THE ROLE AND PLACE OF RECEPTION OF LAW IN THE MODERNIZATION OF LAW

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ABSTRACT

The article reveals the conception of reception of law, analyzes the issues related to reception of law, indicates its role in the development and modernization of the national legal system.

Various scientific views on the reception of law and on its role in the modernization of the legal system are presented and analyzed throughout. It is stated that at present there is no single integral doctrine of the reception of law, which often leads to a different concept of this legal phenomenon. This circumstance sets before the theory of law the task of developing the doctrine of reception of law, including the concept, scope, limits, conditions of reception of law. The article puts forward substantiated proposals and recommendations aimed at improving the reception of law in the legal system of Uzbekistan in the future.

Keywords: legal system, reception of law, reception of public law, adoption of the law, modernization of law, the doctrine of law, legal deculturation.

I. Introduction

Law, being a multifaceted social phenomenon, is the object of study not only of the legal but also of many social sciences. However, despite this fact, the modern development of the world poses challenges for researchers related to the role of law in a rapidly changing world.

The development of law in the modern world is taking place in a comprehensive way, it is characterized by a variety of trends, such as the universalization and unification of law, the wider formation and more active use of the principles of law as regulators of public relations, the tendency to strengthen the role and importance of judicial law, and its sources in the form of precedent and judicial practice, expanding the legal sector regarding human rights and citizen[1].

Being an integral part of the international community of nations (after the collapse of the Soviet Union), the Republic of Uzbekistan is becoming even more open, which makes it possible for world development trends to influence our life to one degree or another. The legal sphere is also no exception in this complex process of interaction.

In this regard, this study focuses on the application of reception law. Since, in the context of globalization, the modern development of law along with many

[1] Marchenko M. N. Trends in the development of law in modern law. Moscow: "Prospect", 2015.Pp. 120-129.

trends also has a tendency to evolutionary change in the national state-legal mechanism, which is manifested not only by the example of changes occurring in the state but also in law - in the sources of law; in the mechanism for the implementation of law dealing not only with national but also international law in various branches of private and public law; in the system of subjective rights and legal duties of citizens, etc.[2].

The author analyzed the study of the issue of the reception of law and concluded that there is still no unified approach in the legal literature both in determining the reception of law and its conditions, limits, time frames for the reception of law and in general the absence of a holistic theory about it legal phenomenon.

The scientific novelty of the work is determined by the fact that the author, analyzed and compared the various points of view of the authors on the reception of law, as a way of modernizing law; The practice of reception of certain institutions and norms of foreign law by some states was studied and on their basis, the author's position on these issues was formulated, and therefore some proposals aimed at improving the practice of reception of law at the present time were developed. For example, the author puts forward proposals that, at the reception of law, it is first necessary to carry out a certain scientific and organizational work to study the possible consequences of reception of law, that is, to predict the consequences. An idea has also been put forward on the necessity and advisability of conducting a legal experiment on the use of recipient material in a certain administrative-territorial unit of the country, for example, as a vilayat (region). In support of this proposal, we can say that in Uzbekistan we already have a certain practice of conducting legal experiments.

Also, another innovation of this work is the introduction by the author into the scientific circulation of certain materials related to the legal system, in particular, with the action Law on Administrative Procedures.

Theoretical Basis and Literature Review

Important general theoretical issues of reception of law are contained in the work of Zweigert K., Ketz H. “Introduction to comparative law in the field of private law”[3], Saidov A.Kh. Comparative Law (Basic Legal Systems of the Present)[4], M.N.

[2] Marchenko M. N. Trends in the development of law in modern law. Moscow: "Prospect", 2015.From 30-31.

[3] Zweigert K., Ketz H. “Introduction to comparative law in the field of private law in 2 volumes. T 1. Moscow. Ed. International relationships. 1998. 992 pp.

[4] Saidov A.Kh. Comparative Law (Basic Legal Systems of the Present). Moscow. 2003.448 sec.

Marchenko "Trends in the development of law in modern law"[5], Dudko A.I. "About some reception practices in constitutional (state) law "[6]. It should be noted separately monographs of Rybakov V.A. "Reception of law: general theoretical issues"[7], where the author has thoroughly and competently analyzed issues of reception of law in our time.

In addition, certain issues related to the reception of law were considered in a number of dissertations, such as T. Yu. Kulapova "Domestic and international legal experience: problems of integration and adaptation"[8], Yu.N. Folgerova "Continuity and reception in the competitive process of the countries of Western Europe of Russia: historical and comparative analysis"[9],Glazatova T.S. "Current trends in the development of law in the context of globalization"[10].

Among the works devoted to the study of the history of reception of law that we studied, I would like to highlight the work of Alex Castles "Reception and the status of English law in Australia"[11], where the author examined in detail the reception of English law from the beginning to the end of the colonization of Australia by the Kingdom, then in the Commonwealth. In the work of the famou[12]s scientist M.Zh. Saks "The history of the reception of the law on forensic science" analyzed the process of reception of legislative norms on the procedure for the courts to take forensic evidence. The work of Richard Wilson and Han Zao deserves recognition "Reception of the European idea of the rule of law in China"[13], which details the evolution of the adoption of the European idea of the rule of law in China, which is also considered the birthplace of legism, which significantly influenced legal doctrines not only in ancient times but today.

