

THE CONCEPT OF LEGAL RESEARCH

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Abstract. *The article examines the issue of analyzing the nature of legal research. Special attention is paid to the issue of understanding the concept of legal research, revealing the essential features of scientific legal research. The article attempts to clarify the process of scientific formation of new theoretical knowledge, define the components of scientific activity, and analyze the role of cognitive activity in legal research.*

Keywords: *law, legal research, jurisprudence, legal understanding, science, structure, knowledge, methodology.*

INTRODUCTION

The dynamic aspect of legal science is manifested in legal research, i.e., the cognitive activity carried out by legal scientists to obtain new knowledge about the object and subject of this science. At the same time, cognitive scientific activity represents the unity of action and its result. At its core, activity means active action. However, reasonable conclusions about whether the activity was truly scientific or its imitation can only be drawn from its results. Accordingly, in our work, revealing the essential features of scientific legal research, we have to talk not so much about the activity itself, but about its results.

The main purpose of scientific activity, therefore, is seen to be to identify and fill existing gaps in science and to develop its content in breadth and depth. The progressive development of society predetermines the need for constant improvement of the state and law as the most important means of managing its affairs and ensuring a stable legal order. The search for ways and means of bringing the state and law into line with the constantly changing tasks and main directions of the development of society is carried out by legal scholars. They are directly entrusted with the task of revealing the patterns of functioning and development of the state and law in the new, specific historical conditions of society and, on this basis, preparing scientifically based proposals for improving political and legal practice, increasing the role of the state and law in solving pressing problems of society.

MATERIALS AND METHODS

In modern conditions, when legal science is a developed system of knowledge about the state and law, the specific forms of their existence, and the patterns of functioning and development, the process of obtaining new theoretical knowledge is a rather complex cognitive task. It is solved in the course of the mental activity of highly professional legal experts, carried out with the creative use of theoretical and historical knowledge about the state and law, as well as methods of scientific knowledge. Ordinary and other forms of non-scientific knowledge about state and law are under no circumstances capable of rising to the level of scientific theoretical knowledge, therefore they must be clearly and consistently distinguished from all types of legal research.

As a special form of reflection of the existing world, scientific knowledge of state and law differs from everyday knowledge, as well as from professional legal and journalistic knowledge,

in the following ways: 1) the goals of knowledge; 2) ways of knowing; 3) ways to substantiate the reliability of the acquired knowledge; 4) novelty.

RESULTS

Unlike ordinary cognition, in which sensory cognition plays a decisive role, and its results are limited to the direct perception of observed political and legal phenomena and processes, scientific cognition is conducted in a rational way using the conceptual apparatus of science. The concepts and categories of jurisprudence form the basis of the mental activity of lawyers and act as the main means of their professional communication, since in the form of categories and concepts the essential features of legal phenomena and processes, as well as their natural connections, are recorded. The widespread use of categories and concepts of legal science accompanies all stages of scientific knowledge, including the collection, assessment, and description of empirical facts, the processes of cognition of the content, essence and natural connections of political and legal phenomena and processes.

In addition, everyday knowledge of political and legal phenomena and processes is carried out primarily using the most primitive cognitive means, for example, the interpretation of legal norms is limited to the reproduction of the literal text of normative legal acts. Scientific knowledge of law invariably involves the use of methods of scientific knowledge. Through the creative application of these methods, new reliable empirical and theoretical knowledge is obtained. Even the traditional interpretation of legal norms for lawyers is carried out using interpretation methods specially developed for these purposes, which allow one to correctly understand the meaning of legal norms and establish the actual will of the law-making body expressed in them.

Empirical studies conducted at the proper methodological level led to the same knowledge, regardless of who the researcher was - a scientist or a practical worker. All knowledge of this kind contributes to the development of the empirical basis of science and is therefore scientific, even though, when conducting empirical research, the practitioner pursued purely practical goals to identify the real state of affairs, for example, the mistakes that courts make when considering one or another category of cases, what prevents the rule of law from acting effectively. Therefore, it is not possible to draw a clear line between empirical studies conducted by legal scholars and practitioners. The scientific results of such studies turn out to be identical and can be equally used for both practical and scientific purposes.

DISCUSSION

Practical knowledge is carried out to solve specific problems of law-making, law enforcement, or law enforcement activities, for example, assessing the quality of a prepared draft normative legal act and deciding on the possibility of its approval, and adoption when a judicial body makes a sentence, or other decision in criminal and civil cases, as well as to develop measures to combat crime, etc. Scientific knowledge is focused on other goals - the formation of theoretical knowledge about the state and law, and the further enrichment and improvement of existing knowledge of legal science. Thus, the target orientation of cognitive acts makes it possible to very clearly and consistently distinguish scientific theoretical research from empirical cognitive acts in the field of substantive and practical activities of law-making, law enforcement, and law enforcement agencies.

Thus, scientific legal research is understood as a cognitive activity carried out to obtain new scientifically based, rational knowledge on the subject or object of legal science.

Legal research, like any other scientific activity, is a system consisting of five elements:

- 1) subject;
- 2) object;
- 3) methods of cognition;
- 4) technical and other means used in the process of cognitive activity;
- 5) results of cognition.

