consciousness and behavior of the bulk of the population, introducing recognition (instinctive submission) of legitimacy into the mass public consciousness of people positive law.

The peoples of Uzbekistan, finding themselves in the Union of Soviet Republics, suffered even more contradictory pressure on religious beliefs, rituals, traditions, were persecuted in the fight against religious prejudices, and accepted the denial of religion in general. In 1917, a truncated, in Soviet form, Europeanization of Uzbek law took place. As a result of Soviet legal expansion, legislation was artificially unified to common standards and Russian legislation[3] began to apply on the territory of the republic; the activities of Kazi (Sharia) courts were allowed in family law, and the civil rights and functions of Islamic jurists who were loyal to the Soviet regime were recognized.

Over the years of the existence of the Uzbek USSR, from 1924 to 1991, three Constitutions were adopted: in 1927, 1937 and 1978. Extraordinary events of regional significance - collectivization, industrialization, planning, the Iron Curtain, total control of thought and speech, censorship of this period formed a statist perception of the state, alienation from it and the absence of any interest in the institutionalization of individual or group legal interests. These conditions of a state-legal nature also dominated the philosophical-legal, state-legal research of scientists. Many ideas, principles and provisions of these Soviet Constitutions of Uzbekistan have been refuted today. "To say of a certain statement that it was quite true yesterday, but today has become false, does not correspond to the generally accepted usage. If yesterday we considered true a statement that today we evaluate as false, then this assessment contains an implicit recognition that yesterday we were mistaken, that this statement was false yesterday - false regardless of time, but we mistakenly "took it as true." Karl R. Popper, as a methodological principle with the help of which one can separate scientific knowledge from speculative metaphysical speculations, put forward the principle of falsifiability (refutability): the belonging of theories and statements to scientific knowledge is determined by the possibility of their refutation by experience [4].

The Soviet legal system, as a certain result of scientific and legal research in Uzbekistan, as in the USSR as a whole, was largely forced to serve the interests of the command-administrative planned economy and ignore the pluralism of opinions. In addition, the legislative body of the republic only copied union or Russian laws, party and government decisions. Many laws were essentially eclectic, divorced from real conditions, and sometimes contradicted national characteristics and traditions, the interests of the republic, and infringed on its sovereignty. The modern period in the development of

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Uzbek law, which began in 1991, in the sovereign state - the Republic of Uzbekistan, which included and is the Republic of Karakalpakstan - is a period of democratic reforms in the formation of national statehood and the legal system. The choice to develop Uzbekistan as a democratic state governed by the rule of law primarily determined the creation of a legal framework for state building, affirming state sovereignty, the formation of institutions of democracy, democracy, and human rights. Within the framework of this direction, constitutional laws have been adopted regulating the activities of supreme and local authorities. Problematic aspects of the theory of state and law, administrative and civil law.

Transformations of power and the state require appropriate laws to regulate new social relations in the field of management in general, regulation of economic management, and state-citizen relations. The rejection of totalitarianism, the dominance of one ideology, declarative laws and rights, explains the choice and recognition of Western democratic institutions and the priority of the norms of international treaties in the laws of Uzbekistan. In such a rapid change in the foundations of state and law, legal sciences could not quickly "rebuild" to change paradigms both in the theory of state and law and in other branches of law, since legal science "encourages us to find answers to two important questions: 1) about the relationship of legal science and practice, 2) about the relationship between legal science and power." [5]. In my opinion, S.B. is absolutely right. Polyakov, highlighting these aspects when speaking about the need to discuss the article of Professor V.V. Lazarev.

The legal system of Uzbekistan borrowed the characteristic features of the Romano-Germanic legal family. Cardinally revolutionary were the constitutional enshrinement of the new electoral system, the principle of separation of powers, the priority of economics over politics, freedom of enterprise, equality of forms of ownership, independence of the media, multi-party system, etc.

