

# Legal behavior under the technological paradigm change and modern social transformations

*D. A. Pashentsev*

The Institute of Legislation and Comparative Law under the Government of the Russian Federation,  
34, ul. B. Cheremushkinskaya, Moscow, 117218, Russian Federation

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The article identifies the key areas of change in legal behavior associated with high-tech dynamics of social development. Modern technologies that form a new paradigm and the ongoing social changes, primarily resulting from the pandemic, have been examined from the perspective of modern post-classical methodology. The provisions of constructivism and anthropocentrism were used as the guidelines for modern sociological jurisprudence. Interdisciplinary synthesis combines the achievements of psychology and sociology. The theory of technological paradigms developed by domestic economists as well as an examination of the impact of new technologies on public relations was also employed. Legal behavior has been analyzed as a crucial element of constructing legal reality. The author demonstrates that the subject of law transforms abstract norms into legal relations, that is, into legal reality, through its day-to-day legal actions. It has been explored how legal conduct is being socially conditioned with regard to economic development. It was also examined how new technologies lead to the change of technological paradigm and the corresponding transformation of the accepted models of legal behavior. This study shows the influence of the new digital reality on the psyche of the subject of law, his values, and their correlation with his own everyday legal behavior. It is justified that the space in which legal behavior takes place needs to be expanded in the digital era. In this study, the impact of pandemic restrictions on legal behavior was examined. It was concluded that the restrictions associated with the pandemic entailed changes in the composition and structure of the legal space, which also affected legal behavior. In addition to changing the framework in which social relations are conducted, sociological transformations impact the subjects themselves, affecting their motives and value principles that govern their behavior.

*Keywords:* legal behavior, technological paradigm, digitalization, digital technologies, subject of law, legal culture, anthropocentrism in law.

## 1. Introduction

As a result of their inextricable relationship with the existing legal order, issues of legal behavior have particular importance today. Within the framework of global social transformation, legal regulation and its effectiveness play an important role in ensuring stable social relations. Our world is rapidly changing. Technology, which initiates a change in the technological paradigm and, as a result, accelerates the dynamics of social reality, is a significant factor in its changing. Public relations and their legal regulation have been

significantly affected by pandemic restrictions. As international relations change, the legal sphere of society must adapt to the new conditions as well.

Scientifically speaking, it is important to note the current shift in paradigm, which is associated with a change in the very definition of science rationality, a transition from classical science to post-classical and even post-nonclassical one. As a result of the anthropological turn in the new scientific rationality, the individual as a subject of law is increasingly seen as the focal point of the legal system. In light of these circumstances, one must consider the phenomenon of legal behavior, which provides the keys to understanding the processes occurring within society's legal sphere. It is crucial to identify the characteristics of new technologies and ongoing social transformations which can influence the legal behavior in this regard.

First and foremost, the study adopts an interdisciplinary approach due to the complexity of the subject matter. Legal behavior is seen as a complex social and psychological phenomenon, "where the actual and legal, the forceful and the emotional, the internal and external are intertwined" (Kudriavtsev 1982, 6). Along with the methodologies of legal science, the methods of psychology, sociology and political science associated with the study of human behavior and groups of people, with their motives and features, were also employed.

The ongoing scientific revolution forces us to turn to the research methodology of post-nonclassical science, primarily constructivism and anthropocentrism.

The designed nature of legal reality underpins constructivism as a scientific direction. Similarly, the process of establishing social institutions occurs due to primary arbitrariness and subsequent social amnesia. This is accomplished through creating a sign form (rule of law) which, after reflection in legal consciousness, is transformed into everyday mass behavior of participants in public relations. The subject of law plays the most decisive role in these processes, because it is his daily actions (legal behavior) that give rise to the legal reality.

Creating legal reality takes place in three stages: from defining a landmark form (rule of law) to communicating it to the public, and then transforming it into everyday behavior of participants in public relations. Hence, the activity of the subject aimed at the daily implementation of legal norms becomes critical. Even the most logical and perfect legal norms will not be able to affect the lives of people and the relationships between them without it. As a result, it is a person's status as a subject of law and his legal behavior that today attracts the attention of legal scholars who strive to understand both the true mechanisms of law in society as well as possible ways of enhancing its effectiveness.

