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The Virtual Dimension of Legal System

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Abstract

The purpose of the present research is identification of existence of legal system in virtual space. This purpose is concretized by the following tasks: the analysis of existence of positive law, legal science, legal consciousness in digital measurement; disclosure of some features of law-making on the Internet; identification of separate aspects of right realization in virtual space. The methodological device of this research is based on dialectic understanding of surrounding life in which borders between real and virtual space have flexible character. At the same time use of the system approach causing existence of various methods of scientific knowledge is inevitable. It is possible to distinguish from them structurally functional, legalistic, and comparative and other methods. Authors of article recognize the known pluralism of the used categories. However in this research the terms "virtual space", "digital space", "Internet space", "cyberspace" are used as synonyms. Results of the research can find the application in the sphere of jurisprudence and legal education. Also they can be considered in law-making processes.

Keywords: Internet, Virtual space, Legal system, Positive law, Legal culture.

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1. Introduction

Active information technology development, forward introduction of opportunities of the Internet to many spheres of activity of the person generated new social reality where personal, tangible; interaction of subjects is replaced with exchange of the digital images simulated by the computer [1].

The actions made in Internet space have significant effect on course of political processes, implementation of economic activity, define interpersonal communication. For example, as it is noted in literature, in many virtual worlds there are own economic systems [2].

At the same time the relations mediated by technical means essentially differing from traditional social interactions, form a special environment which submits to own regularities and demands adequate regulation. Such communicative and information system is quite often designated by the terms "virtual space", "digital space", "Internet space", and "cyberspace". However at that terminological uncertainty which still exists in the considered area the specified concepts can be used as equivalent.

The virtual space uniting a huge great number of anonymous and personally certain participants reproduces own culture of communication, introduces the norms and rules with different degree of obligation. The existing social norms (morals, traditions, customs, etiquette and others) calculated on regulation of the settled actual actions change, adapting to inquiries of new - virtual reality. In other words, the Internet from the communication medium turned into new type of communication with the standards of behavior corresponding to it and a mentality.

The need for establishment of legal borders of virtual interaction caused transformation of legal system of society. The elements forming legal system - the positive law, legal science, and legal culture, law-making and right realization - in a new way show the intrinsic properties when functioning in the space modeled by computer means. Told does not mean doubling of legal system, appearance of her virtual "double". On the contrary, the legal system of society represents uniform, whole complete education which elements, keeping the qualitative definiteness, interact with the environment of the Internet. On the one hand, resources of the Internet serve as the tool by means of which the legal system is improved and develops. On the other hand, the virtual space acts as object of influence of elements of legal system. Understanding this substance requires an extensive work and demands carrying out a number of researches.

2. Methods

Key basis of this research is the theoretic-legal works devoted to understanding of legal system of society and some of its elements. Authors used the doctrinal sources of the Russian and foreign scientists connected with the theory of the state and the right.

The methodological platform of article, first, considers interaction of real and virtual measurements of legal space. Secondly, the system approach allowing seeing internal and external relations of the legal framework, features of structure of legal system.

3. Results and Discussion

One of spheres of activity of modern society is the legal system - the phenomenon which arose at the beginning of formation of state and legal institutes. We got used to the legal matter surrounding us and to its components: to positive law, sense of justice, legal science, processes of law-making and right realization.

However life does not stand still, it dictates new living conditions of legal reality. One of the factors causing similar processes is development of digital technologies, including the global Internet. And here it is necessary to look that to happen to the most legal system and its components.

Kernel of this system is the positive law. Certainly, it exists in the reality surrounding us. However precepts of law, anyway, are connected with virtual measurement. First, increase in number of the norms governing the relations on the Internet is available. It can be both separate articles of laws, and the whole packages of laws. The maintenance of positive law changes as a result of development of digital technologies. Perhaps, the independent branch of the right as already now owing to influence of globalization unique legal institutes appear [3] can speak with confidence.

Secondly, arguing on positive law, it is impossible to ignore a problem of availability of sources of the right. Traditionally the last changes of the current legislation, jurisprudence could be learned from official publications. The virtual reality allows meeting them within the Internet. It does this process faster and available.

Similar processes can be found in developments of legal science which is expedient for understanding not only as the system of knowledge of the state and the right, but also the related activity of scientists [4]. Not always researchers study paper editions, preferring digital copies of various scientific works. However the role of modern technologies is shown not only in ensuring availability of legal material.

Many scientists remotely participate in the conferences, round tables which are carried out by means of digital technologies. The relations in the sphere of science partially move to virtual reality.

This situation has not only positive, but negative sides. Big ease of access to information results in need again to think of fight such as against plagiarism, protection of intellectual property right.

It forces us to address sense of justice. From the point of view of the right of border between virtual space and objective reality are very conditional. It means at all these spheres there has to be a respect for legal values. At the same time remote communication with other subjects can reduce sense of responsibility at certain individuals that can lead to commission of offenses. Therefore in processes of legal education it is important to pay attention of respect for the right [5].

