

THE ISSUES OF THE SCIENTIFIC SYSTEM OF PSYCHO-LEGAL STUDIES

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Abstract

The purpose of the given article is to define the place and importance of psychological science in increasing the effectiveness of theoretical and practical activity directed at normative regulation of social relationships. In particular, the article reviews modern directions of psycho-legal studies, defines the areas of cooperation between psychology and legal studies, identifies the important themes/problem issues, as well as the promising directions in this kind of cooperation. The article also aims to highlight the productivity of a full utilization of the potential of these two areas (psychology and law), as well as of the productivity of multidisciplinary approach, stimulate cooperation between these two areas for the purpose of social security, stability and progress, strengthening legality and law and order, as well as the fight against crime and protection of human rights.

Key words: *sub-disciplines, normative, regulation, deviance, attitude*

Traditionally, psychology, and, correspondingly, its applied sub-discipline psycho-legal studies was thought to be a second-rank resource, assisting legal studies and was only considered in very few, special cases. At the same time, "it is difficult to conceive of intellectual domains that should, once paired semantically, be more interdisciplinary than 'psychology and law'. Both psychology and law are, fundamentally, concerned with describing, analyzing, understanding, explaining, predicting and, sometimes, shaping human behavior. Most certainly there are major differences in methods." (Carson, D. & Milne, R. & Pakes, F. & Shalev, K. & Shawyer, A., 2007)

One of the reasons for scepticism around psychology (here we confine ourselves to psychology problems) was, among other things, insufficiently developed psycho-legal studies and, consequently, disbelief in their utility. In the last decades, a serious breakthrough was observed in cooperation between psychology and legal sciences at the international level (also, partially, in Georgia), which could be explained by some success achieved in psycho-legal studies. It is easy to understand that the intensity and productivity of cooperation between the two fields depends on the competence of its representatives and their efforts to focus on mutually interesting themes and coordinate their efforts around the problems that are important for both. It is entirely legitimate to state that "The issues are not the relevance of psychology and law to each other but the extent to which the law and legal system should and are prepared, to embrace psychology and the extent to which psychologists should, and are prepared, to adapt their work to the needs and requirements of the legal system." (Carson, 1995)

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The American Psychological Association emphasizes the necessity of cooperation between psychology and law, the directions of which are reflected in the corresponding division of APA and the priority purposes declared by the American Psychology-Law Society:

- a) Advance the contributions of psychology to the understanding of law and legal institutions through basic and applied research;
- b) Promote the education of psychologists in matters of law and the education of legal personnel in matters of psychology, including the appropriate use of psychologists in the legal system;
- c) Inform the psychological and legal communities and the general public of current research, educational, and service activities in the field of psychology and law.

When discussing development of psychology – law, as a scientific field, A. Kapardis notes the following: “ The plethora of applications of psychology to law can be differentiated in terms of what has been defined as: (a) *psychology in law* (b) *psychology and law* and (c) *psychology of law* (Kapardis, 2014). According to Blackburn’s definition, *psychology in law* refers to “specific applications of psychology within law: such as the reliability of eye-witness testimony, mental state of the defendant, and a parent’s suitability for child custody in a divorce case” (Blackburn, 1996). According to A. Kapardis, psychology in law was the most frequently used term among the three mentioned above and was the main source of confusion in legal psychology (Kapardis, 2014). Blackburn uses *psychology and law* to denote, for example, psychological research into offenders, lawyers, magistrates, judges and jurors (psycho-legal studies). Finally, *psychology of law* is used to refer to psychological research into such issues as to “why people obey/disobey certain laws, moral development, and public perceptions and attitudes towards various penal sanctions” (Blackburn, 1996). As far as the term forensic psychology is concerned, it should only be used to denote the “direct provision of psychological information to the courts, that is, to psychology in the courts” (Blackburn, 1996).

Kapardis thinks that as there is no generally acceptable definition of legal psychology, the definition suggested by J. Ogloff is sufficiently broad and parsimonious to reduce the confusion surrounding this sphere. “Legal psychology is the scientific study of the effects of law on people; and the effect people have on the law. Legal psychology also includes the application of the study and practice of psychology to legal institutions and people who come into contact with the law.” (Ogloff, 2000)

While considering the above definitions, for us *psycho-legal studies* is a sub-discipline of psychology which unites all theoretical, applied and practical activities in psychology – law sphere. Psycho-legal studies include many directions in research and practice, the systematization of which equally allows to allocate them to one or several spheres depending on scientific traditions, importance of the given field for an individual society, a general vision of the subject and object of a scientific discipline and their relationship, as well as the level of development of a specific direction or sub-discipline for the given moment.

The spheres of the application of psycho-legal studies broaden all the time. As already noted, these spheres (scientific system) can be grouped in many different ways. Find below slightly modified versions of several classifications, with G. Gulotta (Gulotta, G. & Curci, A., 2009) and A. Kapardis (Kapardis, 2014) classifications taken into consideration:

1. Judicial Psychology focuses on the individual as a defendant as well as other participants of the trial – eyewitness, victim, lawyer, judge;
2. Criminal Psychology [or criminological psychology] studies an individual/person as an offender and as a deviant;
3. Legal Psychology coordinates psychological knowledge and uses it to meet the needs of criminal and civil law;
4. Forensic Psychology is related to the issues the psychological aspects of which gain crucial importance in legal evaluation and expertise;
5. Re-educative Psychology studies the individuals who are under corrective and rehabilitation or punitive measures as well as the purpose, value, advisability and effectiveness of those measures;
6. Legislative Psychology participates in the refinement of enacted legislation and the elaboration of new juridical norms.

