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The system of laws and regulations: current state and development needs (based on the sociological and legal research)[1]

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Abstract

The author explores the relationship of civil servants to the system of normative legal acts of the Russian Federation. The legislation represents a written law itself. It is embodied in public relations in such a way as understood by the people, being transformed in their legal consciousness. The object of the study of this article is a research of legal conscience of civil servants and its reflection on legislative system. Civil servants apply laws and other normative legal acts; the matter how the document will be applied to citizens is within their control.

In this scientific paper the author used a primary research method – the survey. It was conducted among civil servants of various legislative, executive, and judicial branches of the federal government. 10 subjects of the Federation, as well as law enforcement officers and military personnel, have been interviewed. The survey sampled population is quite representative in terms of gender, age, length of service and other factors. The profile of respondents by length of the public service is in increasing progression. 4.2% of respondents have a degree of PhD or Full Doctor. The sociological study revealed a strong enough contradiction between the scientific conception of the system of normative legal acts and a reflection of the object in legal consciousness of the respondents.

1 The author thanks to the legal reference systems KonsultantPlus for the information support.

This study allows us to conclude as a single set on the improper attitude of public officials to legal phenomena. The study performed almost directly reproduced the uncertainty of the legislation in the legal consciousness of the respondents, which requires a substantial strengthening of the work of the legislator to improve the conceptual apparatus of the law. There is no reason to require consistency and unambiguity of rules and norms of conduct in the absence of these properties in the conceptual framework and legal consciousness.

Keywords

Legal awareness, legislation, forms of law, regulations, civil servants.

Introduction

Normative legal acts are the main form of the Russian law. It conditioned by the type of legal system, legal conscience, legal traditions and practices. Other forms of law in the domestic legal system are limited by the licensing framework established by the legislation. This guideline regulation of the normative act requires deep theoretical and methodological grounds that will ensure stability, regularity and self-development of the object. However, the analysis of current legislation, scientific literature[2] and empirical data clearly indicate the need for a conceptual update of the theory of standard regulations. However, juridical science has not yet become the basis of law-making and does not consolidate legally the results of scientific research even on the normative legal acts. Thus, for decades there has not been enacted the Federal Law "On normative legal

2 Polenina, S.V., Baranov, V.M., Surko, E.V. (2009), *Law-making and technical and legal problems of formation of the Russian legislation in the context of globalization* [*Pravotvorchestvo i tekhniko-yuridicheskie problemy formirovaniya sistemy rossiiskogo zakonodatel'stva v usloviyakh globalizatsii*], Moscow, 278 p.; Tikhomirov, Yu.A., Kotelevskaya, I.V., Mityukov, M.A., Miukevich, A.V. (1994), *Constitution, law, subordinate act* [*Konstitutsiya, zakon, podzakonnyi akt*], Moscow, 136 p.; Tolstik, V.A. (2002), *Hierarchy of sources of Russian law* [*Ierarkhiya istochnikov rossiiskogo prava*], Obshchestvo Intelservis, Nizhny Novgorod, 215 p.; Sil'chenko, N.V. (1992), *Scientific basis of the typology of normative legal acts: dissertation* [*Nauchnye osnovy tipologii normativno-pravovykh aktovv: diss… kand. yurid. nauk*], Moscow, 152 p.

acts of the Russian Federation"[3], despite the lack of reasoned argument and open debate against this law-making solutions. Evidence of the crisis state of the doctrine of regulations became a conducted sociological research, which results created an empirical basis of this paper.

Legal consciousness is a set of ideas, emotions and impulses in the legal sphere. Legal consciousness evaluates entire legal phenomena: law, forms of law, law-making and enforcement. Public good is not only a phenomenon, but the presentation of this phenomenon. The system of standard regulations, its theory in the minds of the subjects of law is refracted through experience, education, mood, position and other subjective characteristics. It is just what constitutes one of the areas of monitoring of the law: idea – norm – ratio. Sociological methods, particularly surveys, perform as a monitoring tool. The result of the analysis of the reflection of ideas and norms in the relationship (legal consciousness) makes it possible to improve both ideas and norms in a quality and reasonable manner.

The purpose of the sociological research is to identify the reflection of the system of standard regulations and its prospects in legal consciousness of civil servants. This approach allows us to investigate the perception of legal concepts in the legal consciousness of respondents, such concepts, which positioned almost as an absolute truth by the legal science.

The study was conducted in the form of survey of government officials, as legal consciousness of these respondents develops a basis of law-making and law enforcement. It is in their legal awareness laid and reflected the foundations of philosophy and ideology of adopted legislation.

The survey was conducted among civil servants of various legislative, executive and judicial branches of the federal government and 10 subjects of the Federation, as well as law enforcement officers and military personnel.

Survey sample is quite representative in terms of gender, age, length of service and other factors. Thus, 56.7% – male respondents, 43.3% – female respondents. Among age groups most of the respondents present the age group of 40 to 49 years (34.9%), i.e. one-third of respondents are at burst of flush of their abilities and opportunities, including pro-

3 "Version of the project on the website of the Federation Council of the Federal Assembly of the Russian Federation" ["Variant proekta na saite Soveta Federatsii Federal'nogo Sobraniya RF"], available at: www.council.gov.ru

fessional ("Acme" age). The profile of respondents by length of the public service is in increasing progression. 4.2% of respondents have a degree of PhD or Full Doctor.

