

The role of a systemic approach in understanding the law enforcement system

El papel de un enfoque sistémico en la comprensión del sistema de aplicación de la ley

Arzygul Mamayunusovna Dzhorobekova*

Academy of the Ministry of Internal Affairs - Kyrgyz Republic
djorobekova.a@mail.ru

Kairat Cholponkulovich Berdaliev

Academy of the Ministry of Internal Affairs - Kyrgyz Republic
kairat_berdaliev@mail.ru

Maria Kasymbaevna Sayakova

Institute of Strategic Information Technologies - Kyrgyz Republic
djorobekova.a@mail.ru

Alexei Vasilyevich Shevchenko

Academy of the Ministry of Internal Affairs - Kyrgyz Republic
kairat-berdaliev@mail.ru

ABSTRACT

The scientific and technical revolution (the widespread use of artificial intelligence, the development of machine learning), advances in information technology (big data, blockchain), Kyrgyzstan's entry into global integration processes, and the strengthening of transnational organized crime have led to the need to reform the law enforcement system of the Kyrgyz Republic. In this regard, the article highlights the need to use a systematic approach (as a tool - theoretical and methodological knowledge), initially, in the understanding of the essence. Also, content, levels and integral links of the law enforcement system, because the "practical approach" of knowledge of the system can lead to fatal consequences in the development of managerial decisions in reforming the law enforcement system.

Keywords: Social system, law enforcement system, state and law, law enforcement activity, subject, object

RESUMEN

La revolución científica y técnica (el uso generalizado de la inteligencia artificial, el desarrollo del aprendizaje automático), los avances en la tecnología de la información (big data, blockchain), la entrada de Kirguistán en los procesos de integración global y el fortalecimiento del crimen organizado transnacional han llevado a la necesidad para reformar el sistema de aplicación de la ley de la República Kirguisa. En este sentido, el artículo destaca la necesidad de utilizar un enfoque sistemático (como herramienta - conocimiento teórico y metodológico), inicialmente, en la comprensión de la esencia. Además, el contenido, los niveles y los vínculos integrales del sistema de aplicación de la ley, porque el «enfoque práctico» del conocimiento del sistema puede tener consecuencias fatales en el desarrollo de decisiones administrativas en la reforma del sistema de aplicación de la ley.

Palabras clave: sistema social, sistema de aplicación de la ley, estado y ley, actividad de aplicación de la ley, sujeto, objeto

*Corresponding author. Ministry of Internal Affairs of the Kyrgyz Republic (Kyrgyz Republic, Bishkek)

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INTRODUCTION

At present, in order to implement the Decree of the President of the Kyrgyz Republic No. 161 dated July 18, 2016, the Ministry of Internal Affairs of the Kyrgyz Republic has developed and is in the process of approval of the draft Law of the Kyrgyz Republic «On Service in the law enforcement agencies of the Kyrgyz Republic». It is expected that this draft law will comprehensively and uniformly regulate the issues of selection, training, retraining, service, appointment, rotation, conferring special ranks, including unified anti-corruption requirements, with the level of social guarantees and rights of all law enforcement officials. According to the concept of the above Decree, the pooling of resources and potential of all law enforcement agencies will solve a number of organizational, logistical and functional problems in the law enforcement system of the Kyrgyz Republic.

At the same time, it should be noted that initially, the Secretariat of the Security Council of the Kyrgyz Republic developed a draft law «On the activities of law enforcement agencies» and sent to the relevant state bodies of the Kyrgyz Republic for approval. This draft law «mechanically» combined into one whole the multidirectional and multi-faceted activities of state bodies engaged in law enforcement activities, without taking into account the specifics of operational and service activities of each law enforcement agency. This draft regulatory legal act caused a lot of disputes and polemics among interested state bodies. For this and other objective reasons, further progress has been suspended.

RESEARCH METHODS

The methodological basis of the research is formed by the system of philosophical knowledge, which determines the principles and prerequisites for the study of social phenomena, including social and legal aspects, in their constant development and interdependence, as well as a set of general scientific and private scientific methods of cognition of reality. In the present study, methods of logical and legal and comparative-historical analysis of normative acts are widely used, as well as the method of legal comparativistics.

