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One look at the position of sociology of law in Russia

Abstract

As a sociological discipline that studies the role and place of law in society, sociology of law was created in the mid 19th century. This discipline studies the conditions and circumstances that lead to the constitution of law and the legal system in one country, then the legal activity in society, and the consequences of all forms of legal action in society. From the mid-20th century in sociology have been removed numerous concerns about the social role of law, from this period the law is being studied as a normative phenomenon. The paper analyzes the situation of sociology of law, its historical development and institutionalization in Russia, as well as topical issues of Russian theorists. Citing the Russian theoreticians who dealt with legal and sociological topics, in this paper we analyze the issues and problems that were in the process of institutionalization of sociology of law in Russia at the end of the XX and the early XXI century. In this paper we provide a brief overview of sociology of law in some countries of the former Yugoslavia as a possible comparison with the state of sociology of law in Russia.

Keywords: law, sociology, sociology of law, society, science, Russia.

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Introductions

As a result of the development of sociology as a science and the expansion of its research subject, there were constituted more special and individual studies that explore specific social fields, including sociology of law. This micro-sociological discipline was developed in the mid 19th century in the context of political sociology as a special sociology, and studies the place and role of law in society, the content of legal norms, the way they are applied.³ Sociology of law studies the conditions and circumstances that lead to the constitution of law and the legal system in a country, then a legal activity in one country (theoretical and practical), and the consequences of all forms of legal action in society.⁴ On the one hand, it studies the social side of law, the influence of various social factors (economic, political, cultural) on the law and its key aspects (the concept of law, the origin of law, the character of legal norms, etc.), and on the other hand, the way the law influences the society (man, the structure of society and the trends in society).⁵ The physiognomy of the sociology of law has been affected by certain tendencies in the development of legal theories: the legal theory (“social rights”) by which the legal order of society differs from state law (except the state, there are other social forces that create the law - churches, corporations, etc.) and “control theory”

³ Before the advent of sociology of law the only theoretical framework for explaining the law was in the field of philosophy of law (most often, those were the legal theories). Even in the ancient times, in the works of Greek philosophers we found efforts to bring the law in a particular relationship with the society/state (sophists, Herodotus, Plutarch, Tacitus, Aristotle). In the theories of the social contract in the 17th century we find the roots of the sociology of law, as well as in the theoretical approach of Montesquieu in the 18th century, which puts laws in relation to social facts. The impetus for the development of the sociology of law from the beginning to the middle of the 19th century gave the criminological research by French and Italian researchers, as well as the insights of the German historical school of law and the empirical body of legal history and legal etiology of this period. Ivan Šijaković and Dragana Vilić, *Sociology for lawyers*, Banja Luka: Association of Sociologists Banja Luka, 2013, p. 305.

⁴ Sociological analysis of law is based on three basic theoretical principles: the first relates to the nature of law observed from a sociological perspective (the law is experiential phenomena and all the characteristics of law are arising from the specificity of human nature and life in the community); second principle relates to the structure of law observed from a sociological perspective (law is broader than the legal rules, it can not be reduced to the rank of norms, laws and other general and individual acts, but in addition to them, equal elements in the structure of law are social factors of law - social relations, certain values, etc.; and the third principle concerns the law as experiential, complex and development unit. Saša Bovan, *Sociology of law*, in: Milovan Mitrović and Saša Bovan, *Fundamentals of sociology and sociology of law*, Belgrade: Official Journal, 2009., p. 230 – 231.

⁵ Saša Bovan, *The Same*.

developed in the US (E.A. Ross) by which the law is one of the techniques of social control. The conditions for the development of the sociology of law as a systematic and methodological constituted discipline were created at the end of the 19th century and beginning of the 20th century in the European region (Durkheim, Weber, Ehrlich, Digi, Gurvich) and the American region (Ross, Holmes, etc.).⁶

Since the mid-20th century the law is studied as a normative phenomenon (in the application on the social facts of social life exerts its specificity, as well as problems), with which were removed many doubts in the sociology of law in connection with the social role of law.⁷

The most important characteristic of the sociology of law after the Second World War is a wide and comprehensive institutionalization (establishment of committees, institutes, departments, sections and magazines in this field).⁸

Significant progress of the sociology of law in the world, especially in the Anglo-Saxon linguistic, social and theoretical space was created in the previous three decades. The subject of study and research is constantly expanding - it includes new problems, issues, phenomena and activities which can be classified in the field of law and its relationship with other elements of society. This sociological discipline is increasingly included in the structure of the legal system, it studies its inner fact, follows some of its parts through the prism of social relations, it directs its attention to the practice of law, legal events, as well as the consequences of legal decisions.⁹ Thus, in the modern period, its case focuses on six key issues: the origin of law, the concept of law, the functions of law, the creation of law, the application of law, the legal profession, and it is noticeable the differentiation within this discipline in accordance with specific areas of law (sociology of criminal law, sociology of civil rights, etc.). Although the division of theoretical and empirical research, is not expressed as in the previous period, in contemporary sociology of law it still survives.¹⁰

⁶ Saša Bovan, *The Same*, p. 253.

⁷ *Sociology of law*, Aleksandar Molnar, *The Dictionary of Sociology*, Belgrade: Institute for Text-books, 2007, p. 558.