The results of the sociological and legal study of the current state and development needs of the regulatory and legal acts system

The sociological study revealed a strong enough contradiction between the scientific conception on the system of normative legal acts and reflection of the object in legal consciousness of respondents. Positive evaluation of one of the poles of opinion will inevitably lead to a negative evaluation of the other one. The simplest and most obvious is a strong positive evaluation of doctrinal positions. It appears, however, that such an interpretation is not consistent with the goal of scientific knowledge and distorts the ratio of truth and practice. Because of these doubts, we took special consideration to the perception of those provisions by public servants that science considers as decided, but concerning the content this decision is opposite to the conceptions of respondents. Putting the practice on the criteria for checking the validity of research results, we consider it necessary to develop recommendations for science, matured in the practice of law. It can be called a monitoring of scientific ideas.

Moreover, as a result of the study revealed such flaws in the legal consciousness of civil servants in the subject area as incompleteness, non-imageness, inconsistency, contextuality, lack of a clear and unified concept.

Identified very specific priorities of the law forms in consciousness of public servants (see Fig. 1). When asked, which law forms may contain norms governing public-service relationship, 8.5% of respondents were undecided. In general, the responses clearly indicate the unwillingness of respondents to go beyond the regulations, because, even assuming a variety of forms of law, they still give priority to the normative legal acts (87% of respondents). 8% of respondents recognizing the priority of legal acts, upon that consider that norms governing public-service relationship may be contained in other forms of law. According to some respondents, such rules may be contained in the customs and usages (2.5%), test cases and judicial practice (1.0%) and other forms of law, but not in the party documents and programs (0%).

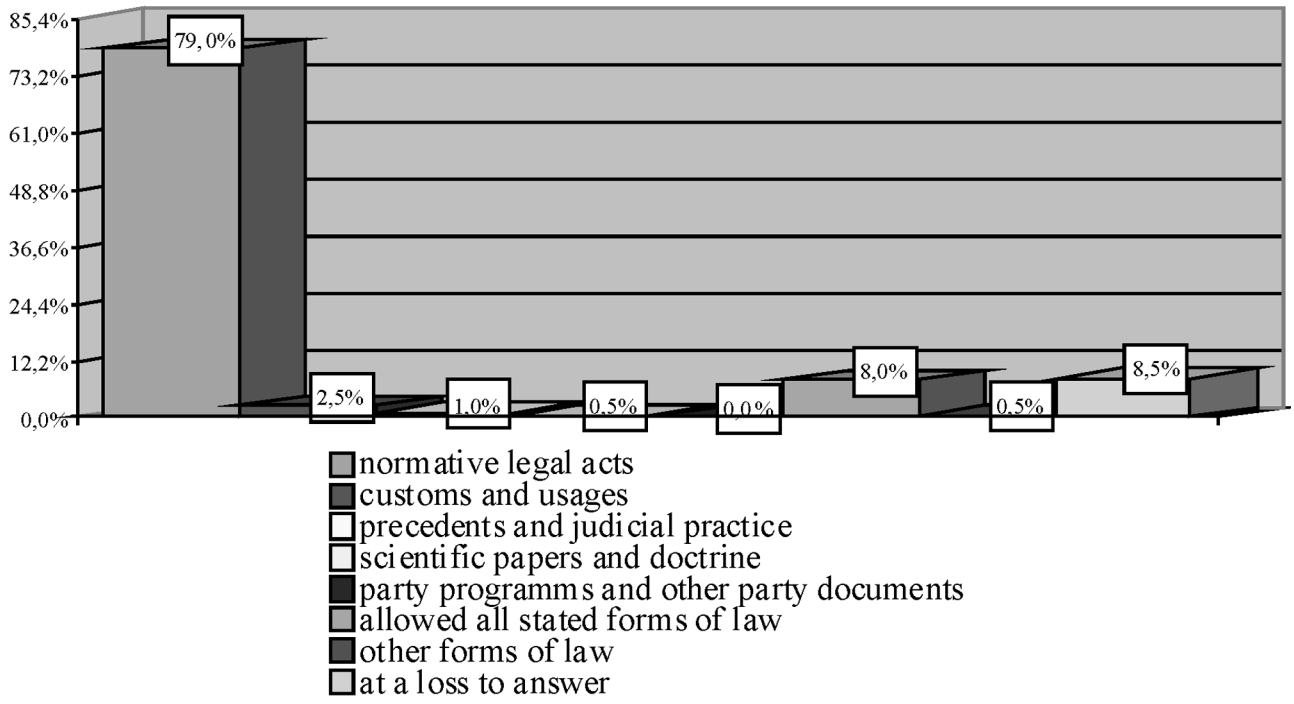

Figure 1. Opinions of respondents about the forms of law containing the rules governing public-service relationship

As other forms containing law norms respondents also called internal orders, official regulations and instructions of official government agency.

The attitude of civil servants to **normative legal acts** in general and their individual varieties being studied in several important areas: definitions, codification of civil rights, the ratio of laws and subordinate acts, frame and directly regulatory acts.

