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INFLATION IN LAW MAKING: DEEP ANALYSIS OF UZBEK LEGISLATION

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ABSTRACT

In the following paper the notion of normative inflation and its signs have been analyzed by the authors. The pace and efficiency of law making in the Republic of Uzbekistan have been discussed with the exact statistics found out with the aid of National Database of Legislation of the Republic of Uzbekistan (lex.uz) of Uzbekistan. The results of social survey, which was conducted among the professors-teachers staff and students of Tashkent State University of Law, have been revealed with a reasoned conclusion. In the conclusion the authors came into the point that the balance of adoption of normative legal acts and efficiency of law enforcement should be followed by the subjects of primarily and secondary law making.

KEYWORDS: *Law Making, Pace Of Law Making, Normative Legal Acts, Legislation, Parliament, Statistics Of Law Making, Law Enforcement.*

INTRODUCTION

Competent state bodies and officials adopt normative legal acts that are the product of law making process in the interests of the development of society and citizens. Because of these normative legal acts, the relevant sector is regulated and development prospects are determined.

Normative legal acts adopted today are growing intensively. They are widely accepted, but studies have shown that one of the main causes of failure in public administration today is normative inflation. Normative inflation is an inadequate increase in the number of legal acts, which leads to negative consequences for the development of legal relations and it negatively

effects on the quality of legislation, as well as the incorrect implementation of acts, especially by competent authorities. The study offers solutions to address this situation, the most important of which is to review the existing normative legal acts, simplify legislation, improve the quality of the law making process, especially compliance with legal requirements.

In order to broaden the research, it is essential to focus on the following questions, which shall be answered thoroughly in the discussion part.

- How useful is the acceleration of the law making process for the life of society?
- Are the people benefiting from this process?
- How fast are the legislative processes in Uzbekistan and what is the reason for its pace?
- Does the pace of legislation in Uzbekistan correspond to the legal consciousness and development of society?

Without going back to the long history, it is expedient to analyze the ongoing reforms in the legislative sphere of “New Uzbekistan”, to assess the volume of normative legal acts and their practical (effective or ineffective) impact.

METHODOLOGY

The object of this study is to research the theoretical and practical problems of inflation in law making of the Republic of Uzbekistan. The main goal of the study is to develop definitions regarding the research as well as decide whether inflation in legislation is negative or positive event.

In order to achieve these goals, the authors have applied methods of scientific research, such as statistical analysis, chronological, sociological, analysis, synthesis, and comparative. In addition, to analyze public opinion on normative inflation in the country the authors carried out online questionnaire among professors and students of Tashkent State University of Law (TSUL), Uzbekistan.

LITERATURE REVIEW

A lot of scientists and lawyers studied national law making process in term of improvement the activity. In particular, Sh.Khayitov [1] researched the legal experiment in law making process. A.Sodikov [2] analyzed the role of information in rule making process. The condition and problems of scientific theoretical and methodological bases of adoption of normative legal acts in Uzbekistan are analyzed in the scientific works of Sh.Saydullaev [3]. Use of modern technology in law making process and public control has been researched by Sh.Yakubov [4].

If we focus on the Russian scientists, they also discussed the law making process in various aspects. In detail, the monitoring of rule making process was conducted with practical statistics by Y.Arzasov [5]. In addition, several aspects touching our topic have discussed in the scientific world by other Russian scientists such as normative legal acts of executive branch of Russian federation by T.Kucherova [6], comparison of two law making centuries' practice by M.I Baytin [7], law making techniques by E.Usmanova [8], differences of law making from law making by E.Yarmanova [9], problems of modern law making by A.Krasavin [10].

Additionally, foreign scholars who studied law making process in terms of different aspects such as scrutiny in law making by Lanny W. Martin, Georg Vanberg [11], quantitative analysis of

German Legislature by Jasmin Riedl [12], Italian law making by means of sequence analysis by Enrico Borghetto [13], the quantitative assessment of the timing of European legislation by Laszlo Kovats [14].

