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The legal mentality and the succession of the law

Vladimir A. Rybakov

Dostoevsky Omsk State University, Omsk, Russia

Subject. The peculiarities of the legal mentality and succession of law, their correlation and communication.

The purpose of the article is to identify the relationship of the legal mentality and development of the law.

Methodology. The research is based on the method of legal analysis, formal-legal method.

Results, scope of application. The legal mentality and continuity in the law are linked and have common features. They are based on national law, are a reflection of him.

Continuity in the law is objectively existing relationship between the various stages of its development, aimed at ensuring the continuity of national rights, preserving the past in the present.

The basis of the legal mentality and continuity in the development of the law are objective factors. These phenomena are associated with the past, with the history of their own, caused by it. The development of law and legal awareness is provided not only in the change process, but in the process of preservation. The legal mentality and continuity in the development of the law are genetic in nature. Communication legal mentality with continuity in the development of the law can clearly be seen in its functions: maintain the continuity of the existence of a particular community (homeostasis function), communication, preservation (protection), stabilization and preservation of justice, regulatory.

Conclusions. There is an interaction between the legal mentality and continuity in the development of the law. Mentality as a historically formed and stable matrix typification of behavior and thinking through the law-making process predetermines the preservation and use of the original legal material is proven to be effective. The stability of the legal positions, legal thinking, passed down from generation to generation are the basis of the continuity law.

Stability of legal views, legal thinking, transferred from generation to generation are the basis succession of law.

Key words: legal mentality, legal mentality, law, succession of law, legal views, legal thinking.

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1. Introduction to the subject of research.

The theme of the legal mentality is very relevant. Being an important component of the cultural tradition, the mentality implements within the culture a "connection of times" and unites society, so that the ethnic community is able to identify itself [1]. By researching the legal mentality one can penetrate into the essence of the legal reality, part of which is legal consciousness, and understand the variability of the images of the legal world of different societies. S.V. Tkachenko believes that ignoring of studying the problems of legal mentality "emasculates" the science itself from within, reducing it to an impenetrable teaching about the totality of legal norms [2].

Despite this, the topic has been little explored, especially in terms of continuity in law.

2. Legal mentality.

The concept of legal mentality does not have a universally recognized definition. It is understood as historically formed specific systems of worldview concepts [3, p. 13], as stable legal archetypes historically worked out by a certain ethno-cultural (national) community,

embedded in a deep level of sense of justice [4, p. 135-136] and as a historically developed and stable matrix of the typification of behavior, a scheme of meaning-building [5, p. 23]. These definitions indicate historicity, stability of legal views, stereotypes of thinking and behavior passed down from generation to generation, which determine the continuity in the development of law.

3. Continuity in law.

Continuity in law is an objectively existing link between the various stages of its development, aimed at ensuring the continuity of the development of national law and preserving the past in the present. It implements the ability of the developing system of law to self-preservation of its internal framework, relative stability and sustainability of law. These essential qualities of continuity are predetermined by the dialectical law of negation of negation. The essence of continuity in law is expressed in its purpose, and namely ensuring the continuity of the development of law. An important role in this, as already noted, is played by the legal mentality.

The historical stability of the legal mentality determines the continuity of legal consciousness and law. Law is an objective phenomenon, but it is a product of legal awareness, created by people to achieve also consciously defined goals. The sense of justice determines the manifestation of heredity in law.

4. Common features of continuity in law and legal mentality.

The legal mentality and continuity in law have common features.

4.1. First, they are based on national law. The legal mentality is a certain direction of the national legal consciousness, it is the psychological basis of positive national law [6, p. 35-36], it expresses legal consciousness in historical time and geographical space. "Abstract mentality" does not exist, as there is no mentality outside the psyche, consciousness, history, time and geographic territory of space [7, p. 168]. The initial cultural and historical foundations of the national legal culture are rooted in the legal mentality of the society. There is no continuity in law outside the concrete state. Law exists and develops in the society, in its space and time, and these parameters can not be considered outside. Spatial and temporal parameters are integral elements of law. Today's law was born from yesterday and will produce tomorrow [8, p. 168,169,178].

4.2. Secondly, objective factors are the basis of the legal mentality and of the continuity in the development of law. These phenomena are associated with the past, with a history of their own development conditioned by them. It is impossible to renounce it. There is no absolute gap between the stages of development. Attitude to the past is one of the main political issues in any country. And like all political issues, it can not be resolved either by a total denial of the past, or by its apologetics [9, p. 140].

The present is a product and result of the past, which appreciably forms the present through the transfer and preservation of traditions, customs and practices. Therefore, sociologists and philosophers define "social time as time, during which the tradition acquires continuity", when the collective imagination is fueled by a long period of collective memory formation, why the past looks like a pledge of the future [10, p. 220]. The past is the basis of the present and the basis of progress.

The past breaks into the future and it is the law of succession [11, p. 204]. The continuity of legal consciousness (legal mentality), as well as continuity in law, in unity with negation, constitute the essence of legal development [12, p. 9].