⁸ Saša Bovan, *Sociology of Law*, in: Milovan Mitrović and Saša Bovan, *Fundamentals of sociology and sociology of law*, Belgrade: Official Jornal, 2009, p. 258.

⁹ Ivan Šjaković and Dragana Vilić, *Sociology for lawyers*, Banja Luka: Association of Sociologists Banja Luka, 2013, p. 335.

¹⁰ There are a number of circumstances that hinder the development of sociology of law in the future (slight closing of the sociology of law at the national frameworks, lack of a sufficient number of sociologists in this field, the existence of distrust towards this discipline in the academic community, etc.). Saša Bovan, *Sociology of Law*, in: Milovan Mitrović and Saša Bovan, *Fundamentals of Sociology and Sociology of Law*, Belgrade: Official Jornal, 2009, p. 258 – 259.

In the Balkans a significant contribution to the sociology of law gave Val-tazar Bogišić, guided by the basic postulates of historical-legal school, and Sreten Vukosavljević, who in his study compared the customs and the positive law.¹¹ In the former Yugoslavia, between the two world wars, several teachers at the Faculty of Law in Belgrade (Jovan Đorđević, Radomir Lukić, Božidar Marković) gave a contribution to the sociology of law, whose main feature was the development of the theory of social law modeled on the French orientation in the sociology of law without relevant empirical research. The post-war period in this area was not fruitful for the development of this discipline, and only with the empirical studies of self-management law and the judicial system conducted in the seventies and the eighties of the last century have been noticed the attempts of restoring this discipline. These efforts have not given a great contribution in terms of rehabilitation of sociology of law in this area. The subject of Sociology of Law, whose status is the “election” existed from 1935 on the Faculty of Law in Belgrade, where was founded the Department of Sociology and the Society for legal philosophy and sociology. The work of this Society was restored after the sixties, and the work of the Yugoslav Association for Theory, Sociology and Philosophy of Law began in the 1996 in Belgrade, and after the 2000 its work was very quiet. As at the institutional level, the literature in the field of sociology of law in this area is scarce. Contribution to the development of sociology of law gave the Serbian Academy of Sciences and Arts and the Yugoslav Academy of Arts and Sciences - they have published a number of papers relevant to this area.¹² The period after the Second World War was marked in the Serbian (and the Yugoslav) law by leaving the tradition of legal meetings with the developed European cultures - the interruption with the democratic legal culture of Europe. This was caused by ideological and political reasons - self-sufficiency and “closeness” of the self-governing socialist legal culture. In this semicentennial period is not possible to clearly identify the works in the field of sociology of law, as they are often blurred with the legal-theoretical analysis or the legal-philosophical content. Even today in the legal and cultural space in Serbia and in the former Yugoslavia it is not developed the scientific production in the field of sociology of law.¹³ While in some European legal cultures sociology of law

¹¹ Aleksandar Molnar, *Society and rights*, Book 2, Novi Sad: visio mundi, 1994.

¹² Saša Bovan, *Fundamentals of Sociology of Law*, Belgrade: Faculty of Law, University of Belgrade, 2015.

¹³ Rudolf Legradić, professor at Belgrade, Skopje and Zagreb University, published the first post-war textbook the Sociology of Law (University book, Belgrade, 1965). The Book of Professor Ljubomir Tadić Object of Legal Sciences of the current academician (Institute of Social Sciences, Belgrade, 1966), expresses the author's sensibility to the modern legal sociological jurisprudence and prominent representatives of the European legal - sociological thought. Two decades later, at the same time is published the work of Slovenian authors Igličar A. Introduc-

was developed, in our region it was more than half of a century repressed and marginalized - even in the post-socialist period it does not have the scientific and analytical desirability, and it is distant from the basics of law: legislation, law enforcement, adjudication by the law, imprisonment, corruption, privatization process and the like.¹⁴

In this region there are translations of the key works of the sociology of law authors: Renner, Durkheim, Weber, Duguit, Pashukanis, Gurvitch, and the like.¹⁵

In the academic legal area of Yugoslavia dominated the integralistic views on the law, where there was a disciplinary and discursive openness and connection between sociology and law.

In Bosnia and Herzegovina, after the breakup of Yugoslavia, normative pattern of (re)construction becomes dominant in terms of identity of law, which resulted in the loss of the status of the science of law in the academic area of BiH. Doctoral thesis "Specific methods in the methodology of law and the creation of law" of the Vjekoslav Miličić, defended in 1990 at the University of Sarajevo was one of the last integral works. However, today in BiH, as Samir Forić notes, we can not "talk about the existence of scientific communication between the law and sociology as integralism is no longer topical,