The anthropocentric approach to law in modern sociology places a great deal of importance on person as both a subject of law and an element of legal system. In order for laws to be implemented, people have to act, which transforms abstract prescriptions into concrete legal relations. The emphasis on the subject of law and its actions in the legal space allows studying a number of important aspects of legal behavior and disclosing its mechanisms. People's day-to-day activities, which had sometimes been overlooked by legal research, had now been recognized as an important aspect of law in its broadest sense.

## 2. Basic research

### 2.1. *Legal behavior as a form of social one*

Legal behavior and its modern transformations should be studied using concepts that have already been developed by science and correspond with modern scientific ideas. Therefore, it is worth noting the fundamental work of Academician V.N. Kudriavtsev (1982), who studied legal behavior in relation to the Soviet history from the perspective of Marxist methodology. His work outlines a number of important features inherent in legal behavior and of conceptual significance with respect to the purpose of this study. In particular, the following points deserve a mention:

- legal behavior is a form of social one, which can be both individual and group in nature;
- legal behavior is dialectical — it can be both lawful and unlawful;
- legal behavior is largely determined by existing social relations;
- legal behavior is influenced by the internal motives of the subject, as well as the system of legal values it holds dear;
- legal behavior is closely related to legal activity (Kudriavtsev 1982).

Additionally, legal behavior is dialogic in nature. The objectified dialogue between the subject and the structure (state, society) manifests in the specific actions carried out in the legal sphere by a subject or group of subjects. Legally significant behavior, says I.L. Chestnov, “must in any case be correlated with a norm that always precedes such behavior (therefore we can qualify it as lawful and unlawful)...” (Chestnov 2001, 49).

In a legal sense, lawful behavior is related to realizing the right, which can occur in four ways: compliance, execution, use and application. It is this activity that contributes to implementing legal regulations, i. e., it makes the norms an applicable law, generates, changes, or terminates a legal relationship. Socially, lawful conduct is considered acceptable. Unlawful behavior, by contrast, causes a negative reaction in society and the state (which manifests itself in the form of legal liability). Thus, legal liability can be construed as a way for the state to adjust the legal conduct.

The law provides the state with sufficient means of influencing legal behavior, but they should not be rendered absolute. Since the extreme form of unlawful behavior manifests itself as crimes, despite constant efforts and a substantial repressive-punitive apparatus, the state cannot completely defeat crime. Additionally, in sociology and criminology, there is the argument that crime (and other deviant behaviors) cannot be eliminated due to their importance in society, and that the state itself is also interested in their existence (Durkheim 1966, 39–40; Gilinskii 2017). In light of the debatable nature of such statements, one can observe that unlawful behavior carries a certain social significance. Additionally, according to dialectical logic and dialogical theory, there is no lawful behavior without unlawful one.

Further, legal behavior cannot be reduced to a simple opposition between lawful and unlawful behavior (sometimes another neutral behavior is distinguished in relation to law). In society, human behavior does not always follow a clear-cut framework. It has many facets, each of which can be interpreted in various ways.

In a specific sociocultural context, legal behavior reflects both actual social processes and how they are perceived in the public and individual consciousness. People's behavior shows their true vitality in the form of a constant correlation with the existing norms and models enshrined in law. "It is necessary to recognize once again", Iu. A. Tikhomirov writes, "that society and the behavior of people and communities are influenced by many factors. Here is the state's desire, through rights, to ensure uniformity of conduct, and the corresponding role of state institutions in 'setting' the desired patterns of behavior and activities of civil society organizations. It is also crucial to consider the powerful influence of culture, tradition, religion, and morality" (Tikhomirov 2019, 17).

Based on the findings of domestic (Leont'ev 1975) as well as foreign psychology, the activity approach focuses, first, on the teleological nature of social behavior and, second, on the inextricable relationship between activity and consciousness. As such, one can note that legal behavior is usually accompanied by specific goals that may or may not be understood by the subjects themselves. Psychologists describe motive as the driving force of behavior. Legal behavior is influenced both by subconscious motives originating from his or her psyche and collective psychology and by conscious motives resulting from the legal consciousness of the individual and its legal culture. Hence, the importance of legal education in adjusting legal behavior can't be overstated. Among legal scholars, some like to discuss interests as the engine that drives the legal behavior, its source of motivation (Kuz'mina 2014, 60).