The work of scholars Kazi Abdur Rahman and Rokshan Shirin Asa "The Importance of the Doctrine of Law Reception in the Legal Development of Bangladesh" analyzes the doctrine of law reception, first draws attention to the

[5] Marchenko M.N. "Trends in the development of law in modern law." Moscow. Prospect, 2015.-376 p.; Marchenko M.N. Problems of the general theory of state and law (law). 2-ed. Volume 2. (Law). Moscow. Prospect, 2019.-648 p.

[6] Dudko A.I. About some reception practices in constitutional (state) law // Actual problems of Russian law. 2009. No. 2. P. 30 -35.

[7] Rybakov V.A. Reception of law: general theoretical issues: monograph. - Omsk: Nauka, 2009 .- 250 p.

[8] Kulapova T.Yu. "Domestic and international legal experience: problems of integration and adaptation." Abstract. diss. on sois ... .. cand. legal sciences. Moscow. 2015.

[9] Kulapova T.Yu. "Domestic and international legal experience: problems of integration and adaptation." Abstract. diss. on sois ... .. cand. legal sciences. Moscow. 2015.

[10] Glazatova T.S. Current trends in the development of law in the context of globalization. Abstract. diss. on the competition ... ..kand. legal Sciences.M.: 2015.P.15.

[11] By Alex. Castles. The reception and status of English law in Australia // THE ADELAIDE LAW REVIEW https://www.austlii.edu.au ›AdelLawRw

[12] M.J.Saks. History of the Law's Reception of Forensic Science. **Encyclopedia of Forensic Sciences** 2013, Pages 481-487.

[13] Richard Wilson, Han Zhao. The reception of the European idea of the rule of law in China. History of European Ideas. Volume 20, Issues 1-3, 1995, Pages 277-282, ISSN 0191-6599 (95) 92952-Q 6599, ttps: //doi.org/10.1016/0191-6599 (95) 92952-Q.

historical process of transplantation of English law in the country and the significance of this process in the development of the legal system of Bangladesh to date [14].

Of particular scientific interest is the work of V.A. Tomsinova "On the essence of the phenomenon called reception of Roman law"[15], in which the history of the process called "reception of Roman law" is analyzed in detail and very interestingly. The author shows that the influence of Roman law on the legal life of medieval Europe was not straightforward, and those qualities and properties belonging to this process did not always coincide with the concept of reception of law. Consequently, the author's conclusion that the "phenomenon called in the legal literature the reception of Roman law in Western Europe in the Middle Ages" was not really a reception is no less interesting. This conclusion does not in any way detract from the significance of the study of this phenomenon for understanding the essence of reception of law "[16].

This work, with its significant research achievements, at the same time, also proves the fact that the theory of reception of law, not only in the modern context but also in historical terms, still needs in-depth study from the point of view of the current state of legal science to study this issue and modern realities.

In addition, speaking about the reception of the law of the former metropolitan states in the former colonies, as well as the impact of European and international law on national legal systems, it should be noted that this process cannot be defined in a single line. In this regard, a certain scientific interest is the work of Tun Abdul Hamid Mohamad and Adnan Trakic "The Reception of English Law in Malaysia and Development of the Malaysian Common Law"[17], Gib van Ert "Gib van Ert, Dubious Dualism: The Reception of International Law in Canada"[18], Rafael Leal-Arcas," The Reception of European Community Law in Spain"[19], where these complex processes of mutual influence and interaction of European and national law are analyzed.

Therefore, the work of E.O. Kharitonova, O.L. Kharitonova "From Comprehension of the Reception of Roman Law to a General Theory of the

[14] Abdur Rahman, Kazi, Asa, Rokshana Shirin. The Doctrine of Reception of Law and Its Significance in Legal Development of Bangladesh. IOSR Journal Of Humanities And Social Science (IOSR-JHSS) 2016/11/01. DO - 10.2139 / ssrn. 3234153 / DOI: 10.9790 / 0837-2111111016 www.iosrjournals.org.

[15] Tomsinov V.A. On the essence of the phenomenon called "reception of Roman law." Published in the publication: Vinogradov P.G. Essays on the theory of law. Roman law in medieval Europe. Edited and with a biographical sketch by U. E. Butler and V. A. Tomsinov. M .: Publishing house "Mirror", 2010. S. 262–279. (Series "Russian Legal Heritage").

[16] ibid, P.279.

[17] Tun Abdul Hamid Mohamad & Adnan Trakic, The Reception of English Law in Malaysia and Development of the Malaysian Common Law, 44 Comm. L. World Rev. 123 (2015).

[18] Gib van Ert, Dubious Dualism: The Reception of International Law in Canada, 44 Val. U. L. Rev. 927 (2010).

[19] Rafael Leal-Arcas, The Reception of European Community Law in Spain, 1 Hanse L. Rev. 18 (2005).

Interaction of Legal Systems" 4, Z.P. Melnik "Concept of Reception of Law as One Form of Interaction of Legal Systems" 5, Wolfang Vieganda "The Reception of American Law in Europe "6, which analyzes certain aspects of the reception process.