Law-making and law-enforcement practice is experiencing significant difficulties due to the uncertainty of the principal legal terms. There is no certainty in such key definitions as a normative legal act, law, subordinate act, codified act and others. The concept of normative legal act is not enshrined in law. Signs of standard regulation are scattered fragmentarily in legal texts, but the best results achieved only by the judicial practice. In the absence of legal definitions the resolutions of the Plenum of the Supreme Court have been consolidated in 1993 and updated several times[4], and

4 "Resolution of the Plenum of the Supreme Court of the Russian Federation on April 27, 1993 No. 5 "On some issues arising in proceedings on application by the prosecutor on the recognition of acts contrary to the law" ["Postanovlenie Plenuma Verkhovnogo Suda RF ot 27.04.1993 g. No. 5 "O nekotorykh voprosakh, voznikayushchikh pri rassmotrenii del po zayavleniyam prokurorov o priznanii pravovykh aktov

then gave a new version of the concept of legal act[5], recorded the most important features of this form of law. The concept of "legislation" remains completely hidden and not disclosed as a definition in any regulatory, enforcement, and even in the interpretative act. The concept of "legislation"[6] is of great importance, used with significant semantic differences in ordinary and specialized legal language. The uncertainty is increased by the fact that the use of the term in normative legal acts is also significantly different.

The term "legislation" is multivalued and is used in a broad and narrow sense. In a broad sense the system of legislation is understood as a set of regulations, and in a narrow – just as laws. The availability and use of both meanings in the legal space of one state and legal language does not create any comfort, neither unity nor particularly uniformity. The conditions for such discrepancies are created by the legislator, using both sense even not complementing them, and the lack of profound convincing doctrine. For instance, in accordance with the Article 1.1 of the Code of Administrative Offences of the Russian Federation the legislation on administrative offences consist of the Code and vested in accordance with the Code laws of the subjects of the Russian Federation on administrative offences. Forestry Code of the Russian Federation understands legislation as a code, other federal laws and laws of the subjects of the Russian Federation. These two approaches is a verge of a narrow understanding. Town Planning Code of the Russian Federation in the Article 3 gives a very broad understanding of the term "legislation" – the code, other federal laws and other normative legal acts of the Russian Federation, laws and other normative acts of the subjects of the Russian Federation.

Thus, in the absence of the regulatory definition of the concept "legislation" in existing documents there is no existing common understanding and use. Perhaps, the legislator itself is under misapprehension as to what this often used

protivorechashchimi zakonu"], available at: http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=ARB;n=9711

5 "Resolution of the Plenum of the Supreme Court of the Russian Federation on November 29, 2007 No. 48 "On the practice of court proceedings on challenging the normative legal acts in whole or in part" ["Postanovlenie Plenuma Verkhovnogo Suda RF ot 29.11.2007 g. No. 48 "O praktike rassmotreniya sudami del ob osparivanii normativnykh pravovykh aktov polnost'yu ili v chasti"], available at: http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=125971

6 The term "legislation" is used in KonsultantPlus 33570 times.

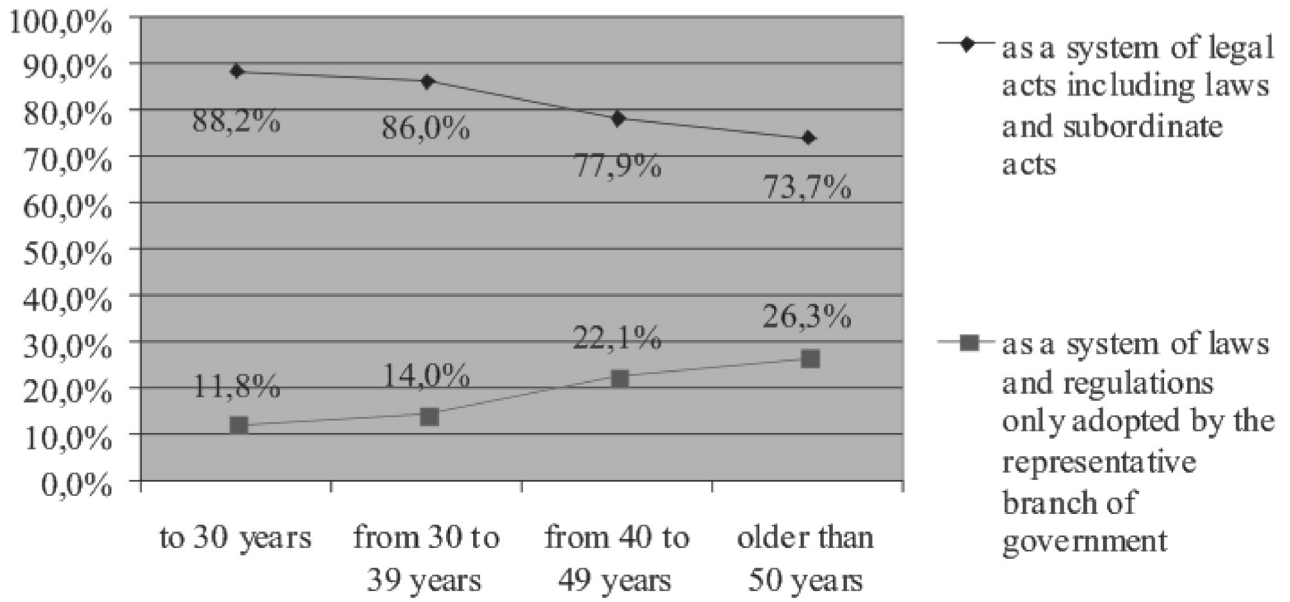

Figure 2. Characterization of understanding the expression "legislative system" depending on the age of the respondents

term is quite clear and needs no further explanation.