## ***2.2. The impact of technological paradigm change and digitalization on legal behavior***

The economic factor, in the form of industrial relations, must be distinguished as a basic determinant of the development of law, including legal conduct. The level of these relations, in turn, depends on the dynamics of productive forces, including technology (Pashentsev, Antonova, Kashevarova 2021, 1045).

Marxists placed great emphasis on the role of economic factors in social development. Modern Western law became widely known for the economic analysis of law. Nevertheless, like all other types of legal theory, it does not provide answers to all the questions facing legal science, including those concerning the interaction of economics and law (Sinitsyn 2022, 50–51).

The theory of technological paradigms developed by modern Russian economists seems relevant in the context of the influence of technological development on legal behavior. Socio-economic development is viewed through the lens of technological paradigm change that is the key principle of the corresponding theory. The life cycle of each paradigm is about a hundred years, and its dominance in the economy lasts about fifty years. In the country's economy, several of these paradigms may exist at once. The shift to a new paradigm is accompanied by a new set of the related technologies, which significantly change the nature of production and increase productivity (Glaz'ev 2013, 43).

Currently, the developed countries of the world have entered the fifth technological paradigm. As a result of the invention of computers and the spread of information technologies, as well as the emergence of the Internet, mankind was able to simplify the exchange of information as much as possible. Although the fifth technological paradigm has only existed for a few decades, there is already evidence that a new, sixth paradigm

is emerging. Based on the cutting-edge technologies, it can change almost all areas of the economic and social life. To begin with, we are talking about the so-called big four technologies: digital technologies, biotechnologies, nanotechnologies, and cognitive technologies. Their application would bring a breakthrough in many aspects of social-economic reality, which is determined not by individual technologies, but by their synthesis. The upcoming changes are so large that some researchers speak of them as the fourth industrial revolution (Schwab 2019, 9). History demonstrates that a revolution of this kind will inevitably result in significant changes to the existing model of social relations. In the wake of changing public relations, the law will change, both in formal and substantive parameters, and the model of legal regulation will change too. The impact will be felt in legal behavior carried out in a new high-tech society and regulated by the revised rules in terms of form and content.

In comparison with other technological solutions, digital technologies have the greatest impact on the development of public relations and on a person as a subject of legal behavior at this point (Zaloilo 2021).

Digitalization has a complex and multifaceted impact on society, the state and law. The models of lawmaking and law enforcement are changing because of digital technologies. The prospects for the introduction of electronic regulatory acts and digital law, the potential of digital crowdsourcing in lawmaking, issues of machine-readable law, algorithmization and automation of law enforcement are increasingly being discussed. Artificial intelligence is being tested to make judicial decisions. Ultimately, these and other technological solutions will significantly change society's legal system, creating areas that are partially free of legal regulation (smart contracts using blockchain technology are executed automatically and lack legal dispute resolution). A likely outcome of the creation of the metauniverses is the appearance of a metalaw, the essence of which remains a mystery. In the future, the very role of law in society can change, and it will have the right to take on a different, more flexible, consistent structure of regulating digital relationships. However, such a radical change in law is only a forecast that has a fairly low probability of being realized.

There is still a role for the subject of law — a person who implements legal norms through their behavior, enters into legal relationships, and is unwilling to give the benefit of the doubt in legal matters to machines and computer programs. This is why the study of legal behavior, as well as the factors influencing it, in the context of a digital society is significant.

A number of trends show the impact of digitalization on legal behavior, including:

- digitalization expands the space for social interactions, largely because of virtual space; today, there are quite a few actions being taken in the virtual space that should and can be regulated by law, including different transactions. In the network, behavior differs from how it is in the real world; in terms of their relationship with current legislation, networking rules can be considered informal; moreover, in some cases, network interactions can be impersonal, which makes it difficult for law to regulate them;
- as new technologies develop, we are seeing areas in which the right is not just ineffective, but even unnecessary; the blockchain technology mentioned above and the smart contracts concluded on its basis are governed by algorithms rather than by law; thus, as the use of digitalization increases, law's role in society is

- expected to decrease, because of its importance for regulating various relationships, especially economic ones;
- on the one hand, digital technologies generate new types of criminal offenses and even criminal behavior on the internet, while on the other hand, technology provides new opportunities to control the behavior of people in society, for instance through the use of cameras, face recognition systems, etc. Criminologists believe that the development of digitalization has a positive impact on crime (Gilinskii 2017); first, adolescents and young people, because of their age, represent a potentially dangerous group in terms of crime, are glued to the network, communicate on social networks and play computer games instead of wandering the streets and causing conflict; second, there are everywhere cameras that track violations of public order, traffic rules and help to detect and detain the wanted criminals; it is evident that digitalization has had a positive impact on legal conduct in this regard; many refer to the experience of Singapore, where the universal control system, in conjunction with high fines, helped significantly change the behavior of citizens and improve the rule of law.