RESULTS AND DISCUSSION

The apparent inadequacy of the functioning of the law enforcement sphere to the emerging realities of the development of Kyrgyz statehood, in addition to the above reasons, is associated with a severe backlog of scientific support of the process of reforming the domestic law enforcement system, the state of legal science itself. This circumstance concerns various parties and aspects of scientific support of the process of improving the law enforcement system (Zalepukin, A.A., 1996). Until now, sound science has not even developed a unified approach to such vital concepts widely used in scientific literature and practice as “law enforcement system”, “law enforcement agencies”, “law enforcement activities”.

Existing scientific developments, including those carried out within the framework of such sciences as the theory of law and state, administrative law, public administration, to a greater or lesser extent concerning the concept and content of law enforcement activities, classification of law enforcement agencies, so far generate more questions than provide scientifically correct answers to them.

Therefore, there is a need to clarify the essence of the law enforcement system not only in practical terms but also in theoretical and scientific names. As the answer to it can give a key to understanding the principles and mechanisms of formation, development and reform of this system. The construction of this system is not only based on the political “conjuncture” decision but also taking into account the systemic properties of the law enforcement system based on scientific and theoretical achievements in this area.

Science pursues not only the task of detecting new objects and objectives of research but also methods and means of cognition.

The increased attention to the system approach can be explained by the correspondence of its tools to the complicated tasks of law enforcement practice, the functions of knowledge and formation of large, socio-legal and complex systems, to which the law enforcement system can be referred. However, this should not be limited to this circumstance alone. With the advent of the new information epoch and as a result of the “information explosion” in public relations, specific difficulties arose in the gap between the incoming information and the ability of the subject to assimilate it. In this connection, the solution to this problem lies in the systematic reorganisation of incoming knowledge. The intensification of scientific developments in this area is conditioned by the high level of scientific information collection and the transition of science to the study of complex social systems, to which the law enforcement system justifiably belongs. The system approach, which has tools of cognition of multilevel and multigrade objects, cannot be limited to one-sided explanation in one dimension and direction when studying the law enforcement system. It is this property that allows the system approach to be called the fundamental strategy of scientific research of complex systems as an adequate cognitive toolkit (Artemyev, A.M., 2008).

The inevitability of changes in the formulation of legal theory approaches to cognition of one’s subject matter, however, is also reflected differently. It means that the arguments in favour of the independence of the method from the results of the research, in addition to the system of processes, are circulating more and more. Opponents of the methodological approach in law proceed from the fact that the theory plays no role in the field of law.

Jurisprudence is considered by the latter to be a set of specific techniques and practices, rather than a method. At the same time, abandoning the methodology in the research may lead to primitivism, elementary mistakes in law enforcement, which will focus on interpretation rather than law-making and will not be able to provide conditions for its effective operation (Demidov, A.I., 2001).

The need for effective and constant development of the methodology is evidenced by the difficulties that exist, moreover, in the framework of the existing approaches in the field of law enforcement to address both general issues of law enforcement (opportunities and limits of legal regulation, legal support, the nature of the state apparatus, factors affecting the law enforcement system, legal consciousness, cultural and religious determination of law enforcement) and private (the sphere of permissible law enforcement, interpretation of legislation, development of effective forms and methods of law enforcement, etc.).

It is well known that knowledge of the object in science is considered both at the level of general theoretical knowledge and the level of specialised scientific and practical experience. The use of this or that level of expertise by scientists has led to two main directions in the formation of systematic thinking.

The most significant samples of fundamental system thinking can be attributed to scientific theories A. Einstein, N. Lobachevsky, state and legal methods of Kelsen, Hegel's philosophical concept, etc.

Founder and representatives of the special-scientific, scientific-practical level connect the new needs of knowledge, with the specific needs of the scientific and technical revolution, the development of new logical and methodological tools. These include R. Akoff (1966), L. Bertalanfi (1969), M. Baitin, M. Mesarovich. These representatives hold the position that their scientific research is not general-philosophical, but "special-scientific", and following this they define their conceptual apparatus. It should be noted that this theory of systems also includes the emerging method of the law enforcement system.