Continuous separation of standard regulations into two main types (laws and subordinate acts) is consistent with the understanding of the term "legislation" only in a narrow sense. Preference of public servants on a wide sense of the term demonstrates the need to clarify the existing normative legal acts in this part combined with increased scientific study of terminology.

The concept "legislation" 18.3% of respondents perceived only as a system of laws and regulations adopted by a representative branch of government, while the vast majority (81.7%) – as a system of standard regulations, including laws and subordinate acts.

The study revealed connections between the understanding of the term "legislation" with the age of respondents and with length of public service. Thus, the number of respondents who understand the legislative system as just a system of laws, increases with age (see Fig. 2) and accordingly the number of respondents who understand the legislation as a system of standard regulations decreases.

With aging **c**ivil servants begin more accurately interpret the term "legislation". However, the ratio of understanding of the term depending on the length of service is reverse: the more length of public service, the more likely respondents are to understand legislation as a system of normative legal acts (see

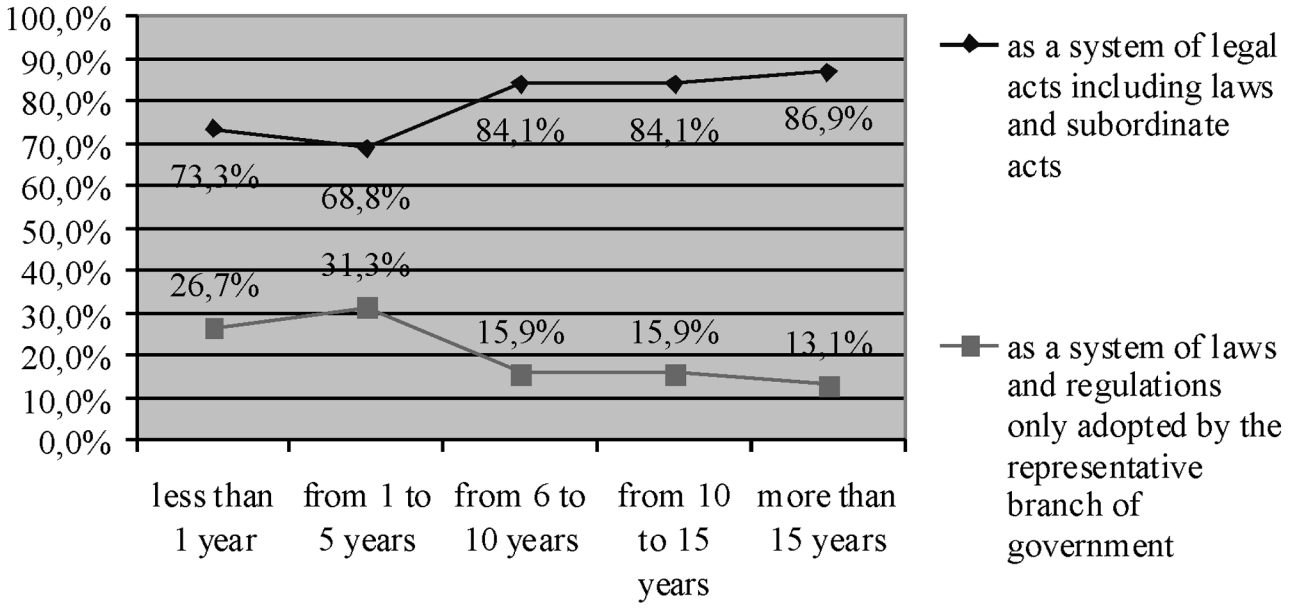

Figure 3. Characterization of understanding the expression "legislative system" depending on the length of public service of the respondents

Fig. 3). Thus, it can be assumed that the work on the public service distorts legal consciousness, in any way, the long service is not conducive to honing legal terminology.

As it turned out, there is no effect on the respondents' understanding of the term "legislation", concerning in what governmental body (legislative, executive, judicial, etc.) public servant works.

The revealed in empirical research lack of terminological certainty at persons working in the state apparatus, requires the legal community to focus on several areas: 1) strengthening scientific research; 2) unification of legal definitions; 3) legal education of civil servants.

An important issue of the legal practice is **a ratio of the concept of the law and subordinate act**. This issue can be discussed both in the semantic and quantitative aspects. The value also has a chronological factor – the rigid sequence of acts of various editions validity or lack thereof.

The quantitative aspect takes 10 subordinate acts for one enacted law on the average. This situation poses a challenge to the status of subordinate law-making in a legal policy rank. The peculiarity of the quantitative criterion expressed in the fact that the increase in laws and accrual of their subjects of legal regulation does not affect the ratio of the laws and subordinate acts.

In 2008 accepted 332 laws, decrees – 134, resolutions – 805, instructions – 82, rules – 251, letters – 1137.

This is only major types of subordinate acts. The classifier of the legal reference systems KonsultantPlus contains more than 90 types of standard regulations. This diversity suggests a very significant increase in the acts of the subordinate nature.

A semantic aspect reflects the distribution of the subjects of legal regulation between laws and subordinate acts. For some public relations the act is clearly defined, such as criminal law – only the federal law. There is no such direct legislative guidance for most of others, or is not so categorically stated. E.g., the Article 3 of the Arbitration Procedure Code of the Russian Federation provides that legal proceedings in courts of arbitration is determined by the Constitution of the Russian Federation, Federal constitutional law, the APC and adopted in accordance with other federal laws. Thus, there is a proposition of a prohibition on creating of standard regulations in this sphere. Upon that, the prohibition is in the indirect form – by establishing the allowed forms. In this style of presentation the prohibited are those forms that do not appear in the list.