In light of the above-mentioned understanding of the subject of law as the central element of the legal system, the study of legal behavior promotes the question of how modern digital technologies affect the subject of law.

It is clear from the context that a subject acquiring many hypostases can be bifurcated and even multiplied. S.I. Arkhipov observes that “human beings are at the center of anthropological theory of law; however, they are divided into many subjects in law” (Arkhipov 2016, 10). The digital environment enhances this process. In digital profiles, one finds digital twins, not real people, but invented characters who enter contact networks. “Digital personalities” or “digital twins” are separate from the real people and have little to do with them while entering into various relationships in virtual space.

Apparent anonymity allows behaving more freely in relation to existing norms, the fear of being punished if they are violated is replaced by a false sense of invulnerability. All this does not contribute to the lawful behavior of the subjects of network interaction.

The second is the presence of the so-called DarkNet — the uncontrolled space in the network where illegal transactions are made, the stolen information is traded. In fact, DarkNet has become a new place of unlawful behavior.

It is also difficult to suppress illegal activity on the network because law enforcement officers have not yet developed a full understanding of the seriousness of the crimes committed using digital technologies. As a general rule, people who rob a bank by breaking into a safe are sentenced to much harsher prison terms than those who steal large amounts of money by hacking into a bank's computer network.

The third important aspect is that a person — a subject of law — remains the same person with the inherent psyche influenced by society and the environment.

Digital society has a significant impact on the personality of an individual — a subject of law. It has yet to be fully assessed the digitalization impact on the psyche and intelligence, but it is already clear that it is enormous. Informatization forms a new type of thinking — clip thinking; it is not associated with the skills of analyzing complex and voluminous texts. Analytical skills are at risk, which can be critical to successful enforcement practice to build a sustainable model of lawful behaviour.

Digitalization is also changing the very system of values that is inherent to members of society. At the same time, legal behavior is largely determined by the beliefs, values and mentality of each individual.

The content of the law is legal representations, which, in turn, are based on legal values. Legal values exist because they are present in the legal consciousness of the people involved in creating and implementing legal norms.

In the legal domain, the presence of values entails a continuous assessment by the subject of social relations of his daily behavior and comparison of that behavior to the legal norms and values, as well as to specific circumstances and legal patterns. A system of criteria for such an assessment seems quite stable, since it has both legal and psychological grounds. Nevertheless, new digital factors, influencing the development of society, affect the collective legal consciousness, which is then reflected in that one of an individual.

Consequently, the impact of digital technologies changes the mentality and psyche of subjects of social relations, transforms their thinking, thereby affecting the results of analysis of value provisions of the regulatory material in the everyday legal behavior.

The legal behavior of a person is influenced by the existing sociocultural context. During digital transformations, this context changes significantly. Increasingly, scientists today write about a new stage — Postmodernity. A postmodern outlook involves a shift in individual and public consciousness, a rethink of the dominant value system, and an acceptance of social reality's multivariability and constructability. Postmodernity is characterized by uncertainty, the search for solutions to global challenges, and ways of furthering human civilization. Postmodern instability penetrates a person's psyche, affecting his perception of social and legal reality. There is a "change of outlook, loss of faith in former values, change in approaches to scientific knowledge, revision of social policy guidelines, etc." (Emelin 2017, 90).

The postmodern uncertainty does not contribute to sustainable lawful behavior; it can lead to a variety of deviations, including those motivated by psychological and cultural sentiments. Any rule of conduct becomes relative and contextual, so the very concept of a norm is blurred.