It should be noted here that in the study of reception, as an important legal phenomenon in historical terms, the role of European legal science, as the basis for subsequent studies of reception, is significant. W.Wiegand notes that «The conversion of law into an object of science, and the resultant development of a scientific approach to the study of law at Italian and French law schools, formed the starting point of the Reception. These new centers of legal science attracted students from the whole of Europe, who returned to their own countries as learned lawyers and gradually began to occupy the key positions in the judicial and administrative system. From these positions, they were able to encourage a breakthrough of the new system of law»[20].

2. Research methodology

The object of our study as a whole is the reception of law at the present time, and the subject is the concept and features of the reception of law and its application. The aim of the study is to identify the theoretical and practical problems of the reception of law and its application.

In the study, to achieve this goal, methods of scientific research were used, such as analysis, synthesis, historical, systemic, logical, comparative legal methods.

The historical and legal method allowed the author to understand the value of reception as a legal phenomenon, as well as to understand the essence of some obstacles that arise in the process of perception of foreign legal experience.

Also, the author, when analyzing the issue of determining the time frame for the reception of law by the CIS countries of the Habeas Corpus Institute, based on the historical method, turned to the times when this institution first appeared.

When considering the issue of the reception of law, the author used the comparative legal method, which allowed, for example, to compare the results of the reception (application) of the jury in Russia, Kazakhstan, Kyrgyzstan, as well as the effect of the Law on Administrative Procedures in these countries. The effects of the adoption and application of the Law on Administrative Procedures both in Uzbekistan and other Central Asian republics are compared.

On the basis of the formal legal method, the concept of reception of law revealed its features, analyzed the consequences of its application.

[20] Wolfgang Wiegand, The Reception of American Law in Europe, 39 Am. J. Comp. L. 229 (1991).-P.230.

In addition, an analogy method was used, with the help of which the author put forward the idea that, before recruiting a certain foreign legal experience, it is necessary to predict the implementation and future consequences of this reception.

The degree of reliability of the presented scientific results contained in the article is determined by the use of modern methods of scientific activity in the work, the analysis of important scientific thoughts, available in the works of the authors, dealing with the reception of law; the study and analysis of materials, legislative acts characterizing the law enforcement practice of state and judicial bodies, the scientific argumentation of the main conclusions of the article.

4. RESULTS AND DISCUSSION

As noted above, today the reception of law, as an important way to modernize national legal systems in the context of the transformation of society, is gaining relevance. This process is largely objective.

As the well-known comparative scientist, academician of the Academy of Sciences of the Republic of Uzbekistan A.Kh. Saidov correctly noted, "When studying foreign legal systems, it is often necessary to experience a cultural shock when it turns out that a certain problem is solved in another country in a completely different way, and this forces us to once again analyze and evaluate this problem of our national law, but now from a different angle, in a new aspect, with a greater understanding of the essence of the problem "[21].

Indeed, the reception of law in the modern legal space is an objective phenomenon that contributes to the modernization of national legal systems, taking into account the positive experience of legal regulation of developed countries.

As indicated by T.N. Kulapova, that in many cases, the borrowing of foreign legal experience is inevitable, and the penetration of international legal norms is a natural process.

Despite the axiomatic importance of the institution of reception of law as a way of modernizing it, it should be noted that, in the legal literature, there is still no unity in the views of its understanding. Moreover, there is no unity in the scientific tools for studying this legal phenomenon, as a result of which, when considering issues of reception of law, they use many other terms that fully or partially coincide with its concept: restoration of law, transplantation of law, migration of law, continuity of law, legal acculturation, legal experience

Often, the terms used in other branches of science are transferred to legal science to denote this phenomenon[22]. It is noteworthy that this term is "legalized" by the authors, its concept is given. So, A. E. Abramov, in fact recognizing the rights of this term to "register" in the space of legal science, gives its definition: "Legal

[21] Saidov A.Kh. Comparative Law (Basic Legal Systems of the Present). Moscow. 2003.448.P.418-419.
[22] Rybakov V.A. Reception of law: general theoretical issues: monograph .– Omsk: Izd. Omsk GU. 2009. –P.57.

(legal) acculturation is a relatively independent process of long-term interaction of legal systems, involving the use of (depending on cultural and historical conditions) methods of different nature and strength, the necessary result of which is a change in the original legal culture (or its individual elements) of one or both contacted societies"[23].

From this definition it is clear that the author, firstly, places emphasis on the "interaction" of legal systems, which hardly equivalently reflects the complex process of reception, which is based on the unilateral adoption of one or another legal material, rather than interaction, which means two-way movement. Secondly, in the author's opinion, the subject of reception is methods that are "different in nature and strength of influence", which, in our opinion, significantly narrows the range of recipient materials.

In addition, in the legal literature, in connection with the reception there are also such terms with a historical bias as "restoration". For example, as E.O. Kharitonov, O.I. Kharitonova "Reception of law should be distinguished from its restoration. Reception has the purpose (and is the final result) of the creation on an existing basis of something new in the domain of culture, law, and so on. Even if this occurs in the form of direct borrowing of legal norms, there is a new quality, something new, that arises in a new spiral of social development". It is difficult to agree with this definition of the purpose of the reception, that is, "... the creation on the existing basis of something new". For example, at the beginning of the last decade of the 20th century, in the post-socialist space, newly organized independent countries borrowed the institutions of the presidency, which were based on a completely new basis than in the country of the Soviets[24].