The legal system is inconceivable without processes of law-making and right realization which are also partially present at virtual measurement. Speaking about law-making, it is possible to note use of modern technologies. So, on the websites of representative bodies of the power drafts of bills are available. Within feedback there is an opportunity to ask this or that question. Perhaps, in the future digital technologies within legislative process will prove more brightly.

Also information technologies can be considered as one of law-making factors. So, cloud computing has some vulnerabilities that creates certain difficulties for small and medium business. Therefore here it is expedient to make use of the foreign experience allowing to consider such risks as vulnerability of the software, loss or theft of technical devices, features of foreign jurisdiction and so on [6]. Law-making has to answer time calls in due time.

Of course, this factor concerns various spheres of regulatory influence. For example, in intensive development of digital forensics led to establishment of new standards in this sphere [7].

As for right realization processes, they also very actively get into virtual space. Being lawful behavior by the nature, realization of the right cannot but join in the general stream of informatization of the public relations. The matter is that the behavior by which requirements of precepts of law are implemented is not a special kind of social activity. The legitimacy is specific quality of the socially important actions made to subjects in various spheres of society, including in virtual space.

The "virtual" aspect of realization of the right can be disclosed from several positions. The first aspect is a right realizing value of virtual actions. A certain part of the activity of subjects which is carried out on the Internet is a subject of legal regulation. It means that there are bases to speak about the lawful or illegal nature of such actions. From this point of view the actions made by means of computer means in which instructions of rules of law are directly embodied can be referred to right realization process. At the same time the precepts of law which are carried out in virtual space can be directly directed to a regulation of the public relations arising on the Internet, first. There are precepts of law proceeding from the state, adjoin to the sphere of self-regulation of a cyberspace [8]. Secondly, in a cyberspace the precepts of law of general purpose governing the public relations in real space are implemented. The speech, first of all, goes about the criminal and legal bans extending fully and to the Internet.

The second aspect of virtual "cut" of realization of the right is the individual legal regulation mediated by the Internet. The virtual space opens an opportunity, first, for contractual regulation without personal contact of subjects; secondly, for remote implementation of some of action within imperious organizing activities of special bodies for application to the right. Legal entities in this way can submit applications, complaints, to direct documents, necessary for decision-making. Implementation of the law depends on development of technologies [9].

At the same time the general for all aspects of realization of the right in virtual space is the problem of recognition and fixing of legal personality of participants of legal relations. The specifics of Internet space as communicative system consist in complexity of identification of participants of virtual communication. Meanwhile the subjective requirements connected with legalistic and social and psychological qualities of his subjects also are imposed to lawful behavior, except the formal requirement of compliance to its rules of law. So, commission of a lawful act (as well as illegal) always assumes this or that extent of awareness of character and value of the made actions. Therefore the face capable can be the subject of realization of the right it is conscious to coordinate the behavior with requirements of the right [10]. As legalistic criterion ought (from the point of view of legal regulation) conditions of their consciousness and will of the person the legal personality acts.

4. Summary

Development of positive law under the influence of new technologies is inevitable. Therefore there is a question of the directions of legal policy in this sphere. As well as what relations will be governed by precepts of law? Whether there will be a new branch of the right or regulatory influence will gain interindustry character? A lot of things depend the features of development of society facing it the purposes and tasks.

Digital technologies facilitate access to right sources that does more convenient processes of studying and realization of the right. But it is important to understand that they do not replace with themselves positive law. It causes need of its studying.

Development of the Internet stimulates development of legal science. It is not only about more convenient mechanisms of scientific interaction. There are new public relations connected with virtual reality. Their studying is one of the tasks facing jurisprudence.

Speed of obtaining scientific information staticizes again a problem of protection of intellectual property right and need to follow the rules of scientific ethics.

Virtual measurement of legal system of society allows to look at sense of justice in a new way. A large number of people spend time in virtual space. It forms the new attitude towards the right and here the large role is played by legal education.

New information technologies are one of law-making development factors, mentioning various forms of its manifestation.

The Internet space becomes the platform of the most different types of realization of the right. On the one hand, communication on the Internet is exposed to a legal regulation, becoming legal in a certain part. The actions made in a cyberspace represent not the just technical operations simulated by computer means, and lawful or illegal acts which cause the corresponding legal consequences in real space. On the other hand, the virtual space becomes the intermediary between the legal entities who are carrying out individual legal regulation. Though such actions are made on the Internet, their reality and validity are defined by the legalistic criteria established by the general norms of positive law. The question of development of criteria of determination of legal personality of participants of virtual communication is of interest to jurisprudence in this segment of legal system.

5. Conclusion

The legal system of society, having property of adaptability, adapts to the changing conditions of the social environment [11]. Expansion of Internet space and active introduction of digital technologies in everyday life makes direct impact on functioning of its elements. Possibilities of virtual space are used in the course of creation and realization of positive law. Internet technologies act as an important factor of development of jurisprudence, facilitating exchange of results of scientific research. Communication on the Internet, entering a subject of legal regulation, demands creation of legal means adequate to its specifics.

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Footnotes

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