tion to the Sociology of Law (Ljubljana, 1986) and the work of Serbian author M. Petrović The Term of the Legal Sociology in the "Book of the Theory of Law" (III, Belgrade, 1987). The developments after the collapse of Yugoslavia, in Belgrade are published books of sociologists and lawyer A. Molnar, two volumes, the Society and the rights - History of socio-legal classical theories (1994) in which is covered the Sociology of Law in France, Russia / Soviet Union, England, USA, Scandinavia, Germany and Austria as well as some "attempts of constitution of sociology of law in Yugoslavia", and the book by Montenegrin Dragan K. Vukčević Socio-legal thought in Russia (Experience of the XX century) (Novi Sad, Cetinje, 1994). Professor Jugoslav Stanković published the book Fundamentals of sociology of law (Part I, 1996), which appears from the "Constitution of Serbia as the legal state" at the Faculty of Law in Belgrade, the second part of this book appeared in 1998, and the third in 2000. The work of Professor Lukić On the concept of sociology of Law was published in the Archives of Legal and Social Sciences in 1941, which deals with the subject matter, the method of sociology of law, sociological methods in legal sciences and "ability for sociology of law to provide the laws of legal development," pulled from oblivion professor Basta in Transformations of the idea of law. See in: Radivoj Stepanov and Ana Nešić, „Sociology of law in the legal culture of Serbia“, One Hundred Years of Sociology in Serbia - Special edition of the journal Sociological Review: Journal Serbian Sociological Association (Slobodan Antonić), Vol. XLVI (2012), no. 3-4, Belgrade: Serbian Sociological Association, 2012, p. 1009 – 1012.

¹⁴ See more in: Radivoj Stepanov and Ana Nešić, „Sociology of law in the legal culture of Serbia“, One Hundred Years of Sociology in Serbia - Special edition of the journal Sociological Review: Journal Serbian Sociological Association (Slobodan Antonić), Vol. XLVI (2012), no. 3-4, Belgrade: Serbian Sociological Association, 2012, p. 1012 – 1013.

¹⁵ Saša Bovan, Saša Bovan, *Sociology of Law*, in: Milovan Mitrović and Saša Bovan, *Fundamentals of Sociology and Sociology of Law*, Belgrade: Official Journal, 2009, p. 261.

neither it is the part of the identity of the law, nor the sociology of law as a mediating communication between them is sufficiently developed and affirmed to take over this function. Consequently, there is no, as is evident, the communication between the sociologists and lawyers on important socio-legal questions in the specific socio-legal context of BiH.¹⁶ This sociologist points to the epistemological attachment of contemporary sociological approach to law in Bosnia and Herzegovina, that is sociological - legal approach to the current constitutional and legal status of “constituent people” and “Others”, with the ruling legal paradigm of dogmatic law in the sense that just law, through its operations, is trained to be able to give a true solution to some social problems.¹⁷ The study entitled “Citizens in collectivist ideology: socio-legal analysis of the situation of ‘Others’ in Bosnia and Herzegovina”, from the authors Admir Sitnić and Amila Ždralović published in 2013, represents the first scientific socio-legal study in which the constitutional category of “others” in BiH is treated as a sociological category, where are identified the problems of this constitutional category in BiH - their constitutional position, the consequences of their exclusion or limitation in terms of participation in political decision making processes, as well as their current position in the government; and analyzing the possibility to establish a common interest and give them collective rights.¹⁸

With education reform that was given by the Bologna Process Sociology of Law at the law schools in some states of the former Yugoslavia (Croatia, Slovenia, Montenegro, Macedonia, Republic of Srpska) is being taught with the general sociology, with which its status is improved.¹⁹

Sociology of Law in the Russian social sciences is a young scientific discipline, which emphasizes that without sociological analysis of legal problems is difficult to analyze the current challenges and trends in the development of the legal system as well as its role in the complex social relationships. It explores the social relationships that are formed in the process of formation of legal acts and reveals the problems of formation and development of the legal system and the different directions of the struggle for the rule of law. An

¹⁶ Samir Forić, „Sociology of law and the problem of closing the legal normative discourse“, *Sociological discourse*, Banja Luka: Association of sociologists Banja Luka, year 4, No. 7, 2014, p. 54.

¹⁷ Samir Forić, *Same*.

¹⁸ Admir Sitnić and Amila Ždralović, *Citizens in collectivist ideology: socio-legal analysis of the situation of “Others” in Bosnia and Herzegovina*, Sarajevo: Center for Political Studies, 2013.

¹⁹ Topics in the field of sociology of law which are taught in these schools, are mainly related to: a sociological approach to law, legal institutions and legal practice, law and social change, the law, justice and power, the law and politics, human rights, the sociology of law and related disciplines in the modern tendencies in the sociology of law and so on.

important segment of Russian sociology of law are case studies that actually represent a symbiosis of sociology and law. The analysis of social phenomena in jurisprudence is aimed at the specific sociological (empirical) research and appraisals on the benefits and efficiency of results. Sociology of Law has one systematic approach in analyzing the current issues of state and law in Russian society. Actuality of sociology of law coincides with changes in the legal system of the Russian Federation, following the disappearance of the USSR. In this period comes to a number of changes of the state and social structures, when starting the intentions of the legal reform and the application of the rule of law in the Russian society. Changing attitudes and ideas of people in all spheres of public life, parting with the old ideals and increasing the deepening of sociological views on society, also contributed to the development of sociology of law in Russia.

Sociological research of law aims to analyze the social functions of law and the complex processes of implementation of legal norms in daily behavior, and to analyze the relationship of law towards the political system and various social phenomena. Russian representatives of sociology of law in their works, analysis and discussions, pay attention to the following topics: standards and principles in legal relations in the Russian law, the role and importance of sociology of law, the relationship between legal and moral awareness, analysis of European trends in the field of sociology of law, etc. The aim of this paper is to analyze the situation of sociology of law in Russia and to present the current issues of Russian sociologists of law.