According to the authors "As regards restoration, it pursues the aim of reinstating something in its initial form, without changes and additions, or without those additions which might change the initial state of the basic material. In a certain sense restoration is the antithesis of the reception of law. In particular, attempts to restore law occurred in Byzantium with regard to the legislation of Justinian after which the last was materially changed in the year 741 by the Ecloga of Leo III the Isaurian, which strikingly differed from the spirit and principles of Roman law»[25].

[23] Abramov A.E. Legal acculturation (on the example of Spain during the period of the Roman Republic): PhD. Vladimir, 2005.S. 10-11.

[24] E.O Kharitonov, O.I. Kharitonova, From Comprehension of the Reception of Roman Law to a General Theory of the Interaction of Legal Systems: Raising the Issue, 10 J. Comp. L. 102 (2015). –P.112.

[25] Ibid.

Sometimes, often conflicting points of view are expressed on one and the same question[26].

So, for example, the German lawyer F. Vieaker believes that the term "reception" is more correctly used to refer to the perception by some legal order of the current norms of the modern legal system[27]. Although, in fact, the states mostly recipient the legal "material" of modern legal systems of states.

In this regard, I would like to note that at times, it is difficult to determine the "freshness" or chronicity of the recipient material. An example is the borrowing of the Habeas corpus institute by post-socialist developing states. In modern democratically developed states, this institution of Anglo-American procedural law has long been successfully applied.

Everyone knows that the history of this institute was finally fixed in 1679 when the English Parliament adopted the famous Habeas corpus act, which was a major event in the history of law. Today, its principles are among the main provisions on personal rights and freedoms of man[28].

At the same time, in the scientific literature, there is an opinion opposite to it. For example, the German lawyer F. Pringsheim expands the actions of the reception to an incredible size, indicating that "the concept of" reception "is so broad in meaning that it is easier to name what it does not mean"[29]. Here one cannot but agree with the opinion of the Russian scientist Yu.N. Folgerova, who argues that such a limitless understanding of reception, cannot be considered true, if only because the reception is limited by foreign legal systems. Its subject matter is neither national nor international law[30]. But for the sake of objectivity, we can assume that probably not the last place was among the reasons that led the scientist to come to such an opinion - the lack of clear criteria for the reception, as a legal phenomenon, the lack of a holistic theory of reception of law.

However, such an understanding of the reception of law is peculiar to not only for Western scholars. At the same time, the Russian scientist T.S. Glazatova speaking about the negative side of the impact of globalization on law also points to such a phenomenon as "... reception of norms of international law that are not

[26] Kulapova T.Yu. "Domestic and international legal experience: problems of integration and adaptation." Abstract. diss. on sois ... .. cand. legal sciences. Moscow. 2015.

[27] Wieacker F. The importance of roman law for western civilization and western legal thought // Boston College International and Comparative Law Review. 1981. Vol. 4.№ 2. P. 270 // Cit. by: Tomsinov V.A. On the essence of the phenomenon called reception of Roman law. -FROM. 4.

[28] At present, the Habeas corpus institute is found in the countries of the Anglo-Saxon legal system, as well as in Europe (Germany, Italy, Spain, Austria, etc.) and Latin America and the CIS, although it is fully functional. this institute in the latter will still take a little time.

[29] Pringscheim F. Reception // Revue internationale des droits de l'Antiquite. 1961. Vol. 8. P. 244.// Cit. by: Tomsinov V.A. On the essence of the phenomenon called reception of Roman law. -P. 5.

[30] Folgerova, Yu.N. Continuity and reception in the competitive process of the countries of Western Europe and Russia: historical and comparative analysis. Dis. ... Candidate of Legal Sciences / Yu.N. Folgerova.- Kirov .- 2008.- P.7.

inherent in the Russian legal system (emphasized by MA), which are not possible to put into practice, which, in turn, leads to conflict, the contradictory nature of both national law itself and its interaction with international law". As can be seen from the above statement by T.S. Glazatova, she understands reception as a borrowing of international law or does not distinguish (equals) the implementation of international law and the reception of the legal system of another system[31].

No less interesting is this conclusion: exploring the reception of English Law in Malaysia Tun Abdul Hamid Mohamad and Adnan Trakic write that "there is no doubt that English law, which is entrenched in Malaysian legislation and judicial decisions, is the pre- dominant source of Malaysian law. However, other sources of law, such as Islamic law and customary law, have also played a significant role in shaping the Malaysian legal system"[32].

Exploring European Union Law Reception in Spain Rafael Leal-Arcas notes that "There is a general acceptance of the principles of Community law, which is consistent with the pro-European disposition of the Spanish society. Nevertheless, some disagreements still remain within the judiciary and among scholars in relation to specific problems concerning the reception of the European Community's legal order. In this respect, the Supreme Court has caused a serious dissidence in refusing to review a national law on the basis of the Community directive which it claims to be implementing"[33].

At the same time, the statements of F. Pringsheim that not only alien law is reciprocated, but also an alien scientific method, an alien philosophical and legal view, deserves approval in our opinion[34].