The development of law and of legal consciousness is provided not only by the actual process of change, but also by the preservation process). The continuity is characterized as one of the components of the movement of the legal system. The lack of continuity means the cessation of movement and of development of law. Changes in the legal superstructure are

always accompanied by certain disruptions. However, this does not lead to the complete breakdown of all its structures and elements. Legal mentality, like law, arises unintentionally and retains power over people for centuries. Mentality is "an act of transformation of reality and a" covenant "of ancestors to descendants" [13, p. 45]. This is a kind of mental system (cognitive type) and a mental warehouse of the people, which are expressed in any manifestations of spiritual and other life.

The individual and the people as a whole can not arbitrarily change the legal mentality or abandon it, can not defeat it. Mentality is the active structure of the spirit of a certain people [14, p. 21-22]. It is the spiritual and psychological basis of the positive law, a kind of cultural paradigm reflecting the legal activity, it forms the spiritual fabric of legal existence, exercises legal reflection and legal contemplation. Mentality is a factor ensuring the unity and continuity of the existence of a social community.

4.3. Thirdly, the legal mentality and continuity in the development of law are of a genetic nature. Preservation of the identity of national law and sense of justice can be defined as a "genetic" pattern of their development. There are many reasons to assert that each legal system and legal consciousness have their own "genetic code", which is dangerous to change [15, p. 26]. For the most part, they persist even in the most violent social upheavals. After revolutions the genotype may not manifest itself openly, but at some stage it begins to exert a decisive influence on law-making, law enforcement and other legal processes. This is explained by the fact that each people gives special meaning to their undertakings, their own culture, shapes ideas about state power, the legal status of the individual in society, etc. Mentality is determined by the genotype and the environment. They ensure the preservation and translation of the mentality - the transfer of mental characteristics from one generation to another and from one person to another. [16]. The common in the legal mentality and continuity in the development of law is manifested in their attributes: in a conservative, stable and static character, in their political and legal nature [17, p. 76].

5. Functions of legal mentality. The relationship of the legal mentality with continuity in the development of law is clearly traced in its functions, which are maintaining the continuity of the existence of a particular community (the function of homeostasis) [18, p. 46-47], communicative, preservation (protection), stabilization and preservation of legal consciousness, regulatory function [19, p. 15].

5.1. Function of homeostasis. This function is considered to be the main one and is aimed at providing stability mechanisms [20]. The legal mentality ensures the stability of the mental make-up of the nation, it fulfills the role of a stabilizer of legal integrity, the disappearance of which threatens to destroy the foundations of law. Mentality stabilizes the national law, preserving its originality, blocking the way to elements alien to the national legal culture, demanding the conformity of a new element to the system of law in general. This function can be defined as a function of preserving legal epistemological and genetic stereotypes.

5.2. Communicative function. Legal mentality is a social phenomenon, therefore it can not exist outside the communicative connections between members of society. Since the mentality is endowed not only with society as a whole, but with various social communities existing within it, it fulfills the communicative function in society and promotes communication and mutual enrichment of individuals. The legal mentality is constantly transferred from one generation to the next one. Language, sign and the image they produce play a crucial role in the formation of mentality and the transfer of basic value personal attitudes from generation to generation.

5.3. Protective function. The legal mentality assumes the functions of preserving the ethnohistorical legal values acquired in the past [23, p. 89]. It is one of the most important "accumulators" of values, attitudes, beliefs, traditions, stereotyped patterns of behavior, etc. [24, p. 32]. This predetermines the national orientation of the development of law.

5.4. The regulatory function. Regulation of activity can be directed either at maintaining existing social relations and norms, or at changing them. In the first case, the mentality

reproduces the usual patterns of activity, in the second case it creates new programs. The regulating function of the mentality presupposes the maintenance of the continuity of the existence of the community and its unity through the sustainability of the behavior and the reproductive activity of its members.

6. Conclusions.

The legal mentality regulates the behavior of the individual in certain social conditions. Personalities should evaluate themselves, their activities and their behavior from the point of view of their compliance with the requirements of legal culture. In other words, the mentality of the individual, at least, should be in harmony with the mentality of the community. The conformity of the mentality of a person to the norms and rules accepted in society creates the sense of social fullness, which is a condition for normal social well-being, and on the contrary, a sense of disharmony - plunges a person into a state of discomfort, can cause severe personal experiences. Thus, there is interaction between the legal mentality and continuity in the development of law. Mentality as a historically established and stable matrix of the typification of behavior and thinking through the law-making process predetermines the preservation and use of the previous legal material that has proved its effectiveness.

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<p>Информация об авторе Рыбаков Владимир Алексеевич – доктор юридических наук, доцент, профессор кафедры теории и истории государства и права Омский государственный университет им. Ф.М. Достоевского 644077, Россия, г. Омск, пр. Мира, 55а e-mail: Vladimir-40@mail.ru SPIN-код: 6914-5474, AuthorID: 679506</p>	<p>Information about the author Vladimir A. Rybakov – Doctor of Law, Associate Professor, Professor of the Department of Theory and History of State and Law Dostoevsky Omsk State University 55a, Mira pr., Omsk, 644077, Russia e-mail: Vladimir-40@mail.ru SPIN-code: 6914-5474, AuthorID: 679506</p>
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