The chronological aspect is evident from the following chunks of language describing the sequence of publication of laws and subordinate acts, "under", "pursuant to", "in coherence". The value of the chronological criterion is that it connects the law-making in the sequence of events: first adopted the law, and then only published a subordinate act. The legislation allows preservation of action of subordinate acts adopted before the law, as long as it will be replaced by the newly passed law. In such a scheme a subordinate act is a conditionally legitimate act of a temporary action. The value also has an advancing deliberate use of the subordinate act, which is explained by the initiators as a closing the gap in legislation. Once again – this is temporary.

Labor law is very loyal towards its sources and allows the use of virtually all regulations and local acts in terms of conflict rules proposed in the Article 5 of the Labor Code of the Russian Federation. No organizational or licensing functions are conferred on the law, that can be understood as a permission to issue subordinate acts without specific statutory reference. Paragraph 4 of the Article 3 of the APC in relation to the Government of the Russian Federation establishes its right to create regulations only under and pursuant to the Civil Code and other laws and decrees of the President of the Russian Federation. The President of the Russian Federation is not limited in any way to

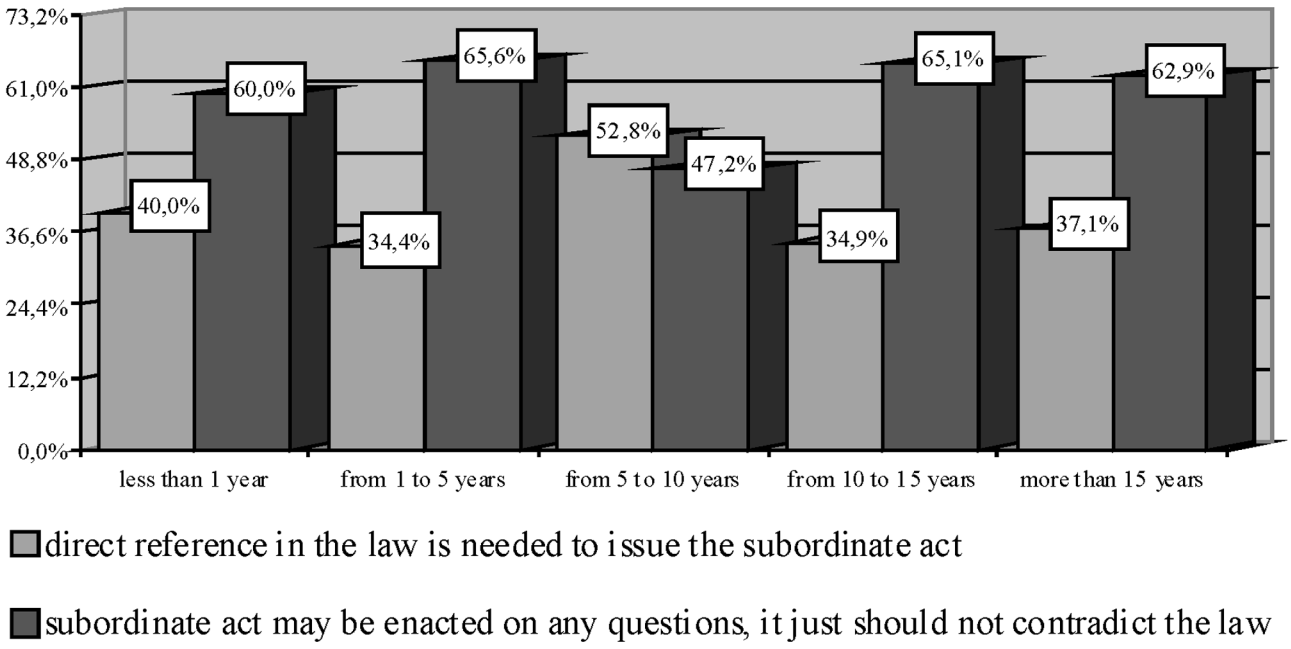

Figure 4. The respondents' opinions on the nature of the ratio of laws and subordinate acts, depending on their length of service

issue orders of civil nature. Such conceptual differences in the text of a single law significantly impede further law-making and law enforcement, have a negative impact on the legal consciousness.

Judicial practice has fixed a dispute about jurisdiction between the legislative and executive bodies; the actual parties to the dispute were the law and subordinate act. Thus, the Constitutional Court issued the decision No. 396-O on October 17, 2006, which articulated important thesis about the relationship of laws and subordinate acts: "the Government of the Russian Federation, thus, was mandated to accept subordinate acts that contain provisions on the procedure of indexing of payments provided by the Law, it is not entitled to set out any conditions, which connected with the right to receive these payments"[7].

The contradictory view of civil servants on current issue is a reflection of the ambiguity of the law. The majority of respondents (61.4%) share the view that a subordinate act may be issued on any questions, it just should not conflict with the law. The rest (38.6%) hold to a different ratio of laws and subordinate acts and believe that subordinate acts publication needs a direct reference in the law. It is interesting that this trend persists in people with different length of public service, but after having worked from

7 The document has not been published. See KonsultantPlus.

6 to 10 years, its character is somewhat different (see Fig. 4) – there dominates a preference on the direct instructions of the subordinate act in the law (52.8%) before complete freedom of the subordinate act (47.2%). This group has a legal consciousness that most closely matches the understanding of the law as a dominant form of a legal state.