Consequently, speaking on the subject of reception of international law in Canada Gib van Ert notes that "The Canadian constitution -like so many things Canadian-resembles in part both the American and the British models. Like the American tradition, the Canadian constitution is based in large part on judicial review of legislative and executive action against written constitutional norms. Like the British tradition, however, the Canadian constitution also includes an important unwritten element. Those wishing to understand how public international law is received into Canadian law will not find an answer in the written portion of the Canadian constitution, which hardly refers to

[31] Glazatova T.S. Current trends in the development of law in the context of globalization. Abstract. diss. on the competition ... ..kand. legal Sciences.M.: 2015.P.15.
[32] Tun Abdul Hamid Mohamad & Adnan Trakic, The Reception of English Law in Malaysia and Development of the Malaysian Common Law, 44 Comm. L. World Rev. 123 (2015).
[33] Rafael Leal-Arcas, The Reception of European Community Law in Spain, 1 Hanse L. Rev. 18 (2005).P.21.
[34] Pringscheim F. Reception // Revue internationale des droits de l'Antiquite. 1961. Vol. 8. P. 244.// Cit. by: Tomsinov V.A. On the essence of the phenomenon called reception of Roman law. -P. 5.

international law at all. One must instead look to unwritten, English-derived constitutional practices and principles"[35].

As Z.P. Melnyk emphasizes "The content of the concept "reception of law" consists, first, in the fact that this is not a simple carrying over of elements of one legal system to another, but a complex process of adaptation and, as a result, of adoption and use. Second, as a rule, only those norms which consolidate universal humanitarian values are subject to reception, are abstract, and are not squeezed into narrow national geographical frameworks. Proceeding from the content of a concept, one may offer the following definition: reception of law is a unilateral, voluntary process of borrowing, adoption, and further adaptation to the conditions of a certain country of elements of a more developed law created in another period of time or in another State for the purpose of improving one's own legal system"[36].

From the above short excursion of scientific literature, it is obvious that it does not have a unified approach, both in the understanding of the reception of law and in relation to its content, limits, conditions of application. All this suggests the need to develop a theory of reception, as such. Of course, there is a lot of work on the reception of law, but, in essence, a systemic doctrine has not yet been formed.

As you know, the impact of globalization on modern law is not limited only to the strengthening of the processes of its universalization and unification.

Thus, **the problems of developing the doctrine of reception of law,** which includes the concept, types, criteria, conditions, advantages, and disadvantages of this phenomenon, the limits of reception, criteria for determining the level of readiness of the national legal "ground" for the perception of new material, and so on, have been identified before the science of legal theory at the present stage. .d. Obviously, simply copying foreign law does not always bring the expected result. It requires creative, science-based, conceptual approaches to solving a problem.

In our opinion, it will be logical, without going into details of the debate about the reception of law, on the basis of the views of scientists, try to formulate the content of this legal phenomenon. Thus, in our opinion, **the reception of law is a historical legal phenomenon, expressed in the voluntary perception, borrowing of individual norms, institutions, forms and methods of legal regulation of one state and their implementation in the legal system of another state in order to modernize it.**

The scientific and practical significance of the reception of law in the modern world does not cease to be important for improving the legal regulation of

[35] Gib van Ert, Dubious Dualism: The Reception of International Law in Canada, 44 Val. U. L. Rev. 927 (2010).P.927.
[36] Z. P. Melnyk, Concept of Reception of Law as One Form of Interaction of Legal Systems, 10 J. Comp. L. 161 (2015).-P.163

transforming societies. From this point of view, the reception of law for post-socialist countries is of great importance in terms of modernizing their legal systems.

It should be noted that the importance of reception in private law is of great importance in the modernization of private law relations, especially property relations, etc. But at the same time, without diminishing the importance of reception of law in private law, one should note the special status and consequences of reception of public law, that is, reception of law in the field of constitutional, administrative law, caused by the specifics of the relations regulated by them.

After the collapse of the Soviet system, the newly independent republics unanimously declared their commitment to democratic development and began to build their national statehood on the basis of their own historical experience, taking into account the achievements of the state and legal structure of developed Western countries.

Thus, the legal reforms carried out in the post-Soviet states were mainly based on borrowing the foreign experience of developed states in the field of public law. To confirm this statement, we can cite the development and adoption of new constitutions of Kazakhstan, Armenia, and Moldova, which borrowed a system of government from the constitution of the French Republic.

At the same time, Russia and Belarus conceptually reciprocated the French model of a strong president-arbiter, standing above the branches of power[37].

In connection with this, a logical question arises: does the type of legal system of the host country and the country of the "donor" matter at reception, or is there no difference in which legal family these states belong to?

Still, when does the real need for the reception of public law in the country matured? Are there "symptoms" indicating this need?

How to predict and predict that the recipient material is what is needed to modernize the law of the host party?

As Professor V.A. notes Rybakov, "problematic questions often arise: from which or which samples (models) and on what historical basis to borrow? Is there a risk of legal deculturation, that is, the destruction of one's own cultural-historical model and blocking the implementation of someone else's model? "[38].

There is, of course, a certain risk in the reception of law, no one can ignore it, the question of how the new norm or the new order borrowed from the outside is always relevant (whether it will take root).

A similar opinion is shared by Rybakov, another Russian scientist A. Dudko, who believes that "The rejection of borrowed models results from ignoring the legal,

[37] Rybakov V.A. Reception of law: general theoretical issues: monograph. - Omsk: Nauka, 2009 .P.57.
[38] Ibid.

cultural and historical traditions of the perceiving system and leads to a regression of the national legal system"[39].