In the classification proposed by Gulotta, the criteria of which are different from those stated above, the use of psychology in psychology – law could be direct and indirect. “It is direct if scientific content is strictly considered, as, for instance, in the evaluation of defendants’ personalities or the memory of eyewitnesses. It is indirect if psychological methods are used, as, for instance, to establish and improve diagnostic techniques in expertise or cross-examination.” (Gulotta, G. & Curci, A., 2009) According to the same author, “psychology can aid the law to strive toward a truthful reconstruction of reality. Indeed, the focus of trials is not historical reality, but the construction of a new reality that tends towards historical reality through all available procedural means.” (Gulotta, G. & Curci, A., 2009)

The system of psycho-legal studies can be presented in a concise, schematic form emphasizing its major elements/directions:

1. Legal psychology:

The system: individual – society – state – law;

Stability of social systems;

Social and psychological aspects of the transformation of social systems;

The individual's rights and freedoms;

Justice and law;

Democratization process – the dynamics of the prevalence of social integration over social regulation;

Themes of social adaption and maladaptation;

Regularities of the formation, change and operation of social norms;

Social, psychological, juridical and political preconditions of the effectiveness of law;

Lawful behavior, offence and juridical responsibility;

Deviance and crime;

Criminality and the mass media;

Legal state, civic society, rule of law;

2. Criminological psychology:

The factors of criminality and crime, in particular psychological factors/causes;

Psychological mechanisms of deviant and criminal behavior; psychological mechanisms of offense;

Regularities of the formation and deformation of legal awareness;

Psychological aspects of social control;

The subject of crime/action (criminal's personality);

The subjective aspect of crime/action (intention, purpose, emotion, motive);

Issues of crime prevention;

The problem of effectiveness of corrective and re-educative measures;

Diagnostics of personal and group (subculture, counterculture) characteristics determining illegal behavior and the prevention of behavioral patterns and stereotypes;

Psychological regularities of the internalization and fixation of norms and values (i.e. development of stable mental formations) during socialization and re-socialization;

The issues of aggression and conflict;

Gender and demographic correlates of criminality;

Family and adolescent issues (domestic violence, bullying);

Victimology. Crime victim. Psychological factors of risk generation and the provocation of crime.

3. Forensic psychology:

Psychological aspects of legal proceedings and law enforcement;

Psychology of law enforcers and the psychological description of their activity; psychological evaluation, selection and training methods for law enforcers;

Consulting and selecting accused, convicts, sentenced, witnesses, jurors;

Psychology of interrogation and testimony: psychological regularities of obtaining, recording and evaluating information; diagnostics and prevention of errors and fakes in testimony; psychological composites of interrogation strategy and tactics;

The methods of influence used by the participants of legal proceedings and their acceptable limits (special ethics); problems related to psychological coercion, violence, suggestion, and disinformation;

Exculpatory or mitigating circumstances of fault;

Issues related to legal capacity (affect, imputability, partial imputability, diminished responsibility);

Methodology and methods/techniques of forensic/judicial – psychological and complex psychiatric – psychological expertise.

4. *Penitentiary and re-educative psychology:*

Resocialization and re-adaptation of offenders;

Social adaptation disorders and the problems of maladjustment (alcoholism, drug addiction);

Assessment of personality characteristics (in the context of amnesty and conditional early release);

Probation institute related issues;

Psychological conditions of inmates in penitentiary institutions;

Psychological aspects of the formation and functioning of informal groups in the places of detention;

Penology. Psychological concepts of punishment and penalty.

5. *Legislative psychology:*

Studying normative systems and specific norms to ensure the compatibility of the legal agenda with the current state of society (public opinion surveys), its needs, goals and challenges;

Planning legislative changes and their enactment to determine the time-frame necessary for adaptation to these changes, and consequently, to ensure their efficacy and social stability.

6. *Psychological law:*

“Studies legal norms from a juridical standpoint deserving psychological evaluation for their interpretation or application. Psychology specifically focuses on cognitive and behavioral aspects and how they affect third parties. Psychology is therefore the specific discipline that might help to judge human conduct in a legal sense. From a substantial perspective, it refers to “psychological states,” “situations,” “circumstances,” and “responsibility.” (Gulotta, G. & Curci, A., 2009)

In addition to the above, it is advisable to introduce into psycho-legal studies another direction, which is the examination of the legal culture. In addition to the existence of comprehensive normative system, to ensure full functioning of the normative system and eliminate and prevent non-normative/deviant/ criminal tendencies, it is necessary to consider “a human dimension”, that is the existence of a high level of legal culture at the individual and societal levels. A component of the legal culture – legal consciousness, encompasses the systems of sets, expectancies, beliefs, attitudes and opinions related to the legal system. Another component of the legal culture – normative/legal behavior, is related to the synergy between the conscious and unconscious regulators of activity. In this case the analysis concerns the mutually complementary cooperation between unconscious mental formations and conscious motivational and voluntary processes. These problems clearly

lie within the scope of psychology and it is impossible to carry out a comprehensive analysis of legal culture as well as of the issues of normative regulation without focusing on this direction.

The list of tasks and directions of psycho-legal studies clearly demonstrates that for most authors the examination of the issues of normative regulation necessarily requires the consideration of the individual's cardinal psychological characteristics, specific psychological states, sets and expectancies as well as the specificity of the levels of mental regulation. The Georgian school of psychology which is based on D. Uznadze's Set Theory can make an important contribution to the development of psychology-law science in case necessary efforts are made. Achievement of the above listed and other objectives requires the intensification of research in this direction and the stimulation of the development of theoretical, methodological and practical aspects of psychology.

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