The methodological apparatus of the above theory should have appropriate means of learning. Therefore, the following system methodological tools are updated, as follows:

- 1) Deployment of multilevel and multidimensional picture of the law enforcement system, both mono system and poly system analysis, including the study of complexes and system phenomena of integration, etc;
- 2) Research of dialectics of system-quality forms of functioning of subjects of law enforcement, development and dynamics of social-legal aspects in law-enforcement sphere, and also system bases, qualities, criteria; synthesis of system knowledge;
- 3) Revealing regularities and specifics of various macro- and micro-social systems (the connection between historical civilisations and methods of the state, operations of the state and law enforcement agencies, etc.) (Artemyev, A.M., 2008).

Objective assessment of the possibilities of the system approach should be based on the fact that the development of the system approach should not be associated solely with the current stage of development of science, and secondly, it is not necessary to exaggerate the potential of the system approach, endowing it with excessive universality and fundamentality.

The system approach solves the problem of holistic and elemental research in complex social objects studied both in statics and dynamics, including genesis. However, the synthesis obtained by the system approach cannot be referred to as complete research. It follows from this that this method itself does not provide comprehensive knowledge; therefore, is characterised by relative sufficiency for the researcher. Also, the practical value of the system method is manifested in the study of complex systems, which can be attributed to law enforcement agencies.

The law enforcement system is the most complex and heterogeneous object of research, as it includes elements with the highest integrated type of links. We agree with the position that the abovementioned social system should be considered in three dimensions: static, functional and historical. Static encompasses two interrelated tasks: to define the elements of the system and the relationships between them (structural analysis). The fundamental analysis distinguishes the types and types of natural links, reveals the complexity of links, subordination and coordination links, vertical and horizontal links of elements, comparison of the law enforcement system with other subsystems of the state apparatus. Dynamic - reveals the regularities of development of system elements in dynamics. Historical - is differentiated into prognostic and authentic, which determines the historical-retrospective and prognostic analysis (Antonov, A.V., 2007).

The above design covers the general aspects of the system research of the object and allows to use the system methodology accordingly.

A peculiar integrating principle of the system methodology is the principle of polysystemicity, based on multi-quality, multilevel law enforcement system. The policy of polysystemicity consists in the following, if we take any object as a system (law enforcement system), then its environment forms a network of the highest order (state), so

you can go in the opposite direction up to a separate state body as an object of the system. Thus, a different subject can be an element of the system, as well as the object - an independent system.

At the same time, the current state of development of the system approach as a leading method of cognition of social and legal reality is not enough to cover all the diversity of social systems. In this regard, scientists need to continue their work in this direction for its deep, philosophical understanding and for the systematisation of the available methodological wealth accumulated by various branches of science and, finally, to generalise the positive experience of its practical application.

The research of an object as a whole as a system always has as its main task the deployment of what makes it a system and constitutes its system qualities, fundamental properties and regularities of the system, its structures, system principles of functioning and development (Luman, N., 2004).

The use of system methodology tools in law enforcement practice contributes to the sufficient resolution of the problems of balance and complexity of public administration in the law enforcement sphere, system foresight and forecasting the consequences of both global development and integration processes in the world community. The impact of these processes in the formation and further development of the law enforcement system of the Kyrgyz Republic. Wider use and application of advanced achievements of the system methodology to improve the efficiency of the law enforcement system and much more.

CONCLUSIONS

Thus, first of all, all systems, including the law enforcement system, are subject to some general laws and laws, which, as a result, are universal in nature, have a common logic of their formation, formation and further development. This fact is an essential factor that should be taken into account not only in the process of reforming but also, most importantly. At the stage of forecasting, taking into account the rapidly changing environment, as a result of scientific achievements of information technologies (the possibility of machine processing of massive data, blockchain, etc.), the widespread use and development of artificial intelligence (machine learning) in many spheres of human life.

Secondly, the analysis of system properties of the law-enforcement system gives the chance to reveal a problem of its organisation and proper maintenance in a broader range of national issues. This makes it possible to provide a unified law enforcement policy as a subsystem of the general state policy of sustainable development of the modern, legal, democratic and robust state.

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