In some ways, agreeing with these authors, it should be argued that serious innovative legal changes in the field of public law, in particular, public administration as a whole, **are impossible without breaking old legal principles, forms, and methods of legal regulation that have not justified themselves.** The whole problem is the right choice of the appropriate reciprocal legal norms and determining ways and means of introducing them into the national legal system. Here, the legal doctrine should play a paramount role in predicting reciprocal norms.

Reception of law as a way, a tool for the modernization of law today is becoming increasingly important. Given the fact that the reception of law is not sufficiently studied by theoretical science, its **methodological side** plays an important role in the reception of law, i.e. Are the changes that have occurred in a particular state an objective need to borrow individual legal institutions and procedures without changing the fundamental principles and mechanisms of legal regulation, or are they related to changes in the general system of legal views in society and lead to a fundamental change in legal practice?

In connection with the need to modernize law through reception, a large methodological and practical role is given to comparative studies - comparative law, science, which allows us to identify how this problem is solved in foreign legal systems, and determine to what extent its solution can be useful and applicable in the interests of the national Rule of Law[40] .

Of course, that the implementation of the reception of law is fraught with equally undesirable consequences, both forcing and slowing down. For example, as Professor M.N. Marchenko, "The centuries-old experience of diversifying borrowing some legal systems from others shows that in this process, which is quite natural for all countries without exception, along with the vast majority of positive examples, there are many negative or at least contentious issues". According to the author, the institution of jurors, introduced in the Russian Federation in 1991-1993, can serve as a "highly controversial loan"[41].

Indeed, in order for the recipient norm or institution to "take root" in the receiving "soil" as expected, the readiness of economic, ideological and political prerequisites is necessary. Ignoring these circumstances is fraught with undesirable consequences. Although the institution of jurors has taken place in the history of

[39] Dudko A.I. About some reception practices in constitutional (state) law // Actual problems of Russian law. 2009. No. 2. P. 30 -35.

[40] Рыбаков В.А. Рецепция права: общетеоретические вопросы: монография / В.А. Рыбаков. – Омск: Изд-во Омск. гос. ун-та, 2009. –С. 57

[41] Marchenko M.N. Problems of the general theory of state and law (law). 2-ed. Volume 2. (Law). Moscow. Prospect, 2019.

Russia, nevertheless it is difficult to take root in its new history. It is known that the institution of jurors existed from 1864 until the October Revolution in 1917. After the collapse of the Soviet system and the formation of the Russian Federation in 1991, this institution was reintroduced into the criminal procedure legislation. However, apparently during the period of 70 years of socialist rule, the country's population “managed to break the habit” of many democratic institutions and procedures that took place in the field of justice pre-revolutionary Russia.

At the same time, in 1991 Russian society, and indeed the state was probably not yet ready for such changes. Being an institute of real justice in the West, especially in the USA, the institution of jurors definitely requires, in addition to a significant level of development of society, its democratic and political foundations, a rather high degree of legal culture, legal maturity of society and the population, including members of society, and their willingness to accept new, democratic procedures and institutions. In addition, in the successful implementation of the institution of jurors, an important role is played by the organizational side, including the selection of assessors, remuneration of their activities, principles of organization of their activities, and so on. In addition, the civic position, level of worldview, their principled positions as a judge, and assessors also play an important role in this.

In addition, Russia consists of a complex conglomeration of nations and nationalities, faiths and mentalities, which to some extent affects the implementation of any changes and innovations. As noted, M.N. Marchenko, it’s hard to believe, for example, that the institution of jurors will effectively “work” the same way throughout the Russian Federation1, which is due to objective circumstances, factors mental, religious, ideological in nature[42].

It is symptomatic that some scientists generally doubt the usefulness of this institution in Russia. For example, I.N. Alekseev notes that "the list of the rights of the suspect includes 11 items, the accused - 21, the victim - 22 ... Even the witness has rights that the jury does not have," and reasonably asks: "How should the jury under such conditions be fair and reasonable verdict"[43]

Thus, according to experts and scientists, the experience of Russia in the reception of a jury has not yet reached the expected result[44].

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[42] Marchenko M.N. Problems of the general theory of state and law (law). 2-ed. Volume 2. (Law). Moscow. Prospect, 2019.

[43] Alekseev I.N. Jury trial as a threat to the Russian legal system // Criminal process. 2005. No. 5.

[44] See about the history and present of this institute: A.A. Drozdova. Jury trial: history and modernity // Actual problems of Russian law. 2014. No. 11 (48) November. S. 2475-2479; Zavrina E.E. Jury trial in Russia: history and modernity // Journal: Innovative Economics and Law. 1 (10), 2018, p: 99-102, UDC 343; Bachernikhina M.V., Kolomicheva V.V. Jury trial: problems of activity // Jurisprudence: problems and prospects: materials of the VII Intern. scientific conf. (Kazan, May 2018). - Kazan: Young Scientist, 2018 .-- S. 51-53. - URL https://moluch.ru/conf/law/archive/298/14112/ Belkin A., professor of Moscow State University of Instrument Engineering and Computer Science, academician of the Russian Academy of Natural Sciences, Doctor of Law. Controversial advantages and obvious shortcomings of the jury. Alekseev I.N. Jury trial as a threat to the Russian legal system // Criminal process. 2005. No. 5; Voronina N.F. The limits of judicial discretion when deciding a verdict

It is noteworthy that the institution of jurors has been borrowed in some post-socialist Central Asian countries. In Kazakhstan, this institute was also borrowed in 2007 and a continental jury trial model was chosen. The Law of the Kyrgyz Republic dated July 17, 2009 No. 234 amended the Code of Criminal Procedure, establishing the procedure for the consideration of criminal cases involving jurors. Then, the Law "On jurors in the courts of the Kyrgyz Republic" was adopted, according to which the jury trials were to begin work on January 1, 2015, and the phased implementation of this institute was to be completed in 2017 but this did not happen[45].