The increase in the number of respondents that distinguish more certainty of the law and, therefore, the restriction of subordinate law-making, with experience in public service, is a proof that own practice requires uniqueness namely of legal acts.

Interviewed members of the legislature, like most of the respondents, tend to release subordinate acts from laws (72.0%) and only 28.0% of civil servants believe that the priority and precedence must be maintained for the law. A similar ratio (66.7% and 33.3%) is observed among military personnel. This survey result shows disinterest of civil servants to increase and protect the status of the main result of their activities – the law.

The functioning of the legislature focused on the creation of a single type of normative legal act – the law. Other acts of other public authorities have no organic connection with the laws at the stage of law-making. Repeatedly expressed the proposal for a single cycle of law-making or a "package" law-making process, in which the central law, derivative laws and subordinate acts would be taken at the same time. Hypothetically, this model may seem as an ideal, but it is impossible to create it or at least very difficult. The survey revealed that members of the legislature did not intend to connect law-making and adoption of subordinate acts into a single cycle. Perhaps this is due to the impossibility of practical implementation of this idea.

An extreme form of connecting the law with the subordinate act is an assignment to the body, issuing a derivative act, the duties to indicate clearly in the preamble, in accordance with the article of the law it publishes. The implementation of this model deprives the executive authorities the possibility of the so-called advanced law-making, i.e., promulgation of the act on matters relating to the regulation by law, failing any such others. They also lose ability to broad interpretation of the law, in which they are currently assigned their own authorities in a certain sphere.

The dominance of the simplified view that a subordinate act must not only contradict to the law is an alarm trigger about the state of justice. This indicates on the lack of understanding of the issues

of the subordinate regulation by respondents. We believe that complete freedom of subordinate law-making apart from the law is a problem not only of a legal, but also of a social nature. Its importance is seen in the fact that the subordinate act cannot guarantee the legitimacy equal to the law. The Soviet era is a proof, and there are quite a few modern examples. Subordinate act is always limited in comparison with the social basis in comparison with the law, accepted by a limited number of people, or even at one's sole discretion. The promulgation of standard regulations is an opaque process and does not have a clear legal procedure – this is not a complete list of obvious flaws of subordinate legislation. Compared with the law the codes issued in the period from 1994 to the present have recorded the general political and legal solution: the separation on matters governed only by the law and the issues that may be regulated by the subordinate acts. This separation of "object – act" reasonably interpreted as an achievement of democracy and an appropriate legal order. Each code in the transitional provisions provides that "in matters, which under this Code may be regulated by federal laws, apply until the entry into the force of the relevant laws" (for instance, the Article 428 of the Code of Merchant Shipping Code).

These restrictive constructions are very approvingly accepted by the legal community. However, as clearly demonstrated in the sociological survey, the "conquest" of legal thought is of a little value for respondents. They are satisfied with the role of subordinate acts and do not intend to maintain a special status of the law in the normative legal acts system.

Another important issue of the law-making process is a ratio of basic acts and their derivative documents. Current practice shows that the first adopted **framework law** containing a large number of reference rules to other normative legal acts, which at the time of the adoption of the law often do not exist. Such acts are generally small in size, contain their own conceptual apparatus, the general part exceeds the special. Their essential attribute will be rules, goals, tasks, principles and definitions. Such acts do not arrive at the direct impact on social relations, giving and sometimes just implying, assuming the issuing of additional, pursuing documents. The disadvantages of framework acts are well known. But all of them are manifested with particular force in the case of a long break between the adoption of the framework and derivative instruments. The problem is exacerbated by the fact

that a framework act as a rule represents a law, and derivative one – subordinate legal acts. Despite the negative attitude to the framework acts in the scientific literature[8], the practice of promulgation of such acts is increasing. To determine the socio-psychological prerequisites of domination of the considered law-making method the questionnaire contained a question of relationship between general and derivative acts.

Respondents' opinions divided concerning the promulgation of framework laws containing references to other acts. Their promulgation is considered useful by 39.6% of the respondents, as such acts are the basis and foundation for the subsequent acts. According to 34.4% of the respondents, the enactment of framework laws is a distraction from a real legislative process, and 26.0% of the respondents believe that such acts are harmful, because their adoption could not change anything until the adoption of reference documents.

Subordinate acts dominated in Soviet law, and the laws were just of a framework character with virtual absence of any others. However, the assumption on the approval of framework laws by civil servants of the older generation (over 50 years) was not confirmed in this study. On the contrary, such a model of a person older than 50 years has not been approved (66.6%), respectively, they negatively estimate the experience during their professional development. They will accordingly impress on the adoption directly applicable laws. This model requires a large amount precisely of legislation acts.

The paradox of modern lawmaking is that the amount of laws has increased a lot not only in absolute terms but also in terms of performance of the legislator during the year[9]. But the geometric progression of laws did not increase the direct effect of this form of law and did not reduce the number of issued subordinate legislation.