Furthermore, digitalization changes perceptions of freedom, and therefore of law as its measure. In postmodernism, freedom is regarded as one of the highest values. However, digitalization makes freedom ephemeral and almost non-existent. Man is constantly controlled by technology. All of its movements, both online and in the real world, all of its purchases, interests, preferences, etc., are monitored purposefully. The result is that digital society is increasingly becoming a society of total non-freedom, programmed choice, and such non-freedom is usually veiled. Strangely enough, human rights are one of the ways that such disguises are carried out. Upon attaining independence, a person is declared free from restrictions previously imposed on him/her by traditional values — he/she is free from marriage, family, children, even from the sex he received at birth. This apparent freedom is nothing more than a disguise for total digital control and manipulation.

Some members of the scientific community have recently raised questions about the algorithmization and hybridization of legal regulation, as well as its individualization. This is framed as an objective development of law, which will acquire a machine-readable form, and its application will be carried out automatically. Algorithmization and "hybridization" of law, in our view, is the path to its destruction, because it leads from the free choice of legal behavior to its programming, thus losing the freedom of will that is the foundation

of human nature as a social being. In this case, such digital totalitarianism awaits us, in comparison with which Orwell's books will seem like naive children's tales.

Individualization of legal regulation is in conflict with a number of legal signs and principles, including the principle of formal equality. In other words, someone will be punished for a similar act, and someone else won't. In this sense, the contract rules are not required to fulfill everything, since not everyone compensates for the damages.

Like other technological solutions, digital technologies can and should remain tools. They cannot alter the essence of law, and they cannot substitute algorithms for legal principles. The nature of law and its role in society were not altered by previous technological advances. Neither steam engines nor electricity could shake them. Digital transformation will not change them either. The changes in society, however, call for the state to pay more attention to the legal behavior of its citizens (and sometimes not only of its own ones). The goal is to improve the quality of legal education, to develop and implement a scientifically sound legal policy of the state, which implies finding the right balance between traditions and innovations in the regulation of public relations as an environment of legal behavior.

### *2.3. Social transformations and legal behavior in modern times*

It is possible to argue that large-scale structural changes in society inevitably affect dominant behavioral models as a result of social conditionality of legal behavior. There are many processes in the modern world. Some of them are caused by the above-mentioned technological innovations. In general, the current processes can be considered in relation to some of the most obvious and prominent trends: globalization, regionalization, Westernization, anti-Westernization, religious revival, militarism, etc. Ultimately, all of these processes affect both the effectiveness of legal regulation (Dorskaia 2020) and legal behavior directly.

The coronavirus pandemic and its accompanying restrictions have played a significant role in changing social relations. While these limitations are relatively short-term (on a historical scale), there is reason to believe that they have changed existing models of regulating legal conduct in some aspects, and those changes may continue.

Several extraordinary measures were taken during the pandemic, including restrictions on both freedom of conduct and fundamental human rights. As a rule, the regulation of public relations in emergency conditions tends to limit human rights and freedoms, even beyond the legal bounds. The critical situation, according to Iu. A. Tikhomirov, "is characterized by a series of unexpected events that complicate the lives of society and citizens and force them to take prompt and difficult measures" (Tikhomirov 2021, 12). Thus, we may talk about a change in the regulation of legal behavior, somewhat narrowing of its scope.

In 2020, many states lived through the "lockdown", which included closing cafes, restaurants, and cinemas, bringing in remote work, prohibiting walks and implementing curfews. In many countries, these measures were perceived ambiguously by the population, leading to discussions of a social-political and purely legal nature.

During the pandemic in Moscow, the emergency regime imposed a number of restrictions on citizens' constitutional rights. In particular, realizing the right to freedom of movement is complicated, as modern digital technologies have extended total control over a number of categories of citizens in contravention of the principles of protecting and



realizing human rights. The objective effect of such measures was to reduce manifestations of unlawful behavior. Meanwhile, the possibility of some legal norms being lawfully implemented has shrunk, especially when there are relevant subjective rights involved.

In 2021, residents of Moscow and some other Russian regions faced new measures that were unprecedented in domestic legal practice: compulsory vaccination, up to suspension of the unvaccinated workers from work; a ban on visiting cafes and restaurants for those who have not been vaccinated; denial of routine hospitalization for those not vaccinated.

Since such measures directly contradict the fundamental rights and freedoms of citizens and imply actually mandatory participation in a medical experiment (the vaccine is still poorly investigated, serious side effects are possible), these measures have generated the heated debate in society. The legal aspects of fighting the pandemic were also discussed. This actualized the scientific debate about the limits and forms of possible restriction of human and citizen rights, about legal and effective ways of legal regulation of public relations in emergency conditions. There is room for the broader debate related to the discussion and rethinking of the issues of legal regulation of public relations in emergency conditions, to the role of law as a regulator of behavior and relations in modern society.