The background to the understanding of law and the state suggests that having such a "burden" of memory, society could not quickly recognize and accept the value of law, the purpose of the state and its institutions, declared democratic. Many facts of offenses and crimes of the 90s indicate a permissive understanding of democratic changes, both on the part of citizens and many officials. Legal science must and does respond to these fundamental and sensitive challenges of legal practice. In my opinion, these problems are rooted in the understanding of law and the purpose of the state by citizens and individuals, officials, and specialists in various fields. The solution of these problems within the framework of the theory of state and law ".. will be all the more justified since the subject of the theory of state and law and its language are the subject and language of all jurisprudence, everything that constitutes Jus in the totality of metatheory and real practice"[6] . V.V. Lazarev speaks quite rightly about the need to approach the solution of pressing practical problems without limiting oneself to any one concept, and not to reject certain teachings for reasons of politics, ideology, or scientific fashion. This approach is aimed at solving practical problems. Among the problems of state and law of the Republic of Uzbekistan within the framework of the theory of state and law, I would note as priority the ontology and epistemology of law and state, the definition of the type of legal understanding, the principle of separation of powers, legal and political culture.

To date, the behavior of state officials, both lawful and unlawful, has not been sufficiently studied. Thorough books have been written about the motives and composition of crimes, but not a single one has been written about the motives and composition of deviant behavior of officials[7].

In general, the system of sources of Uzbek law is hierarchical and provides for the highest legal force of the Constitution. Speaking about the hierarchy of laws, it should be noted that the practice of applying laws and Codes is contradictory and more than once the first President of Uzbekistan and the current President of the country, Sh.M Mirziyoyev, critically assessed the strength of departmental acts and executive decisions. The law on regulatory legal acts has been adopted more than once, the adoption of the Code of Administrative Procedure in 2018, the Law "On Administrative Procedures"

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in 2016, the creation of administrative courts in 2017 should improve the situation with illegal departmental acts.

There is no scientific explanation for the fact that while recognizing the supremacy of the Constitution, when resolving disputes, practitioners apply articles of Codes and laws that contradict constitutional norms. The practice of the Constitutional Court of Uzbekistan in resolving these issues has left and continues to expect corrective and restorative decisions. I would like to note that the institution of the Constitutional Court of Uzbekistan and the Constitutional Supervision Committee of the Republic of Karakalpakstan, one of the borrowings of European democratic institutions, turned out to be ineffective, in particular with regard to the protection of the constitutional rights of citizens. For example, the participation of members of the Constitutional Supervision Committee of Karakalpakstan in legislative work makes it difficult to explain its powers when any law is recognized as inconsistent with the Constitution.

Above, in the prehistory of the state of science, it was noted that the dominance of positive law made it difficult or rather prohibited such a topic. During the Soviet period, the construction of the state was based on the views and teachings of K. Marx and F. Engels. They defended the unity of power in the country, and presented the theory of separation of powers as “nothing more than a prosaic business division of labor applied to the state mechanism for the purpose of simplification and control.”[8] The mechanism of state governance is complex and vast, and in the 21st century it is precisely what is needed is “a prosaic business division of labor applied to the state mechanism for the purpose of simplification and control.” I believe that the legal science of Uzbekistan will find an explanation for this principle both from the perspective of its refutation and from the perspective of affirmation in order to find the true answer.

The formation and development of the country's legal system, based on the Romano-Germanic tradition, is associated with the adoption of “classical” codes, such as Criminal (1994), Criminal Procedure (1994), Civil (Part I, 1995, Part. II, 1996), Civil Procedure (1997).

A change in forms of ownership, a change in the nature of labor, the transition to market relations, the need to form a middle class, freedom of entrepreneurship - are reflected in the Law “On Property” of 1990, the Civil Code. “These and other tasks of the transition period from a totalitarian to a democratic social system could not be resolved in a short time. The legal consciousness of the developers of the draft of the current Civil Code of the Republic of Uzbekistan largely remained conservative and therefore it is not fully free from the influence of the Civil Code of 1965”. The Civil Code was prepared in accordance with the Model Code for the CIS countries. The Model Code itself is also not without shortcomings in terms of forms of ownership, legal entities, the scope of regulation, the rank of the civil code and others.