Given that in the sociological discourse in our area attention is not (enough) focused on the sociological analysis of the legal problems of Russian sociologists, we decided that in this paper we provide the most important segments of Russian sociology of law, indicating the circumstances in Russian society for which this discipline is gaining in importance in and outside the academic community (changing the legal system, changes in state and social structures, changes in all spheres of life, the deepening of sociological views on society, etc.), but taking into consideration the characteristics of the legal culture²⁰ of the Russian society.

²⁰ »Law and Sociology met and found in a legal culture of society, there are overlapping and complimenting themselves. Legal culture is far older notion than political culture. Much less legal culture is donated the science (and other) attention than the political culture. Legal culture is, in the words of a German V. A. Rosenbaum, a way that shows the set of legal values, skills and behaviors that enable the functioning of the legal and social order and give the shape and substance to legal processes. The legal culture is not 'legal ideology', people may differ according to ideological affinities and set courses, but to share a common legal culture.« Radivoj Stepanov and Ana Nešić, „Sociology of law in the legal culture of Serbia“, One Hundred Years of Sociology in Serbia - Special edition of the journal Sociological Review: Journal Serbian

Historical development of sociology of law in Russia

In their discourse on the Law the Russian sociologists questioned the connection with the place of other sciences in this field, which has launched a variety of discussions and opened many questions such as: Why does the law regulate the behavior of individuals? What is the extent of its power of influence on individuals and on society? How does the law regulate the behavior of individuals in the society? What are the conditions of efficiency or inefficiency of the law? These questions have suggested that the law should be seen from the domain of other sciences because their formulation goes beyond the law and are looking for clues from other sciences. A significant issue that arose at the beginning of the institutionalization of Russian sociology of law is its relationship to other sciences, especially towards the theory of law and philosophy of law.

Among the first authors who have dealt with the relationship of sociology and law in Russia in the late 19th and the early 20th century, was Sergei Murotcev²¹ who insisted that the law must be regarded as a social phenomenon. He represented the attitude that positive law can be considered successful and develop only if it is observed in the synthesis with sociology. He believed that the theory of law is basically the sociological discipline and that the sociological study of law should be implemented as a specific scientific discipline. The first theorists of the Russian sociological school of law were Nikolaj Karejev²², Bogdan Kistjakovski²³, Maksim Kovalevski²⁴, Nikolaj Korkunov²⁵ and Pavel Novgorodcev²⁶. These theorists have contributed significantly to the develop-

Sociological Association (Slobodan AntoniĆ), Vol. XLVI (2012), no. 3 - 4, Belgrade: Serbian Sociological Association, 2012, p. 1001 – 1002.

²¹ Серге́й Андре́евич Му́ромцев (1850-1910), *Определение и основное разделение права*, Москва, 1879 (переиздание — С. Петербург, 2004)

²² Кареев Николай Иванович (1850-1931), *Основы русской социологии: Социологические исследования*, (переиздание — С. Петербург., 1995).

²³ Кистяковский Богдан Александрович (1868-1920), *Право как социальное явление: Социологические исследования*, Москва, (переиздание - 1990).

²⁴ Максим Макси́мович Ковале́вский (1851-1916), *Социология*. 2 тома (глава „Социология и право“) Спб. 1910.

²⁵ Николай Михайлович Коркуно́в (1853-1904), *Лекции по энциклопедии права*, читанные проф. СПб. университета Н. М. Коркуновым в 1879/80 акад. году. — С. Петербург: лит. Пазовского, 1880.

²⁶ Новгородцев Павел Иванович (1866-1924), *Введение в философию права: Кризис современного правосознания*, РАН, Ин-т государства и права, М.: Наука, (переиздание - 1997).

ment of the rule of sociological thought and gave great attention to the methodological issues, such as determinism in the social sciences, the role and importance of the rule of law, the issue of education through the categories of sociology and law, and the like. Since then, the value of sociological theory of law comes to the fore and had more support from scientists, institutions and academia, which contributed to its further development..

Mihail Kapustin²⁷ advocated a position that operation of law in society affects the creation of favorable conditions for human life. Creation of favorable conditions he saw through the reconciliation of the principle of equality and freedom. By following Kapustin, Gorovotsov argued that the law protects the fundamental interests of all members of society, regardless of their status and class. A similar position also followed Evgenij Spektorski²⁸ in his book *Christianity and culture* by referring about the legal behavior of individuals in terms of spiritual values such as responsibility, justice, compassion, and the like. Also, Boris Čičerin²⁹ who was an expert in the field of philosophy and sociology of law, was an opponent of naturalism in the jurisprudence, no matter what the subject was topical in the West. Čičerin held that freedom becomes the only law when it is recognized by law and that the establishment of the law belongs to the state. Boris Višeslavcev³⁰ investigated the role of law as a social tool for establishing relations. According to him, the law can not be the supreme leader of life, because the law is only the abstract norm. A significant contribution to the development of the sociology of law was given by the Russian explorer Vladimir Solovjev³¹. His research focused on the relationship between the law and morality in society, as well as the question of what is the role of law in human life. In his opinion, the highest task of law in the country should be the achievement of moral progress in society and to help spread the morality among the people. A similar view was represented by Pavel Novgorodcev³², claiming that the society and the individuals are linked to legal standards and a high level of moral standards, because moral unites people in a spirit of solidarity and unity. In the development of the sociology

²⁷ Михаил Николаевич Капустин (1828—1899), *История права*, Ч. 1.-Ярославль: Тип. Губ. земск. управы, 1872.