In light of the pandemic and its associated limitations, it is evident that changes in the legal sphere will accompany the adoption of new norms and changes in law-making practices. The balance has shifted towards emergency measures, which are aimed specifically at eliminating a dangerous situation and minimizing its negative effects. As a result, the imperative principles of legal regulation are increasing, and dispositivity is receding. There is a tightening of regulation of legal behavior and transformation of patterns of such behavior and control.

A study of the dynamics of law in pandemic conditions reveals some general patterns that influence the peculiarities of legal behavior and its prevailing models in emergency situations.

Pandemics and other emergency situations create a change in the practical meaning of the principle of legality, which under normal conditions is a fundamental principle of legal regulation of behavior in society. Iu.A. Tikhomirov correctly notes that in emergency situations, “the relationship between laws and operational decisions and actions is changing. When that happens, the ‘forced’ expediency often appears to set aside the criteria for legality” (Tikhomirov 2021, 11–12).

The legality implies strict and rigorous compliance by all participants in public relations with existing legal requirements, based on the rule of law in the system of formal sources of law. Participants in public relations are guided by this principle on such behavior, which conforms to the current norms of law, and on their lawful implementation. Changing the relationship between operational decisions and the requirements of laws, not in favor of the latter, as Iu. A. Tikhomirov writes, negatively affects the role of law in society, on the perception of legal norms by the population, respectively, on legal behavior. Therefore, emergency measures that violate the rule of law should only be taken in true emergency situations and for as short a time as possible. Otherwise, the entire system of legal regulation will have a negative impact, resulting in increased legal nihilism in society and among power elites, as well as more unlawful behavior.

The next feature of the legal regulation of public relations in the context of a pandemic, which directly affects legal behavior, is associated with a shift in the balance in the

system of separation of powers towards the executive branch. The pandemic strengthens the power of executive bodies, resulting in assigning them, along with constitutional powers, temporary powers that go beyond constitutional and sometimes legislative provisions. The capacity of the executive authorities to choose extraordinary measures and regimes within the framework of an overall anti-pandemic policy is growing. Specifically, we are discussing not only federal bodies, but also the authorities of the subjects of the federation. The world's experience has demonstrated the effectiveness and appropriateness of giving regional authorities temporary powers to set specific measures and regimes that are related to the uneven nature of the pandemic threat in different regions of a single country.

The pace of implementation of the necessary changes in legal regulations has become particularly important in the context of the pandemic, which has become a new and unexpected challenge for the state and society. In such circumstances, the law is inferior in effectiveness to by-laws as a regulator of public relations, which has a relatively low dynamics and "catching up" character. By-laws make it possible to add new rules, establish new regulations, and introduce temporary emergency measures more quickly. Legislative activity must be consistent in nature and in line with the current emergency situation in order not to become a constant trend. Thus, any possible deviation from the strict principle of legality would be minimized, and legality would again take precedence over expediency, which should have a positive impact on legal conduct.

### 3. Conclusions

In light of the transition to a post-nonclassical scientific paradigm, which is characterized by increased emphasis on man as a subject of social relations, legal issues are mainstreamed. The modern theory of law often views a man as the center of the legal system, as an integral link in the process of creating legal reality.

Legal behavior is characterized by sociocultural factors, its typical models are influenced by many factors, among which legal traditions play an important role. Among its dimensions are social, psychological, economic, political, moral, and religious ones. Therefore, the study of legal behavior and its determinants requires an interdisciplinary approach.

Digitalization significantly affects legal behavior. First and foremost, the space of legal behavior is expanding, including due to network interaction and a new virtual reality. Additionally, digital transformations impact the subject of law, including his psyche as well as traditional legal values. Consequently, collective and individual legal behaviors begin to be conducted within new, previously unknown models.

The pandemic brought about significant changes in modern society. The pandemic-related restrictions have altered the composition and structure of the legal space, which has impacted legal behavior. Transformations in social relations alter the framework in which they are conducted, as well as changing the motives and value orientations of its participants.

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#### Author's information:

Dmitrii A. Pashentsev — Dr. Sci. in Law, Professor; dp-70@mail.ru