Although a broad range of lawyers, scientists and scholars, who studied law making process, focused on general problems of law making, the following paper is the first complex research covering the quantitative and qualitative assessment of Uzbek normative legal acts.

DISCUSSION

In the scientific literature, legislative inflation is defined as “continuous intensification of lawmaking activities, which includes two interrelated areas: firstly, a steady increase in regulatory arrays (that is, the adoption of new legal norms, normative legal acts) and, secondly, permanent novelization, that is, regular amendments to the current legislation” [15].

In principle, both journalists and politicians base their statements regarding the pace of legislation on (subjective) judgements. Science, for its part, analyzed the pace either qualitatively or employed variables to measure the speed of legislation that cannot inform about single processes pace. What is lacking is an appropriate objective measure for the pace of law making that works if one takes single processes as the unit of analysis. That is unfortunate, since said debates on legislative acceleration and deceleration are generally heated [16].

Some scholars suggest that one of the way to minimize inflation in law making by codification. However, there are already acting Uzbek 21 codes [17]. In addition, 5 codes such as the Code on Non-governmental non-profit organizations, Environmental Code, Healthcare Code, Entrepreneurial Code, Information Codes were suggested to adopt by the President of the Republic of Uzbekistan [18]. If we look at German experience in codification, there are 5 codes in total such as Civil Code (Bürgerliches Gesetzbuch), Commercial Code (Handelsgesetzbuch), Criminal Code (Strafgesetzbuch), Code of Criminal Procedure (Strafprozessordnung), Code of Civil Procedure (Zivilprozessordnung) [19]. Some countries develop overviews regarding the volume of law making process take an example of Austria, the Austrian Parliament provides a detailed overview on its legislative processes, but more detailed research is necessary to check if all events are listed [20].

The national database of the legislation of the Republic of Uzbekistan was studied based on personal legal research in determining the inflation rate of normative legal acts. To come into conclusion about whether there is inflation in law making of Uzbekistan; indeed, we should compare the statistics of two years (2014 and 2020). In 2020, 2015 normative legal acts were adopted, of which 60 are laws, and 1955 are bylaws. If we look at the statistics for 2014, a total of 588 normative legal acts were adopted, of which 16 are laws and 572 are bylaws. From these facts, we can see that the volume of normative legal acts increased 3,4 times in 2020 compared by 2014 [21].

If we focus on the experience of the Russian Federation over the past six years (from 2011 to 2017), the State Duma of the Russian Federation adopted an average of 462 laws per year [22].

According to paragraph 1 of the Decree No. 6075 of the President of the Republic of Uzbekistan “On measures to improve the business environment in the country through the introduction of a

system of revision of obsolete legislation”, adopted on September 27, 2020, about 2.5 thousand old normative legal acts were identified [23].

As a statistic, we will consider how many normative legal acts were adopted from January 1, 2020 to December 31, 2020. A total of 2015 normative legal acts have been adopted, and their classification can be seen in **Table No. 1** below.

TABLE NO. 1 [24]

The subject of law making	Resolution	Decree	Order	Other normative legal acts
Oliy Majlis (Parliament)	–	–	–	60 laws
The legislative chamber of Oliy Majlis	449	–	–	–
The Council of the legislative chamber of Oliy Majlis	68	–	–	–
The President of Uzbekistan	303	125	20	–
Cabinet of Ministers	615	–	34	–
Ministries	57	–	–	109 orders
State Committees	58	–	–	–
Other governmental agencies	10	–	–	12 orders

In order to draw conclusions by comparing the above figures, we calculate the number of normative legal acts adopted from January 1, 2014 to December 31, 2014. A total of 2015 normative legal acts have been adopted, and their classification can be seen in **Table No. 2** below.

Table No. 2 [25]

The subject of law making	Resolution	Decree	Order	Other normative legal acts
Oliy Majlis (Parliament)	–	–	–	16 laws
The legislative chamber of Oliy Majlis	50	–	–	–
The Council of the legislative chamber of Oliy Majlis	21	–	–	–
The President of Uzbekistan	23	27	2	–
Cabinet of Ministers	165	–	34	–
Ministries	78	–	–	60 orders

State Committees	64	–	–	
Other governmental agencies	16	–	–	44 orders

If we compare the two tables above, there is a significant difference in the number of acts adopted in 2014 and 2020. It should be noted that in 2020, more normative legal acts were adopted than in 2014.

