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LAWMAKING – A COMPLEX PROCESS OF CREATING LAW

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ABSTRACT

The article examines the question of the theoretical and legal views of well-known legal scholars on the concept and content of law-making. It also talks about issues related to the role of legal creativity as a form of state activity aimed at creating legal norms, their future improvement, transformation or abolition.

KEYWORDS

Law-making, legal norm, law-making, regulatory legal acts, Constitution of the Republic of Uzbekistan, principles of law-making.

INTRODUCTION

Law-making is one of the pressing problems of the theory of state and law. At the moment, the process of law-making and the formation of law is one of the complex types of state activity. Because law - making is a form of state activity aimed at creating legal norms, improving, changing or abolishing them in the future. It is the process of creation and development of social relations as a single and purposeful system of universal

norms with the status of a special, official activity for the establishment of Legal Regulation. The main thing for lawmaking is the development and approval of new legal norms. In this, first of all, the established tasks of state activity find their expression in law.

Law - making in its essence presupposes the manifestation of the will of the state in relation to the law, legal guidelines of universal significance. At the

present stage of the development of law-making, first of all, by referendum, the adoption of legal acts directly by the population of the country or the publication of documents containing legal norms by the state and other governing bodies is clearly manifested. In some countries, one of the forms of lawmaking is judicial precedent.

The importance of transactions with normative content among various subjects of law is increasing day by day.

Democratism of the law-making procedure requires active participation of parties, mass movements, entrepreneurial structures, Civil assemblies in the creation of legislation, their initiative, discussions in the spirit of free, broad and workaholism, which is provided for by law. However, this does not mean in what form the process is carried out in relation to law-making, but still the activity of the state, although it is a form of state domination over society. The state through its bodies creates the bulk of legal norms. If such norms are promulgated by non-governmental organizations, the powers of their law-making are determined by the state.

Of course, when it comes to state functions, it is advisable, first of all, to dwell on the forms of their implementation, as well as on one of them – law-making or law-making work, which is one of the manifestations of state leadership in society. Consequently, regardless of the function, type of state, the forms of implementation and organization of state power, law-making is carried out by the state.

Therefore, "legal creativity is a process that involves the identification and assessment of the legal needs of society and the state, the formation and adoption of

legal acts of authorized entities in the prescribed manner .

This definition emphasizes the following important aspects: 1) understanding, study and analysis of the situation or process that requires legal regulation; 2) identification of the body (subjective) with the authority to accept this or that legal Act; 3) selection of the form of the act for which it is intended to be adopted; 4) Preparation, acceptance or change of a legal act within the Of course, these listed aspects are a interconnected and holistic process.

In its essence, law - making consists in raising the will of the state to the level of law, expressing it in the form of generally binding legal rules for all. Legal creativity is exercised by various bodies of the state that have the appropriate authority. The state creates a basic set of legal norms through the activities of authorities and management (executive) bodies» .

Lawmaking is such a type of state activity, as a result of which the will of the people rises to the status of law, finds its expression in the norm of law, in a certain source of law.

As stated above, along with the adoption of new legal norms, the abolition and modification of outdated regulatory legal guidelines also enter into the activities of law-making. At the moment, the level and culture of law-making, the quality of regulatory legal acts, which are perceived accordingly, indicate the level of high cultural development, democratization of the state and society. The norms of natural law penetrate into the form of normative acts through legal creativity and become a positive (positive) right, that is, a right that exists in the form of law.

At this point, we would like to briefly state that in the early stages of the development of positive law, two major areas were identified – Public Law and personal law. In this case, the words "public" and "private" acquire a special legal meaning, positive law is associated with state power and in this regard acquires a public character. Public law is a field of positive law based on the centralization method in which rights and obligations are built on the basis of the principle of power and subordination. Private law is a sphere of positive law based on a method of decentralization in which the relations of all subjects are legally equal and they can participate in the establishment and implementation of their rights and obligations on their own free will and interests. This includes various conciliatory relations, property inheritance relations, citizenship, family, other activities regulated by labor law.

The process of legal creativity is based on certain principles. These principles represent the most important ideas that ensure its quality and responsiveness. Let's dwell on them below.

1. The folk nature of law-making. Thus, the folk nature of law-making is manifested, firstly, in the fact that the bodies of law-making are made up of people's deputies, people's representatives (Oliy Majlis); secondly, all subjects of law-making activities (for example, Deputies of the Oliy Majlis) in the normative legal acts adopted by them represent the interests of citizens of the country. This is a very important rule that reflects a new approach to lawmaking. To the proof of our opinion, we can say which issue we should not take, the interests of the state are in the first place, and the interests of the citizen and the person are practically not taken into account, was clearly visible in any article of the old constitutions.

2. Democratism of law-making. It is manifested in the democratic order of the development and adoption of the legislation of the Parliament of our country – the Oliy Majlis itself, which is a representative body in Uzbekistan, as well as the widespread involvement of citizens in the activities of law-making.

At the moment, one of the democratic expressions of law-making activity was the introduction of the draft Constitutional Law of the Republic of Uzbekistan on amendments and additions to the Constitution of the Republic of Uzbekistan to the discussion of the Oliy Majlis.

At the same time, the most important bills can be put on a nationwide discussion and a vote – referendum. This is the most vivid manifestation of the democratism of law-making.

3. The scientific nature of lawmaking and its relationship with law enforcement practice. This means that the law-making bodies at the time of development and publication of legal norms should study the socio-economic situation, the objective needs of its development, reveal the need and feasibility of legal regulation of social relations. Only on this basis will the norms of law be scientifically substantiated and have a high level of affectivity.

Naturally, among them there are both legislative acts that determine the mechanism of interaction of economically free enterprises and citizens with the state through the system of taxes, and laws that limit monopolistic activity, introduce the right to collateral, determine the bankruptcy of enterprises. Of course, legislation like this has become incredibly important.

Lawmaking should be carried out in a strong connection with the practice of law enforcement. It is this connection that makes it possible to reflect on the

quality and effect of the adopted regulatory legal acts or on the need to change or cancel them. In this way, the activities of law-making bodies will improve.

4. The legality of lawmaking is expressed in the need for all actions of the creators, developers and promoters of regulatory legal acts to be based on laws and, above all, on the Constitution. This rule is so important that it is reflected in the Constitution of our country. In particular, Article 16 of the Constitution of the Republic of Uzbekistan States: "not a single law or other normative legal act may contradict the norms and rules of the Constitution."

The legality of law-making also consists of a strict hierarchy (step-by-step) of the accepted regulatory legal acts: each adopted new document must correspond to previously adopted ones or make direct changes to them; the document of the lower law-making body should not contradict the document of the higher-standing law-making body. Otherwise, it is not for nothing that a conflict will arise and it will become the cause of a real conflict.

In the process of law-making, the following functions are performed: the renewal of laws, that is, the printing of new regulatory legal acts; the elimination of outdated legal documents, their cancellation; the tasks of filling out gaps in law are carried out. The implementation of these functions makes it possible to realize the task of improving legislation in our country.

REFERENCES

1. Проблемы общей теории права и государства. М., «Норма», 2002, 307-308-бетлар.
2. Поленина С.В. Законотворчество в Российской Федерации. – М., 1996.

3. Одиқориёв Х., Тультеёв Т., Муҳамедов Ў. Икки палатали парламент. Т., Ўзбекистон Республикаси ИИВ Академияси, 2004, 71-бет.
4. Алексеев С.С. Право на пороге нового тысячелетия. М., «Статут», 2000, 14-15-бетлар.

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