²⁸ Евгений Васильевич Спекторский (1875-1951), *Государство*. С. Петербург., 1918.

²⁹ Чичерин Борис Николаевич (1828—1904), *Опыты по истории русского права*, Москва, 1858.

³⁰ Борис Петрович Вышеславцев (1877—1954), *Гарантии и права гражданина*, Москва, 1917.

³¹ Владимир Сергеевич Соловьёв (1853-1900), *Метафизика и положительная наука*, Москва, 1887.

³² Новгородцев Павел Иванович (1866-1924), *Введение в философию права: Кризис современного правосознания*, РАН, Ин-т государства и права, М.: Наука, (переиздание-1997).

of law takes an important place and Lav Petražickij³³. The fundamentals of the law and its development in society Petražickij sees in the psychology of the personality. He points out that the psychological experience are the main drivers of the interaction of individuals and social groups in the society of the psychic experiences. They are the center of social activity of people, or, as he argues that emotions determine the behavior of the person with the outside world. Petražickij paid special attention to the interpretation of legal norms and advocated the view that the rule of law appears as the unity between the obligations and requirements. Thus, one can say that Petražickij conveyed individual psychological point of view from the general sociology and social sciences in the sociology of law.

Great attention Russian law theorists (the initials of the sociology of law) dedicated to the role of government in society. They emphasized the need for a stable country and a strong government for the development of Russian society, as seen from all aspects. But looking at the historical conditions of Russia the psychology of people, the development of culture, traditions and customs, they realized the complexity of the implementation issues of building a stable state and government. Vladimir Soloviev explored the constructive role of the state in development of society. He argued that without a stable state is not possible the cultural progress of society. He pointed to the limitations and obstacles that the government has when it comes to human behavior, the spiritual motives and interests of individuals. He also drew attention to the great importance of separation of powers into legislative, executive and judicial branches, as well as a coherent functioning of these governments towards the same goal - the general welfare of Russian society.

During the Soviet and post-Soviet period, the sociology of law has had a specific and difficult path of development. Jevgenij Pašukanis³⁴ in the book, *General Theory of Law and Marxism* points out the view that the law is the right mechanism for determining the material relations between people. In the 20s of the last century it was thought that it is better to avoid the sociological approach in analyzing the law. This is the period in which the changes occur, such as the specific role of commodity-money relations in the development of socialist society, weakening the analysis of legal norms and formal sources of law, raising the revolutionary consciousness and the domination

³³ Петражицкий Лев Иосифович (1867–1931), *Права добросовестного владельца на доходы с точек зрения догмы и политики гражданского права*, С. Петербург: Типография М. М. Стасюлевича, 1897; *Очерки философии права*. Вып. 1. *Основы психологической теории права. Обзор и критика современных воззрений на существо права*, С. Петербург: Типография Ю. Н. Эрлих, 1900.

³⁴ Евгений Брониславович Пашуканис (1891- 1937), *Учение о государстве и праве*, 1932.

of authoritarian judgments. Conflicts of opinions in the field of philosophy, law, sociology and other related sciences of this period quickly turned into a political fight, even in the political persecution of opponents.

The process that took place in Russian society after the socialist revolution, has significantly influenced the institutionalization of sociology of law. In the twenties of the twentieth century in academic circles was considered that it is better to avoid a sociological approach to the analysis of legal phenomena. To this attitude contributed the construction of a socialist society and the atmosphere that prevailed in society at that time. Arguments in the field of sociology and law at that time challenged (and slowed down) the development of the sociology of law. In the thirties of the twentieth century, including the development of law and sociology of law has become a subject of political struggle of the government and academic circles. What significantly influenced the development of sociology of law is the transition process of Russian society during this period. The reorientation of law and fundamental change in the approach to the study of law slowed the development of the sociology of law.³⁵

Since the mid 50-ies of the XX century, the changes in science are starting to move in a positive direction. Scientists are beginning to realize that it is essential the sociological approach to law, the rule of law and the role of justice in society. The need for a sociological analysis of the legal issues and problems was pointed out by Mihael Karejev, Stepan Kečekijana and Andrej Piontkovski. During the 60s and the 70s studying the law in the field of sociological analysis received a big boost by the official academic institutions and scientists. At the Fifth International Congress of Sociology, held in 1962, sociologists and lawyers have launched an initiative to establish a sociology of law as an independent scientific discipline, and discussed the issue of the content and methods of sociology of law. This proposal was adopted, after which was founded the sociology of law research committee, which operated within the international Sociological Association. Topics such as theoretical issues of sociology of law and social mechanism of rights came into focus of the discourse of Russian scientists and theorists. A situation at that time in political and legal terms of the then Soviet society did not affect negatively the further development of the sociology of law, contributing to support and developing the new constructive ideas in this field.

The previous period gave a positive impetus for further development of the sociology of law and in the second half of the 80s of the XX century. In the

³⁵ More about that see in: Николай Сергеевич Тимашев, *Что такое социология права?*, Москва, 2004.

second half of the 80s of the twentieth century in this period of Soviet society in Soviet society have occurred many discussions that were related to problems associated with the problems in the theory and practice of law which positively influenced the development of the sociology of law. Many works that were related to these topics have been translated into foreign languages and much attention has been given to the theoretical and practical analysis of these topics. In academic circles, the prevailing opinion is that without a detailed sociological and legal analysis is not possible to provide a theoretical basis for the implementation of the political reform of Russian society, the so-called. "Perestroika". This attitude of Russian scientists contributed to even greater affirmation of sociology of law.