The majority of respondents who approve referential acts (69.9%) – are middle-aged (27.4% of the respondents –

8 Shuvalova N.N. criticizes in her article the "framework nature", typical to the law "On Civil Service", which does not contain specific mechanisms for implementing the requirements of the official conduct of public servants. See Shuvalova, N.N. (2008), "Legal and moral regulators of conduct of civil servants" ["Pravovye i nravstvennye regulyatory sluzhebnogo povedeniya gosudarstvennykh sluzhashchikh"], *Pravo i upravlenie: XXI vek. Internet-zhurnal*, No. 1, pp. 85-91.

9 In 2007 adopted 341 federal laws, and in 2008 – 332. For comparison, in the Soviet Union until 1988 there were adopted only 85 laws.

aged from 30 to 39 years; 42.5% – from 40 to 49 years). The fact that servants aged from 30 to 49 years consider framework acts useful, performing as a support to the existing legislative activity. Legal consciousness of civil servants contains the model that best matches the doctrinal: framework acts are inevitable, but they must be taken in conjunction with relevant subordinate acts. However, as evidenced by the practice of legislative activity, it is impossible to carry out an immediate adoption of primary and derivative acts. Quite comfortable seems to be an enactment of the framework law, which takes effect simultaneously with the acts adopted in its development. The period between the enactment of the law and its coming into effect should certainly be used for the issuing of subordinate acts. The fact that most considering referential acts useful are of middle-age allows us to suggest that framework laws have found a social support for many years.

The Code is a type of codified legal act, the most famous and leaving behind the other codified laws in the shade of its demand. Only specialists in the field of terminology and law-making distinguish types of codified acts (codes, basic legislation, regulations, model laws, etc.). The diversity of acts and methods of their use are not led to the ordinary legal consciousness and understanding of public officials. It has obvious consequences: the code is seen as almost the only form of codification. At that, the attitude to the code in ordinary legal consciousness is simplified, as evidenced by such idealization of its advantage as a collection in a single document of all or most of the norms in a particular sphere of public relations.

As can be seen from Figure 5 for the adoption of the code on civil service 80.8% of the respondents anyhow expressed themselves. They see a positive outlook in the code adoption in its consolidation, consistency and unification of legal instructions. In general there is no possibility to deny such advantages of a codified act, however, note that there are other kinds of codified acts that have the same advantages, but are not codes. For instance, they include the fundamentals of legislation, regulations, rules, instructions and even model acts. We believe that the main advantage that respondents see in the code is its attempt to complete coverage of a certain kind of public relations. They expect that the adoption of the code on civil service will unite still disparate norms of different acts in a single convenient in use document. However, yet only the criminal law has managed with this task.

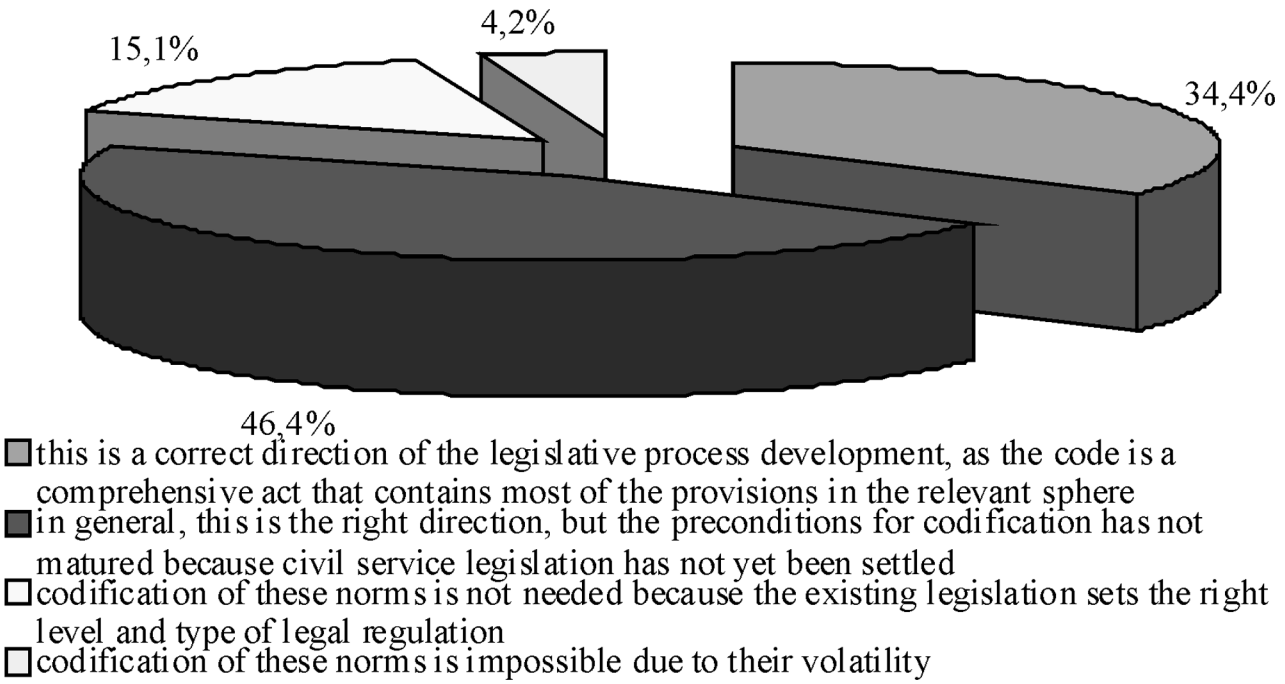

Figure 5. The relatioship of civil servants to the codification of legislation in the field of civil service

We cannot ignore a flexible stand of the respondents (46.4%), who delay the adoption of the codified act on public service until more favorable conditions. Indeed, there are still no certain prerequisites for the codification as in the legislative system and in legal and political systems. The decisive argument against the codification is a variability of legislation and the development of regulated public relations. They need development and settlement that will form a basis for effective codification. And yet this group of respondents sees a need in the code of laws on civil service, albeit in a delayed future.

