

# Legal Experiment: The Concept and its Significance for the Improvement of Norm-Making Institution

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***Abstract--**This article describes the role of the legal experiment in the process of classification and rulemaking in the light of national and international experience. The article sets out the conclusions and recommendations for the legal experiment.*

***Keywords--**Experiment, legal experiment, rulemaking, legislative acts, the billlegal regulation, experimental research, normative-legal act, lawmaking.*

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## I. INTRODUCTION

Today one of the most important conditions for the successful conduct and implementation of reforms in the country is necessary to develop and implement quality and direct legislation. In this regard, the President of the Republic of Uzbekistan Shavkat Mirziyoev correctly stated in his report that “I think, it is time to abandon the practice of adoption of subordinate acts and adopt directly applicable laws” [1].

In today's context, the importance of legal experimentation in the national legal system is challenging task. Legal experiment is the most important means of increasing the effectiveness of legal regulation of social relations, but also an effective safeguard against the risks of legal regulation.

Conducting the legal experiment will increase the effectiveness of the adopted normative-legal act, make appropriate changes and additions to the legal norms, prevent further negative consequences and improve the legal and regulatory framework.

Insufficient attention is paid to the application of legal experimentation in our country. In some cases, experiments in the socio-economic field are conducted without sufficient scientific justification. Thus, the level of use of scientific experimentation of legal experiment in the process of lawmaking is decreasing. This, in turn, separates the processes of legal experimentation and lawmaking [2]. At the same time, reforms carried out in the country in recent years and legal changes are increasingly in need of legal experimentation, which is one of the important methods of scientific knowledge.

Legal experimentation is one of the main features of social experimentation, and in its conduct the issue of the effectiveness of a certain experimental legal norm is considered on the basis of the analysis of their limited application. The legal experiment in science acts as a unit of scientific knowledge and practice.

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The role of experimentation as one of the forms of scientific practice is required to play a key role in transferring theoretical knowledge into practice in society. This is important not only for the natural sciences, but also for the social sciences. The role of the legal experiment is really significant in decision-making in terms of regulating and managing social relations in society.

Legal experimentation should be seen as a natural part of the law-making process. Thus, the development of the new draft legal document requires its implementation on the basis of all-round experimental research. However, in practice the law does not adequately use the opportunities provided by the legal sciences to improve the effectiveness of the laws adopted in the process of norm-making.

One of the important tasks of the legal sciences is to regulate social relations, to find the best and most effective way of norm-making and law enforcement practice. Various methods and means are used in science and practice to address the problem of improving the regulatory mechanism, including legal experimentation.

At the same time, the processes associated with experimentation in the study of social phenomena are considered to have some experience based on scientific analysis. The methods and means of legal experiment, the number of scientific publications on the results of experimental research are increasing. Legal experiment is a preliminary test of the effectiveness of any legal provision (special norms, normative-legal act or reforms in legislation, etc.).

There is a need for the application of legal experimentation in the following cases: introduction of economic incentives and awards, changes in labor relations and wages, radical changes in the basis and types of responsibility, etc.

The best and most cost-effective solution for a problem that requires special regulation by the legislature is legal experimentation.

In all cases, the experimental norm is temporal, the scope of which is limited with time and territory, which can be significantly altered both during the experiment and later in the norm-making process.

Different views on the legal experiment come from many philosophers and economists, along with lawyers. Nikitinsky VI and Samoshchenko I.S in the book "Legal experimentation and improvement of legislation" should "consider any social experience as a legal experiment, when the requirement and procedure is considered as an experimental norm, as opposed to the current law" [3]. Babaev V.K in his "Dictionary of General Theory of Law" noted that the legal experiment "will be organized by the legislator to test the effectiveness of new norms or documents on a limited scale and to develop optimal options for future legal decisions"[4].

## **II. BASIC REQUIREMENTS FOR LEGAL EXPERIMENT**

What are the requirements for experimentation in general? Thus, there are the following specific requirements for the experiment:

1) the exact time and area of the experiment shall be determined in advance; 2) have a clear understanding and purpose; 3) a clearly defined range of actions and activities, and what information should be collected; 4) the

means used in the experiment and their effectiveness. The purpose of the experiment should be clearly defined. The most important thing is to carry out any experiment and identify the person who is responsible for the results.

Legal experiment in a given area for a limited time and for predicting the intended purpose and expected outcomes before drafting and implementing them in the process of enactment of regulatory documents will provide effective results and statistical data. Legal experiment is a scientific examination that involves monitoring the effectiveness of law-making and law enforcement activities and the development of events and re-creating the situation. The legal experiment in science is a unit of knowledge and practical activity, aimed at determining the effect of a particular law, regulating social relations in certain circumstances.

According to the lawyer A. Saidov, “Legal experiment is the verification of the usefulness and efficiency of experimental legal norms and approbation of the norms of the draft law in a limited geographical and time-scale manner for a thorough work of the possible options of the future law”[5].