From its inception until today, sociology of law was encountering a lot of resistance from the state, political and academic circles. However, such a step is necessary in order to ask many questions, and to be sought for appropriate responses, and therefore to justify the scientific and social contribution of the sociology of law as an independent scientific discipline. In the modern Russian society sociology of law is dealing with many topics, such as strengthening the rule of law, guarantees of constitutional rights and freedoms, the effectiveness of the law in society and the like. These and many other questions from the very beginning of the development of sociology of law, and to this day have found themselves in the discourse of Russian theorists.

Current topics of Russian theorists of sociology of law

Topics that attract the attention of today's Russian scientists, theoreticians and analysts are: sociology of law as a science; Sociology of Law at the turn from 20th to 21st century; sociology of law in terms of the Soviet and post-Soviet development of the society; American school of sociology of law; sociology of Justice; legal behavior of individuals; Sociology of the legal arrangements; Sociology of Law and other legal doctrines. Through these topics were raised various questions, such as: the concept of sociology of law as a science; Sociological research and development of legal science; the ratio of the sociology of law and legal theory; directions and trends of sociology of law in Russia; objective and subjective conditions for the development of sociology of law in Russia at the turn from 20th to 21st century; the role of law in regulating human behavior; legal awareness in the public and its role in the Russian state; specificity of Justice as a sociological category; specificity

of legal organizations in Russia, as well as other issues in this area that have been found in the discourse of Russian theorists.

As a scientific discipline, sociology of law in modern Russia focused on issues such as the effectiveness of the legislation, the machinery of justice, the problems of formation of sense of justice in society, implementing the legal socialization and the like. The development of modern sociological approach to law in Russia, means putting aside the legal positivism that was dominant until the end of the 80s of the 20th century. In contrast, the sociology of law is investigating certain legal acts and regulations, taking into account all the social legislation, including moral values, customs, public opinion, etc. Also, it is asked the questions and the efficacy of the laws and regulations, the major social functions of the law, the analysis of the public opinion and justice in society, the role of legal institutions and the like. The subject of sociology of law includes research of social factors relating to the law and the system of social factors that interacts with the legal phenomena and processes, as well as the question of mechanisms of their interactions. On this basis there is a need for the formation of sociology of law, and there was a need for discourse on this subject to which answered many Russian theoreticians.

In the modern development of Russian society without a detailed analysis of sociological laws, it is difficult to give a theoretical basis of law, as well as the impact on the reform of the political system in the Russian society, according to Russian theorists. Objectives should be focused towards strengthening the rule of law, guaranteed constitutional rights and freedoms, as well as to know and to observe clear differences between the judicial, legislative and executive authorities.

According to Valentina Lapaeva Russian sociology of law includes general issues of sociology of law, followed by the directions and approaches to the sociological study of law, as well as topical issues of modern sociology of law. This theorist argues that sociology of law can be best develop in the context of the study of the formation and the action of the law in society³⁶. Based on her theoretical analysis, it is raised the issue of whether the development of sociology of law in the context of general sociology is possible? On the basis of theoretical concepts Lapaeva concludes that for the development of the sociology of law as an independent scientific discipline are conditional the three things: first, the subject matter and the methods of discipline must be aligned with the object and the method of sociology as a general science; Secondly, it is necessary to formulate a sociological concept of law; thirdly, that the conceptual provisions on the subject of sociology of law, as well as the sociologi-

³⁶ Валентина Лапаева В. В. *Социология права: в поисках новой парадигмы*, Москва: „Государство и право“. 1992. N 7. с. 20.

cal discipline, must be implemented in the empirical research.³⁷ According to Vladik Nersesjancu subject of sociology of law is the law as a form of expression, protection and realization of the interests of the law and social interests consistent with the principle of formal equality.³⁸ On this basis, methods of sociology of law as a legal discipline is the study and knowledge of the law in the context of social relationships and social values from the perspective of the principle of formal equality.³⁹ We see that this author classifies the Sociology of Law into the legal and not into the sociological discipline.

One of the important topics in the process of institutionalization of contemporary sociology of law is the question of the role of justice in the society, then the constitution of the special micro-disciplines of the sociology of law such as sociology of the offenses, as well as the topics of probation, problems of legal conflicts, Orthodoxy and the sociology of law and methodological procedures in the modern sociology of law. To these topics have Russian theorists devoted considerable attention⁴⁰. As a component of social consciousness, justice is its specific structural formation, or moral component of the law. It represents a reflection of social relations that requires control and maintain of social relationships that are not only required by law. Legal awareness of individuals is coming to the fore not only in the direct relation with the law and legal norms, but also in different social categories (economy, business, social relations, communication, culture). The realization of the interests of individuals affected by the rule of law, legal rights and responsibilities is one of the most important specifics of Justice. Based on the category of "social justice" is evaluated the interaction and behavior of individuals in society as a legitimate or illegitimate. Category of justice is in constant scientific and research focus within the framework of Russian sociology of law. Its size and presence varies with changes taking place in society. Among the most important functions of legal consciousness is a cognitive function, which implies knowledge of the social and legal life. This function of justice is about the manifestation of the

³⁷ Лапаева Валентина Викторовна, *Конкретно-социологические исследования в праве*, Москва, 1992, стр. 15. Also, Of Lapaev's attitudes of contemporary sociology of law problems seen in her textbooks: *Социология права*, Москва, 2000 и *Российская социология права*, Москва, 2005.