The subject of legal research is an individual, a highly qualified specialist in one of the branches of legal science: the theory of state and law or other legal sciences. To successfully conduct scientific research and solve problems of legal science at the level of theoretical knowledge, specialists must have at least four properties:

- 1) have deep knowledge in the relevant branch of legal science;
- 2) know and understand the philosophical foundations of legal science, as well as the general patterns of functioning and development of law and the state;
- 3) master modern methods of scientific knowledge;
- 4) have imagination and intuition.

Thanks to these properties, an individual can make a transition from existing incomplete or inaccurate knowledge to new theoretical knowledge, i.e., enrich science with new theoretical knowledge.

The researcher's deep theoretical knowledge and methodologically competent skills facilitate the process of scientific formation of new theoretical knowledge. Thanks to them, a reliable theoretical and methodological springboard is created for the transition to new knowledge, but in themselves, these means of scientific knowledge do not guarantee new knowledge. An individual who does not have a deep knowledge of science is not able to make any significant creative contribution to science, as convincingly evidenced by candidate dissertations prepared at the level of literature reviews and analysis of the views expressed in them. However scientific erudition is not always a guarantee of successful scientific knowledge. Not only in jurisprudence, but also in other social and humanitarian sciences there is no algorithm for logical obtaining new theoretical knowledge from existing knowledge in the form of concepts, categories, principles, and theories. Intuition and fantasy, therefore, are indispensable properties of a creative personality and its reliable means of successful theoretical knowledge.

The object of legal research is a fragment of a specific reality, which in the relevant branch of legal science is reflected incompletely or inaccurately; knowledge about it is problematic, while the need for in-depth scientific knowledge of this fragment of reality is felt at the scientific and (or) practical level. The researcher draws attention to a gap in science and finds it possible to fill it through a special scientific study. For these purposes, he formulates a scientific problem, in which he defines the range of issues to be studied, as well as approximate ways and means of solving it. Since the range of unsolved problems in each branch of law is quite wide, when choosing an object of legal research, a legal scientist is guided by both the needs of practice and his interests. For example, a beginning postgraduate scientist is looking for pressing problems, the solution of which in the shortest possible time could lead to results that satisfy all the requirements for a candidate's dissertation. A mature scientist, on the contrary, undertakes the study of complex fundamental problems that allow him to fully reveal his full creative potential and become one of the leaders in the relevant branch of law.

In any case, a legal scientist chooses the object of his research independently and takes into account his interest in the results of scientific knowledge. It is impossible to force fruitful scientific research or to obtain an education.

The next component of scientific activity is the methods of scientific knowledge, which were already mentioned above, as well as technical and other means used in the process of cognitive activity, among which the most significant are financial, informational and organizational.

Scientific research requires significant material costs. Currently, most of the costs are paid from the personal funds of researchers. The current system of scientific forfeits in the country, designed to provide financial assistance to social scientists, including legal scholars, does not cover even a hundredth of the legal scientists conducting active scientific work. The material supports the state provides to university teachers is expressed in the payment to them of a meager monthly allowance for the purchase of scientific, educational, and other literature.

Information means - library collections, archives, and information retrieval tools - are of particular importance for the research activities of legal scholars. With the help of library collections, legal scholars have the opportunity to learn the entire complex of scientific knowledge obtained by their predecessors throughout the history of mankind, and with the help of archival data - to study historical events, and processes on their basis to form empirical knowledge.

Successful scientific activity is also impossible without using the entire arsenal of modern organizational technology, i.e., a set of methods and tools that can significantly facilitate the process of carrying out technical and accounting operations at all stages of scientific knowledge. This includes the simplest office equipment: folders, writing instruments, paper, glue, paper clips, etc., means of copying and reproducing documents (scanners, printers, copiers, etc.), and means of communication (telephones, intercoms, the Internet). Modern computing technology opens up wide opportunities for scientific legal research, providing rapid processing of a wide variety of information, and effective search and storage of large amounts of information.

Cognitive activity itself is the process of producing scientific knowledge, which in legal science is carried out by each researcher individually, and privately, and the prospects for changing this method of production to a progressive - public one - are still very ephemeral. The production of scientific knowledge has an individual character, hidden from prying eyes. Being the main producer of scientific knowledge, consciousness poorly obeys its bearer and produces scientific products according to its canons, which are not always consistent with the level of professional knowledge of the cognizing individual and his desires.

CONCLUSIONS

The individual nevertheless finds measures to influence consciousness, forces it to act in the right direction and produces new, according to the circumstances, knowledge of a theoretical or empirical level. However, neither a high professional level of knowledge nor a good command of the methods of scientific knowledge can guarantee a scientist obtaining the results he expects. As already mentioned, intuition and fantasy play a certain role in cognition, the appearance of which is random, and therefore failures in cognition occur much more often than revolutionary discoveries. At the same time, the process of cognition, as a rule, is long and includes several very diverse research procedures: between the formulation of a scientific problem and its solution there are at least 10-15 research procedures.

The results of a successfully conducted research should mark the birth of new knowledge, not yet known to science, which can be expressed in a variety of mental forms: empirical facts, concepts, categories, scientific laws, and solutions to individual scientific problems. Particularly outstanding research results can culminate in the creation of a new theory that makes it possible to positively solve some fundamental problems of science that cannot be solved within the framework of existing scientific doctrines. Scientific novelty in the form of inventions is not inherent in legal science. Accordingly, lawyers do not receive Nobel and other prestigious scientific prizes. However, all popular uprisings, bourgeois and socialist revolutions that determined the progressive development of society invariably find justification for their claims to power and new orders not in physics or chemistry, but in legal science.

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