The State Target Program "Development of the Judicial System of the Kyrgyz Republic for 2019-2022" approved by the Decree of the Government of the Kyrgyz Republic dated March 7, 2019 No. 112 stipulates "the introduction of the institution of jurors". This document states that the action of chapter 45 of the Code of Criminal Procedure of the Kyrgyz Republic on jury trials enters into force in stages, from 2020 to 2022[46].

Apart from organizational, legal, socio-political factors, the postponement of the introduction of this institution in Kyrgyzstan was apparently also affected by the consequences that took place in Russia and Kazakhstan related to the introduction of this institution. In addition, as experts emphasize, "according to numerous opinion polls, the credibility of the courts is extremely low."

In other Central Asian countries, such as Uzbekistan, Turkmenistan, and Tajikistan, there is currently no institute of jury trials. In these countries, the participation of the population in legal proceedings is carried out by the participation of two lay judges who are not professionals in the field of jurisprudence, while a professional judge presides in the process. In general opinion, this institution in Kazakhstan also needs serious organizational and procedural refinement[47].

To date, as can be seen from the development of legislation on jury trials in Russia, many shortcomings, conflicts, and contradictions in the legislation and in the organization of this institution have been eliminated. It follows from this that the effectiveness of the newly introduced institution depends on a complex of factors, from organizational to psychological in our example.

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of not guilty by a jury // Criminal Procedure. 2005. No. 8; Fokov A.P. Organizational and procedural problems of the jury in Russia // Russian judge. 2006. No. 1 .; Dezhnev A.S. Organizational and legal problems of the formation of a jury // Russian Justice. 2005. No. 7.; Kashepov V.P. The humanization of criminal proceedings as a principle of regulation of Russian justice // Journal of Russian Law. 2015. No. 12 .; Judicial systems of Central Asia a comparative overview Edited by G. Dikov. MA Moscow. Jurisprudence 2015. Review of the judicial systems of Central Asian countries. - M .: Publishing House "Jurisprudence", 2015. - 328 p. ISBN 978-5-9516-0753-9 In 2015.,

[45] Judicial systems of Central Asia a comparative overview Edited by G. Dikov. MA Moscow. Jurisprudence 2015.Обзор судебных систем стран Центральной Азии. – М.: ИД «Юриспруденция», 2015. – 328 с. ISBN 978-5-9516-0753-9 В 2015.

[46] cbd.minjust.gov.kg › act.

[47] Sooronkulova K., N. Salpieva. Case Study: Judicial Reform in Kyrgyzstan. Recommendations for Decision Makers //https://center.kg/article.

At this point, it is not superfluous to recall that the fate of this institution in the West was not always smooth. As scholars often quote the French historian C. Cardonn (XIX century), "the jury did not live up to his hopes, as he disappointed everyone with his gentleness and leniency to dangerous criminals"[48].

Consequently, the legal systems of modernity exist and function interacting and mutually enriching each other. The development of international relations in the context of globalization between states determines the interchange of experience in the legal sphere. Such a legal dialogue between legal systems and scholars on the reception of law is a popular tool for modernizing the law.

It should be noted that according to the general recognition of scientists and according to established practice, the reception of law is mainly found in the field of private law rather than public law. This state of affairs is explained by the specifics of public law, for example, it is predominantly state nature of regulated relations. This feature of public law should not be underestimated, nor ignored. Meanwhile, the phenomenon of reception of law is also characteristic of public law[49].

Speaking about the reception of public law, first of all, we mean the reception of Western public law by the Constitutions of post-Soviet countries. Since the development of the constitutions of these states was carried out on the basis of the achievements of the constitutional development of Western countries, which created and paved the way for the further reception of progressive forms and methods of organizing state power.

So, for example, during the development and adoption of the Constitution of the Republic of Uzbekistan, which lasted for two and a half years, the experience of constitutionalism of such developed states as Germany, France, the USA, and others was deeply studied and analyzed, which subsequently became the basis of the state legal development of the country taking into account the historical experience of Uzbek statehood.

As noted above, the reception of public law is a very responsible process, therefore, in order for the recruited rules of law to be successfully "grafted" into the national legal system, it is first necessary to develop reliable organizational and legal mechanisms for their implementation. As the experience of the reception of some post-Soviet countries shows, before we recipe a certain legal norm in the national legal system, we consider it important and necessary to carry out significant work on **the scientific forecasting** of its results, and only after that to carry out the reception.

[48] Demichev A.A. Periodization of the history of jury trials in Russia // Journal of Russian Law. 2001. No. 3. P. 137–150.

[49] Dudko A.I. About some reception practices in constitutional (state) law // Actual problems of Russian law. 2009. No. 2. P. 30 -35.