³⁸ More about that see in: Владик Сумба́тович Нерсеся́нц, *Философия права*. Москва., 1997; Владик Сумба́тович Нерсеся́нц, *Общая теория права и государства*. Москва, 1999, с.40.

³⁹ Владик Сумба́тович Нерсеся́нц, *Общая теория права и государства*. Москва, 1999, с. 42.

⁴⁰ See: Касьянов В. Владимир, Нечипуренко В.Николай, *Социология права*. Ростов н/Д: Феникс, 2001., zatim, Лапаева Валентина Викторовна *Социология права*, Москва:Под. ред. акад. РАН В.С. Нерсесянца, 2000. as and Облап. Т.С. *Социологија права*, Краснодар: Гасударственный университет, 2003.

social environment in certain social relationships and about how these relationships are regulated. Another important feature of justice that is observed in the Russian sociology of law is the view of the world, which, in fact, shows how certain social phenomena that are concentrated in certain social processes, such as the relationship between the individual and society, communication between the nations, the problem of war and peace, reflect the social phenomena and trends. In Russia, these issues are particularly important (in addition to the sociology of law) in the field of social psychology, economics, sociology and political science.

Observing justice and legal consciousness as a specific phenomenon of social life from the perspective of a sociological perspective it is clear that we are constantly in the field of sociology of law. In order to be implemented the necessary economic, political and moral requirements, they have to pass through the prism of legal awareness in order to get its final shape. Condition of justice in society is a process of thinking and understanding of various social phenomena, it also reflects the needs of social development which, in turn, is a prerequisite of control of individual behavior. What is also important to note is that justice has a significant impact on individuals when making decisions in their everyday interaction. During the transition of Russian society in the 90s of the twentieth century should be considered aspects relating to the state of justice in the reforming society. Examining the development of legal awareness is actually an important factor affecting the development of relations in the society, as well as the legislation of individual behavior in different areas of society.

Russian theorists of sociology of law in their discourse raised the question of the role of legal organizations in society. The rule of law in any society largely depends on the social role of the overall legal organizations. Problems such as law enforcement, sanctioning of the inappropriate behavior of individuals and the operation of the system of social control is largely dependent on the efficient operation of the legal organization. Also among the most important issues in the discourse of contemporary Russian theorists is the question: what is the scientific and social contribution to the institutionalization of sociology of law in the Russian academic circles? As a scientific discipline it contributes to the study of the interaction between law and society, thus contributing to solving problems that Russian society is facing in its transition process. The interest of Russian theorists for discourse in the field of sociology of law has contributed to its development and institutionalization, and it is still possible to analyze the numerous problems facing Russian society. The different spheres of social life are directly related to social relations including factors such as economic, political, moral and legal. Observation

of society from socio-legal perspective means analyzing all these factors that affect individuals and society. On the basis of this approach can be analyzed and the strengthening of democratic institutions and improve the methods of legal regulation of social relations in order to meet the needs of individuals and society, which contributes to the social good and therefore a wider space for the development of the sociology of law.

Modern perspectives of sociology of law in Russia

In the modern Russian society are still current issues that accompany the sociology of law from its inception until today. Today are analyzed the attitudes of the original theorists of the Russian sociological school of law as Korkunova, Kovalevski, Muromtsev, Kistjakovski, Karejev and the others who spoke about the problem of the development of the sociological concept of law, dilemmas of development of the sociological approach in the field of criminal law of Russian lawyers, as well as the ideas of the unity of law and legal relationships which contributed to the revival of the interest in social issues when it comes to the sociology of law in the 60's and the 70's of the 20th century, as well as the question of the period of stagnation but also the entire institutionalization of this discipline from inception to the present. After a period of ups and downs, sociology of law has been introduced as a separate subject in many universities in Russia and thus strengthened its position as a scientific discipline. Topics covered by it in the first decade of the 21st century are: the effectiveness of social rights, the rule of socialization, history of the sociology of law, sociology of law as a science, methods and techniques of sociological research of the law, it also includes theoretical and empirical basis of knowledge of the law. Today in Russia is raised the question of sociology of law in relation with other sciences which indicates that there are still some controversy regarding this topic.