In general, legal experiment is a kind of social experiment, and the question of the effectiveness of some experimental legal norms in its implementation is the analysis of their practical application in a limited time and space. Empirical tasks of the practice of legal experimentation in the Republic of Uzbekistan are not mistaken, as envisaged by the First President of the Republic of Uzbekistan on the Concept of Intensification of Democratic Reforms and Formation of Civil Society in the Republic on November 12, 2010.

It is not a secret, however, that theoretical views and approaches to it have already been observed. However, the practical application of legal experiment meant the development and adoption of more than 50 legislative acts required by the socio-economic and political-legal practice in “The Concept of Further Deepening of Democratic Reforms and Formation of Civil Society in the Country,” was also implied and several of them were issues of legal experiment.

The Law of the Republic of Uzbekistan “On Openness of the Activities of State Authorities and Governments” on March 20, 2013, as a practical example, before the adoption of this law, with more than 600 seminars and round tables in all regions of the country, one international conference and one. an international roundtable was held. As a result, over 8 months of elaboration and improvement of the draft law were received about 700 different opinions, proposals and recommendations. As part of the legal experiment, a special internet resource (website) ([www.legalexperiment.uz](http://www.legalexperiment.uz)) has been set up to test the provisions of the draft law, to discuss the norms of the bill, for the heads of legal experiment subjects, journalists, representatives of NGOs. Generally, the relevant instructions, and all information on legal experimentation were published regularly, a detailed study of the legislation in this area, their national legislation with the comparative analysis. In particular, in the United Kingdom Law “On Freedom of Information”, in the US “On Openness of Government”, in France “On Citizens’ Relationships with State Bodies”, in South Korea’s “On Disclosure of Information by the Public Authorities”, in the Russian Federation “On the Coverage of Activities of Public Authorities in the Mass Media”, in Estonia “On State Information” and other legislative mechanisms of other countries are essential.

The legal experiment is aimed at ensuring transparency and openness of the state bodies' activity, and elaboration of basic proposals for improving the norms of the draft law aimed at enhancing the awareness of the media, NGOs and other civil society institutions about their activities.

In the course of the legal experiment, the effectiveness of the experimental legal norms or the social and legal institutions envisaged to be implemented is to verify or confirm the hypothesis on economic costs, as well as to identify its negative consequences. Legal experimentation of drafts of normative-legal acts is a complex, responsible and labor intensive activity. This issue will be explored as a separate category and institution within the science of state and law theory. However, to date, the theory of legal experiment has not been adequately interpreted in the science of our country.

### **III. AREAS OF LEGAL EXPERIMENTATION**

Experiment in science is damp as a unit of scientific knowledge and practical activity. In the context of the transformation of science into the productive force of society, the importance of experimentation as a scientific and practical experience becomes even more important.

It is often necessary to carry out an experiment in:

- 1) Fundamental reformation of economic incentives, labor and wages;
- 2) Introduction of new forms of family relations;
- 3) Occurrence when an attempt is made to radically change the types and bases of legal responsibility.

The experiment was considered to be an economically efficient form of preliminary assessment of the effectiveness of regulatory acts to solve problems that require special regulation by the legislature and provide optimal solutions.

It should be noted that in all cases the experimental norms are transient; In addition, these norms have a search feature, and their content may change significantly during the course of legal expertise or later in the lawmaking process.

Conducting legal experiment requires continuation of activities and regular monitoring of participants' behavior. The analysis of the results of such monitoring is helpful in providing material for conclusions on the feasibility of the experiment. Positive evaluation of the results of the experiment is the basis for adopting the relevant general standard. However, as it rightly points out, "it may not be experimentally the same." This means that social relationships are diverse and that they are not suitable for experimentation using the same methods.

Therefore, the legal experiment must also be completed with the adoption of the final analytical document, and the conclusion that the relevant conclusions are drawn from other legal relationships. This should be done regardless of whether the results of the experiment violate the sample, positive or negative, the initiator needed or tested during the experiment. Such proposal should state the point of views and position of the initiators, participants of the experiment and observers [6].

#### **IV. SUBJECTS AND BASIC PRINCIPLES OF LEGAL EXPERIMENTATION**

Legal experiment must be scientifically based experience that allows you to monitor and recreate law enforcement and activities. The following are the principles of legal experiment:

- 1) Legality; 2) democracy; 3) scientific; 4) professionalism; 5) transparency; 6) systematicity [7] and c.

The characterization of any legal event, including the legal experiment, is incomplete without dividing it into groups.

The main stages of legal experiment implementation are:

- 1) Preparation stage for the legal experiment;
- 2) The stage of legal experiment;
- 3) The results of the legal experiment can be divided into stages of study and analysis.