The scientific substantiation and development of norms for regulating relations in the field of public-private partnership seems to be the most difficult due to the fact that administrative law, being considered one of the basic branches of law, using the potential and legal means of the imperative method of regulation and ensuring public interests, at the same time provides legal protection of the rights and freedoms of both individuals and legal entities from actions, decisions and inactions of administrative bodies. The national legal system does not distinguish between public and private law, and therefore it is important to determine the relationship between administrative and private (civil) law. The distinction between public and private law is a difficult and still considered controversial task. The Civil Code, which has been amended in all subsequent years after its adoption, contains many problematic institutions and articles that have not yet been clearly and precisely resolved. This is the institution of legal entities, the participation of the state in property relations as an “equal” subject, contracts for paid services and others that speak in favor of the priority of public interests over the protection of private ones. In public law (state, financial, tax, administrative) there are many legal

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entities created by the state, and not on the basis of the norms of the Civil Code. Clarification of the characteristics of legal entities of public law and private law is one of the problematic areas in the study of civil and administrative law.

Perceiving the Romano-Germanic legislative tradition as a whole, the Uzbek legislator did not accept changes in the post-war Romano-Germanic legislative tradition of private codifications. The article by the famous Russian scientist V.V. Lazarev "Legal science: current state, challenges and prospects (reflections of a theorist): provoked discussions among Russian scientists. The background of the state of Uzbek legal science, including university legal science, indicates the common roots of scientific legal problems.

Science is "produced" by individual scientists, creative groups of scientists, scientific institutions and educational institutions. In Uzbekistan, universities are faced with this task, but its solution has little prospects given the existing organization and forms of remuneration. For example, realizing all the negative consequences of financial hunger among teachers, Korea, Germany, Canada, Japan and other countries gradually decided to increase teachers' salaries. Thus, today the salary of a teacher in Germany is $5,689, in Canada – $5,469, in Korea – $4,133, and in Japan – $4,220. It is noteworthy that today these countries are leaders in the ranking of the best school education systems.

In recent years, a number of resolutions have been adopted on this issue. Science in the universities of the republic, the effective organization of management of universities and universities are a separate topic of scientific analysis. The structural and systemic scope of this subtopic allows us to express an opinion in the most general terms. First of all, I note that the status of universities is defined in the civil code as a non-profit institution providing educational services; in administrative law it is a subject of administrative legal relations created by the executive branch and located in a system of vertical subordinate relations. Such double legal regulation in practice has created a problematic situation of subordination and regulation of the activities of the university, which is resolved by the Ministry of Higher Education, and the Law "On Licensing of Non-State Educational Institutions" adopted in 2017 contains material and organizational difficulties in obtaining a license and difficulties for pioneers in the country's educational services market, due to the lack of any successful experience of private commercial universities, which have more negative than positive assessments of the experience of other CIS countries. Scientific justification for the decision of university science and improving the quality of competencies of graduates lies in this plane. That is, the competition of educational services, with a certain autonomy of the university on fundamental issues, with the provision of academic freedom to teachers and researchers, with decent funding for their work, cannot fail to produce results. Today, engaging in scientific activity requires, first of all, time, effort, financial security and, of course, desire, dedication and talent. But having a teaching job of 1540 hours per academic year, a teacher works 38.5 hours per week for 10 months of work. Of these, classroom hours for a professor are 770-800 hours, for teachers 1000 or more hours. Half of the load is socially useful work - legal propaganda in the media and various groups, duty, supervision, meetings, tests, commissions, etc. It is physiologically and psychologically impossible to expect scientific results from such a busy teacher. A strong motivation for progress would be free time to do science and material security.

Professor V.V. Lazarev classifies scientific research as: 1) a "handmaiden" of the current politically dominant class; 2) research that claims to search for truth; 3) "social alchemy," which is nothing more than verbiage.

Such a classification, which took place in the history of legal science, should sink into oblivion, leaving only research that claims to search for the truth.

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