In modern conditions the extension of directions of scientific research led to the emergence of new scientific issues in the sociology of law. The link between sociology and law gives the possibility to analyze the connection of sociology to law, then the social functions of law, and to analyze the process of transformation of the legal norms in terms of social behavior at all levels, from individuals, through groups and collectives. The orientation of the sociology of law to the study of the social function of the law stipulates questions such as: What are the social sources of law? What are the social conditions of legal relations? Is the effectiveness of laws and institutions at an

adequate level when it comes to regulating the social behavior of individuals and social structures as a subject of sociological legal research. Also, in this study, attention will be given to new areas in the sociology of law and other legal disciplines, the demarcation of sociology of law and criminology, as well as the analysis of the environmental protection law, the analysis of the relationship of socio-legal research and legal practice, as well as the setting up of social practice as a basis for theoretical work in the field of jurisprudence. By historical observing the emergence and development of sociology of law theorists in Russia in modern conditions are trying to avoid old problems and to keep pace with new themes, issues and analysis in favor of resolving the existing problems. Accordingly, efforts have been made for the introduction of new methodologies and research methods, as well as the introduction of broader theoretical approaches (structural-functional, socio-psychological, logical and semantic) in the process of socio legal research. Highlighted are the advantages of a sociological approach to law such as the extension of the domain of research of the subjective law, enriching the methodological basis for the study of legal phenomena and the like. Topics in the focus of interest of Russian sociology of law are: the role of law in the system of social functions; mechanisms of action of the law; the Objectives of the legal system in the organization of society; creating and maintaining law and order in society; the impact of laws on social relations; sociological characteristics of the law; strengthening social relationships through legislation; fostering a sense of legal responsibility and motivation in society; Factors of legal activities of citizens; disfunctions of social institutions; interaction of social processes; deformation of informal social structures; violation of social norms; punishment of offenders and the like.⁴¹ All these issues contribute to the development of the sociology of law and legal sociological analysis of social trends and processes. Based on the preliminary review of current issues in Russian sociology of law, it can be concluded that the most important issues in this discipline are relating to the general principles of construction and operation of the law and legal development of Russian society. In addition, emphasis is placed on theoretical and methodological foundations of sociology of law; basic concepts of sociology of law; the subject matter of sociology of law; methods of sociological research in the field of sociology of law and the current problems of sociology of law in Russia.

⁴¹ More about that see in: Борис Львович Васильев, *Юридическая психология*, СПб.: Питер, 2009; Юрий Иванович Гревцов, *Очерки теории и социологии права*, СПб: ПИВС, 1996; Геннадий Васильевич Мальцев *Социальные основания права*, Москва: Норма, 2007; Александр Васильевич Малько, Субочев Виталий Викторович, *Гарантии осуществления законных интересов*, Москва: Правоведение, No 6, 2007. с. 138 - 148.

Conclusion

Sociology of law in Russia (former USSR) from its inception until today, faced with many challenges. Through its process of development and institutionalization has undergone many ups and downs, acceptance and rejection of both the Russian scientists, as well as the other academic and official institutions of the country. The transition process in Russia (in two periods during the twentieth century) took off on the entire society, individuals, and the development of the sociology of law which at one point resulted in the stagnation of the sociology of law. All events in the Russian state and social systems have sought adequate explanation of a sociology of law which as a young scientific discipline has sought to offer adequate answers to current issues and problems.

Historically speaking, as a scientific discipline, sociology of law has stimulated the interest of many Russian scientists, academics and lawyers. During the twenties of the last century, its development and acceptance as an independent scientific discipline has progressed quite slow and has generally met with the refusal by Russian scientists in the field of law by listing a number of arguments against it. It did not lead to its complete abolition, although the period of its stagnation lasted several decades. Since the mid-fifties it is coming to positive changes for the sociology of law as it becomes accepted and supported by scientists and academics in Russia. This resulted in its rise in the future. In the process of its institutionalization have been raised many questions such as: the concept of sociology of law as a science? Its relation towards the other sciences? The relationship of sociology and law? Sociological research and development of legal science? Directions and trends of sociology of law in Russia and the like.

In the modern period, sociology of law has been introduced to many universities which has strengthened its position in Russia. Today, are still interesting some old topics and issues that are of interest for research, comparison and review, but there was also a significant expansion of scientific views and themes in research, which were imposed by the new world flows (especially globalization) and trends in the sociology of law, as well as developments in contemporary Russian society - in the legal, political, economic and social spheres.

As we have seen in the example of Russia and Serbia (and generally in the area of the former Yugoslavia), indeed, the coalition of sociology and law is implemented in the legal culture of one society. In the Serbian (and in the

Yugoslav) law, the period right after the World War II marked the break with the European democratic legal culture, caused by ideological and political considerations. While in some European legal cultures sociology of law was developing in our area it was more than half of a century repressed and marginalized - even in the post-socialist period it does not have the scientific and analytical desirability of, and it is distant from the basics of law: legislation, law enforcement, adjudication by the laws, imprisonment, corruption, privatization process and the like.⁴² In the academic legal area of Yugoslavia dominated integralistic views on the law, where there was a disciplinary and discursive openness and connection between the sociology and law. After the breakup of Yugoslavia, particularly in Bosnia and Herzegovina, the integralism is no longer relevant.⁴³ Although the introduction of sociology of law at some faculties in the former Yugoslavia has improved its position, it still does not have a prominent place in the corpus of sociological disciplines and sciences in general.

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⁴² See more in: Radivoj Stepanov and Ana Nešić, „Sociology of law in the legal culture of Serbia“, *One Hundred Years of Sociology in Serbia - Special edition of the journal Sociological Review: Journal Serbian Sociological Association* (Slobodan Antonić), Vol. XLVI (2012), no. 3 - 4, Belgrade: Serbian Sociological Association, 2012, p. 1012 - 1013.

⁴³ Samir Forić, „Sociology of law and the problem of closing the legal normative discourse“, *Sociological discourse*, Banja Luka Association of sociologists Banja Luka, year 4, No. 7, 2014, p. 54.

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