As a result of the analysis of the results of legal experiment, one of the following decisions is taken:

- 1) Transformation of experimental norm into legal norm;
- 2) Amendments and additions in the process of converting the experimental norm into the legal norm;
- 3) It is not advisable to convert the experimental norm into a legal norm.
- 4) The classification of legal experiment is based on its structure, which allows simultaneously differentiating the legal experiment and deeper understanding of the nature and social significance of this legal event.

There are four components of the legal experiment:

- 1) Subject of legal experiment;
- 2) Legal basis of legal experiment;
- 3) The object of legal experiment;
- 4) The result of legal experiment [8].

Depending on the legal basis for carrying out the legal experiment we can divide into the following groups:

- the basis of international norms for legal experiment;
- Experiments, which include checking the effectiveness of legal norms adopted by central state bodies;
- Experiments that include verification of the effectiveness of legal norms adopted by local authorities.

According to the legal force of the normative legal acts, which form the basis for carrying out legal experiment, can be divided into two groups:

- 1) Legislation; 2) by-laws. In general, the legal framework for legal experimentation carried out in recent years in our national legal system is being base (for example, “Conducting a legal experiment the Law of the Republic of Uzbekistan on March 20, 2013, PF-3987 “On Openness of the Activities of State Authorities and Governments”, Decree of the President of the Republic of Uzbekistan on August 17, 2018 № PF-5515 “On the introduction of a special order of management in the city of Tashkent” "On the experiment).

## **V. ANALYSIS OF NORMATIVE BASES OF CONDUCTING LEGAL EXPERIMENT IN RECENT YEARS**

In recent years, the following legal experiments have been conducted or conducted in our country;

According to the Decree of the President of the Republic of Uzbekistan dated March 20, 2013 "On legal experiment on the test of the draft law of the Republic of Uzbekistan" On the openness of public authorities and management "in Samarkand and Bukhara regions legal experiment on the draft law:

According to the Presidential Decree on Private Property Protection, until February 1, 2020, a legal experiment on approving non-agricultural land privatization will be held in Syrdarya region for the following purposes:

President of the Republic of Uzbekistan Sh. In accordance with the Law of the Republic of Uzbekistan № ZRU-581 "On the management of apartment houses" signed by Mirziyoev on November 7, 2019, he will conduct a legal experiment to approve the rules of managing apartment buildings in the Yakkasaray district of Tashkent, Jizzakh and Margilan. This Law shall come into force on August 1, 2020.

The legal experiment will be conducted according to the Decree of the President of the Republic of Uzbekistan dated August 17, 2018, Pf-5515 "On legal experiment on introduction of special management regime in Tashkent";

In accordance with the Presidential Decree dated October 11, 2018, a special experiment was introduced to further simplify the procedure for transferring state assets into private ownership and to create additional opportunities for business entities. Most importantly, this experiment was developed by taking into account the positive result of this experiment and the proposals made by many business entities, extended to January [9].

Today, the legal and scientific knowledge of the science of legal experimentation has been advanced. At the same time, the development of scientific solutions for the problem continues to lag behind the demands of life. For example, the boundaries of legal experiment and its interaction with other social experiments are still not clearly defined.

## **VI. CONCLUSIONS AND RECOMMENDATIONS**

In our opinion, the institution of legal experiment and its structure, functions, limits of its implementation, and the legal status and guarantees of the participants of the experiment are not sufficiently developed; in which cases there are no specific criteria for cases where legal experimentation is useful or necessary. There is no normative legal act, which defines the order of organization and carrying out legal experiment, recommendations and methodical instructions, ensuring their scientific organization and objective examination of results.

So far, the peculiarities of legal experimentation have not been adequately explored its role in the field of law.

In summary, the significance and importance of the legal experiment are as follows:

1. Legal experiment is the most important instrument of scientific-theoretical investigation, and it coincides with the criteria for establishing objective truth about state-law phenomena;
2. The conclusions drawn from the experiments have the power to develop the laws of scientific knowledge of legal relations, to improve and strengthen the rule of law in society, to know the limits and methods of influencing people's minds on objectively evolving processes;
3. There is a great educational impact on properly selected and organized legal experiment;
4. The legal experiment takes its place in the norm-making process;
5. Checking the effectiveness of the legal norm;
6. Study of the consequences of the implementation of the legal norm;
7. Determination of the best and most appropriate legal regulation option;
8. Legal experimentation, which is inextricably linked with theoretical research and practice, also serves as a "bridge" that combines the suggestions of practitioners and the scientific efforts of theoretical scholars. The active development of questions related to legal experimentation will always contribute to the further development of the legal sciences. Based on the foregoing, we believe that it is necessary to adopt a special legal and regulatory act in the legislation of the country, which defines the procedure of legal experiment.

One of the most modern and advanced methods of norm-making activity is the implementation of legal experiments in world practice and the introduction of results in real life. Certainly, there will be an opportunity to get real scientifically-based recommendations and conclusions on how these projects will be implemented in practice.

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