We can also observe that in recent years the number of laws and decisions adopted by the Parliament and the President and other regulations has increased. For example, in 2014, the Legislative Chamber of the Oliy Majlis adopted 50 resolutions, the President 23 resolutions, 27 decrees, 2 decrees, and in 2020 the Legislative Chamber of the Oliy Majlis 449 resolutions, and the President 303 resolutions, 125 decrees, 20 orders were adopted. As can be seen, we can see that law making has increased significantly in these two subjects.

In addition, the level of adoption by the Cabinet of Ministers in 2020 increased by 3,4 times compared to 2014. The secondary law making activity of state committees and ministries, agencies has not changed dramatically. In short, in 2020, more normative legal acts were adopted than in 2014.

If we look at the last five years, a lot of normative legal acts have been adopted. We all know how these processes affect the lives of citizens. It is becoming a habit for people today to hear every day about a new law, decision and similar norms. The important task now is to ensure the implementation of the adopted laws.

If we look at law making in China, the whole process is guided by a principle that asserts that broad legislation is always better than detailed legislation [26].

First of all, in the hierarchy of each acts, it is advisable to do it from top to bottom, not from bottom to top. As all developing countries enter the stage of development, lawmaking accelerates so much that you can't count them. Today, you can directly observe this situation in our country. We will consider the confirmation of our opinion on the basis of the table shown below.

Also we conducted social research with the aid of survey. 108 people took part in the survey. The questions were answered by the respondents as follows.

1. Do you know the concept of normative inflation?

Yes – 58.3 %

No – 33.3 %

I do not know – 8.3 %

2. What do you think about normative inflation?

Good. – 19.4 %

Satisfactory. – 57.4 %

Bad. – 23.1%

3. Do you think normative inflation is necessary for the development of society?

I do not think so. – 31.5%

Definitely needed. – 24.1%

I never thought about it. – 44.4%

4. Do you think that normative inflation has been observed in Uzbekistan in recent years?

Yes, it has been increasing lately. – 38.9%

No, I did not observe it. – 26.9%

I do not know. – 34.3% [27]

It is possible to conclude that not only students but also scholars of the Tashkent State University of Law have sufficient knowledge and understanding about normative inflation and its effect on the society.

How useful is the acceleration of the law making process for the life of the society? Are the people benefiting from this process?

Logically, the speedy adoption of normative legal acts does not mean that these problems will be solved at once. In fact, the laws that are passed must be of high quality and weighty sufficient to last a long time and maintain their position.

As can be seen, more than two thousand normative legal acts were adopted in a year. At this point, let's talk a bit about speed in legislation. The rapid development of laws leads to a slowdown in the adoption of democratic laws. That is, rapid adoption affects everyone differently, because one legislative process can be slow for one and faster for another. speeding up legislation and slowing it down is a contentious debate. continuous and regular lawmaking and changing the former does not lead to the resolution of problems. As mentioned above, it affects everyone differently. The main issue here is that there must be an objective measure, for instance it depends on the law being enacted in a working and regular, long-term.

At this point, let us discuss two concepts, namely the speed of law making and the operative law making, and distinguish them a little. Moreover, when taking a closer look at the scientific debate, we find that analyses often focus on the number of bills passed, or the simple duration of their law making procedure, as a measure of legislative pace [28].

These two concepts are directly related to each other, but there are also differences. That is, the adoption of new laws on a large scale, every day or at a certain time, but in large numbers. Rapid adoption, on the other hand, can be said to be very short-lived, for example, relative to the speed that the president or MPs will adopt as the election approaches.

In the process of legal creation, new legal rules are developed and approved. At the same time, first of all, the defined tasks of the state activity are reflected in the law. Consequently, the law making is carried out by the state, regardless of the function, type, forms of exercise and organization of state power. Therefore, the rule of law is a process that involves the identification and assessment of the legal needs of society and the state, the formation and adoption of legal documents in the prescribed manner by the competent authorities.