It should be noted that the greatest interest to the codification have shown the incoming civil servants (92.9% of the respondents who have been working in the civil service less than one year). At the same time, respondents with a lot of experience show a decline in interest in the codification of the civil service – for instance, only 75% of state employees who have been working from 10 to 15 years, more or less consider it appropriate to adopt codes on civil service. Possible loss of interest in the codification of civil rights is related to the fact that more experienced servants in their own work had to deal with such attempts of codification, that were not successful (e.g., the developed code on civil service of the late 90-s of the XX century, the draft of

the code of conduct for civil servant in 2001, excluded from consideration in the State Duma). In addition, there is a bondage between the relationship to the codification and a type of public service: the least interested in the adoption of codes of civil service are employees of executive bodies (77.3%), although the act adopted would affect their interests to the greatest extent. By comparison, 88.5% of servants of legislative bodies, 88.9% of law enforcement, 93.3% of the military personnel see the advisability of the code adoption. To some extent, the need to have a single document containing all or most of the rules is predetermined by the experience of relevant categories of servants (e.g., the Criminal Code and the Criminal Procedure Code for law enforcement agencies).

It should be noted that government officials did not mention that different types of public service may require different codes if possible (law enforcement, diplomatic, border, etc.). There are already established codified forms in certain types of public service, for instance, statutes in the military service. The existence of different types of public service (at least, civil, law enforcement, military) that have intrinsic differences, suggests that even the existence of a code of law on public service will require a significant amount of derivative instruments that reinforce the characteristics of each type of public service.

Yet, state officials have demonstrated an interest in the Code out of practical considerations. In general, such a perception of codes assumed as a traditional one. Evidence of this trend is unfounded recommendations of codes enforcement in all spheres of relationships, where they do not exist (medical, social, electoral, on mineral resources, sports, etc.). It is noteworthy that even ardent supporters of unrecognized branches of law and related codifications hesitate from denial to acceptance[10].

Conclusion

Thus, summarizing the opinions expressed, we can draw some conclusions about the level of legal consciousness of public servants in relation to the system of normative legal acts and the needs of the respondents in this sphere.

Civil servants weakly armed with the theory of law forms in general and the doctrine of legal acts in particular. Is-

10 Solov'ev, A.A. (2008), *Current issues of sports law (codification of legislation in the sport)* [*Aktual'nye problemy sportivnogo prava (kodifikatsiya zakonodatel'stva v sporte)*], Moscow, pp. 17-40.

sues about the need in regulatory acts of a certain type (codes, framework laws, subordinate acts) are resolved ad-hoc.

It is revealed a deep contradiction between the doctrine and the opinion of civil servants in relation to the code. The position of codified acts in the legislative system sufficiently developed in the theory of law, as well as developed criteria and justified the needs for codification. However, those involved in the practice of lawmaking these theoretical postulates either unknown or seem unconvincing. It seems redundant to insist on the thesis of the need to limit the adoption of codes in modern conditions, since the very practice in this area is going very contradictory. The criterion of conformity between the code and the branch of law significantly deformed and practically superseded by such examples as the Town Planning Code of the Russian Federation, the Budget Code of the Russian Federation, many codes of the subjects of the Russian Federation on various matters of legal regulation.

Practical approach to codification is noteworthy in terms of convenience, since the legislation is designed for specified users, which should be granted in a form appropriate to their perceptions. One should not interpret the saying as a justification of any customer needs. The codification of the Anglo-American legal system serves as an adequate to that, which respondents expressed themselves in our study.

It is necessary to develop more precise criteria for issuing acts of different legal force: laws and subordinate acts. The uniformity of legislation establishing the ratio of legislative and subordinate control is a prerequisite for accurate reproduction of the legal structure in the legal consciousness of civil servants.

This study allows us to conclude as a single set on the improper attitude of public officials to legal phenomena. It seems that most of the respondents selected those answers that match the declarative rules or their subjective views, wishes and sentiments, but not that option that most accurately expresses the status quo. Respondents' answers to a large extent are characterized by non-critical thinking, even not estimation, but more setting the legal picture.

The study performed almost directly reproduced the uncertainty of the legislation in the legal consciousness of the respondents, which requires a substantial strengthening of the work of the legislator to improve the conceptual apparatus of the law. There is no reason to require consistency and unambiguity of rules and norms of conduct in the absence of these properties in the conceptual framework and legal consciousness.

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Система нормативных правовых актов: современное состояние и потребности в развитии (по итогам социолого-правового исследования)

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Аннотация

Автор исследует отношение государственных служащих к системе нормативных правовых актов Российской Федерации.

Проведенное исследование позволяет автору констатировать в целом некорректное отношение государственных служащих к правовым феноменам.

Выполненное исследование практически прямо воспроизвело неопределенность законодательства в правовом сознании респондентов, что требует существенного усиления работы законодателя именно в совершенствовании понятийного аппарата законодательства.

Ключевые слова

Правосознание, законодательство, формы права, нормативные правовые акты, государственные служащие.

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