If we dwell on the national experience of the Republic of Uzbekistan, it should be noted that in a difficult transition period, the right decision was unambiguously made to reject the old obsolete Soviet model and to develop and adopt fundamental regulatory legal acts of a new legal content, life confirmed the correctness and validity of our choice.

The legal system of our state today is following the path of complex and responsible legal development and integration into the global system of legal values. One of the important ways (if not the main one) of modernization of national law, as you know, is reception - the perception and borrowing of relevant norms, procedures, institutions, forms and methods of legal regulation of foreign law into the national legal system with the aim of developing the latter.

If we consider the issues of reception of public law in the Republic of Uzbekistan, we can say that those processes that are characteristic of Central Asian states in matters of reception of law are not an exception for Uzbekistan. For example, in Uzbekistan, administrative courts began to operate in 2017 and today this institution of the judiciary has not yet been fully operational. Meanwhile, the Law "On Administrative Procedures" was adopted in January last year but entered into force exactly one year later, and this is no accident since, during this time organizational and legal mechanisms for its implementation were developed, judges of administrative courts were trained in the application of the norms of this law, as well as journalists - coverage of the legal issues of these courts[50].

Over the past short period, it can not be said that this law began to act as expected, and apparently there is still much work to be done on legal training and education of legal entities in using the guarantees provided by law for their rights and obligations. The reception desk, with all the obviousness about the need to perceive progressive foreign experience, cannot always achieve the expected result. In resolving this issue, it is imperative to consider the degree of readiness of the national legal system, which includes primarily legal, political, economic, spiritual, cultural, ideological and other prerequisites. In order for the recruited rules of law to be successfully "grafted" into the national legal system, it is also necessary to develop reliable organizational and legal mechanisms for its implementation.

For example, in some Central Asian neighboring countries, laws on administrative procedures have been enacted to resolve legal conflicts between government on the one hand and individuals and legal entities on the other, but the haste of this decision and the lack of implementation mechanisms could only partially provide the expected result.

[50] The Law of the Republic of Uzbekistan "On Administrative Procedures" No. ЗРУ-457 dated 01/08/2018 // http://lex.uz/ National database of the legislation of the Republic of Uzbekistan.

As Professor Roman Podoprigora emphasizes, “Acts of administrative law, as a rule, are much less noticeable than, for example, acts of criminal or civil law. It is unlikely that you can meet a person who would not hear about the criminal or civil code. Of course, many have heard about the Code of Administrative Offenses (CAO), but not everyone knows about the existence of laws on administrative procedures, public services, permits and notifications, state control and supervision, and law enforcement. At the same time, administrative legislation is basically dedicated to the regulation of very painful issues of relations between citizens and state administration”[51].

In this regard, it seems that, at the reception of public law, it is very important that the recipient material is adopted by the appropriate legal culture and mentality. Therefore, before introducing something new, it is necessary to carry out rather significant work to explain the essence and content of the implemented innovation.

In this regard, considering that a certain experience in conducting a legal experiment has been accumulated in the republic, we consider it is expedient to use this method in the implementation of reception in the future[52].

5. Conclusions

Reception of law as a legal phenomenon is an important way to modernize the law, not only for national legal systems but for all legal systems in the world. We believe that the achievements of Western countries in the creation and functioning of an independent judiciary, which is an important message and condition for the formation of a rule of law, as well as constitutional control, constitutional and administrative legal proceedings, **will be very useful for Central Asian countries,** including Uzbekistan in improving the judicial system. –the legal system and strengthening the democratic foundations of society.

To date, the reception has not been sufficiently studied in particular in the post-Soviet space. In this regard, there is an urgent **need to develop a holistic system of the doctrine of reception of law,** including the concept, definition, types of reception of law, its difference from other legal phenomena similar in content to it, such as restoration of law, transplantation of law, migration of law, continuity in law, legal acculturation, legal experience, legal adaptation, etc., conditions for

[51] http://cabar.asia/kazakhstan/250-roman-podoprigora-izmeneniya-v-administrativnom-zakonodatelstve-kazakhstana-pozvolyat-grazhdaninu-effektivnee-reshat-konflikty-s-gosudarstvom.

[52] In the Republic, certain experience has been gained in conducting a legal experiment, for example, in 1991, the post of hokim was first established as a legal experiment in the capital city, and since 1992 a similar institution was established throughout the country in administrative-territorial units (in districts, cities and regions) fast; back in 2013, on the basis of a legal experiment, the draft Law "On the openness of the activities of state authorities and management" of the Republic of Uzbekistan was valid for 9 months in Samarkand and Bukhara regions, after which the Law was adopted in the prescribed manner taking into account the experience gained from May 5, 2014 ; Law dated 7.11.2019 No. ZRU-581 “On the management of apartment buildings”. Its standards will undergo preliminary testing in certain areas and cities, after which, perhaps,will be adjusted and only then come into force, etc.

applying the reception of law, criteria for compliance of the reception of law, the need to predict the consequences of reception of the law before applying it, role objective, organizational and subjective factors, etc.

The need for the reception of law is an objective process, but at the same time, and not without a subjective factor.

Therefore, it is very important that before receiving certain legal material, it is necessary to study it comprehensively, to predict the political, economic, social and spiritual consequences. In addition, in our opinion, it would be useful, at the reception, to apply **a legal experiment** in the territory of one, two or more territorial units, which, in case of which, would have insured serious consequences.

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