This definition emphasizes the following important aspects: understanding, study and analysis of the situation or process that requires legal regulation, identification of the body (subject)

authorized to adopt this or that legal act, selection of the form of the act to be adopted, preparation, adoption or amendment of the act. [29]

According to the Decree No. 5505 of the President of the Republic of Uzbekistan “On approval of the concept of improving the rule making activity”, adopted on August 8, 2018, by using the model of “Smart regulation” the normative legal acts of governmental agencies should be decreased. [30]

It is also important to strengthen parliamentary control over the secondary law making activities, based on foreign experience. It is known that it is not possible to regulate all relations in the law; some issues related to its application may be regulated by secondary legislation. In these cases, it is necessary to introduce a new form of parliamentary control in the form of a study of the bylaw in terms of assessing the content of the by-law, its compliance with the goals and objectives of the law, the full implementation of the reference norm.

Today, there is a great deal of disagreement about the conflict that arises between expert scholars and members of the public between those who accelerate law making and those who advocate discussion. We can come across a lot of this in the media, on social media.

Today, the legislative process in Uzbekistan is accelerating, and we can see their speed in all areas. If you read the scientific works and articles of foreign scientists and professors, they have gone into detail about why these processes is accelerating, negative, and positive consequences.

In cases where the legislative process is accelerating, in most cases, we can observe this situation in developing countries. This is natural because states are adopting new laws to regulate all areas and to end or eliminate stagnant processes.

Of course, this process is based on the development of the state and society. But there are also downsides to this, people are dissatisfied with the fact that they do not understand the laws being passed and their implementation is not fully implemented. The general problem is that the speed of legislation in Uzbekistan does not correspond to the legal consciousness and development of society.

The purpose of passing laws is to find and solve major problems. There are a lot of normative legal acts being adopted today, the main purpose of which should be to regulate the problems that have arisen, are coming and may come. In many cases, the adopted laws do not serve to solve the problems in our society, because it is a matter of ensuring their adequate implementation. Analyzes show that we need to look at the number of bills being passed or the duration of their legislative procedures and as a means of measuring the speed of legislation.

The second question addresses another research field of Political Sciences: How does the legislative term effect legislative performance?

This is where research on the “political legislation cycle” sets in. In short, “political legislation cycle” means that the election period creates patterns of legislative action. Following the presumptions of political economy, political actors compete for constituency and align their actions accordingly [31].

CONCLUSION

This, along with instability in the legislature, not only leads to a decline in the quality of the law, as in the current legislative environment, but also strengthens confidence in its power to ensure justice, promote and protect individual rights. Excessive production of laws leads to serious distortions in the application of laws, sometimes even making it impossible to apply, thus leading to an imbalance between rules and their application.

Firstly, legislative inflation leads to a significant decrease in legal certainty, which is an essential element of the rule of law. Legal certainty implies that legal provisions are readily available and predictable, as well as clear and precise.

Secondly, in conditions of legislative inflation, the addressees of legal norms are forced to assimilate the rapidly increasing volume of legal information, while adapting to its constant change. Eventually, the level of legal mind and consciousness of citizens will decrease dramatically.

Thirdly, legislative inflation can be viewed as a significant factor in erroneous lawmaking.

Fourthly, this may lead to inefficient mechanism of monitoring the execution. It is another matter that such a high pace of work will most likely lead to a weakening of control over the law enforcement process. The lack of appropriate control, in turn, turns into a haphazard “correction” of previously made law making mistakes, as a result of which previously made mistakes are not eliminated, but new ones multiply.

Fifthly, legislative inflation forms a negative image of the legislator among the population, as well as a negative attitude towards law in general.

Sixthly, due to normative inflation direct effect of laws may possibly underestimated and by law, acts will be major source of legal regulation.

Seventhly, the government should stipulate main responsible body, which regulates the state of law making inflation possibly it could be Ministry of Justice or the Constitutional Court of Uzbekistan.

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