



Qazaqstan Respýblıkasy Zańnama jáne quqyqtyq aqparat institýtynyń

JARSHYSY

gylymi-quqyqtyq jýrnal №1 (64)-2021

Құрылтайшы және баспагер:

«Қазақстан Республикасының
Заңнама және құқықтық
ақпарат институты» ШЖК РМК
2006 жылдан бастап шығады
Журналдың материалдары
www.zqai.kz

сайтында орналастырылған
Заң ғылымдары бойынша диссертациялардың
негізгі ғылыми нәтижелерін жариялауға
арналған баслымдар тізіліміне енгізілген
(ҚР БҒМ БҒСБК 30.05.2013 ж.
№894 бұйрығы)

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Ақпарат комитетінің

БАҚ есепке қою туралы куәлігі
№ 17761-Ж 25.06.2019 ж.
(Алғашқы есепке қою кезі
№6592-Ж. 07.09.2005 ж.)

Мекен-жайы: Қазақстан Республикасы,
010000, Нұр-Сұлтан қ., Қабанбай-батыр
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ВЕСТНИК

Института законодательства и правовой информации Республики Казахстан

научно-правовой журнал №1 (64)-2021

Учредитель и издатель:
РГП на ПХВ «Институт законодательства
и правовой информации
Республики Казахстан»
Издаётся с 2006 года
Все материалы журнала размещаются на
сайте www.zqai.kz
Включен в перечень изданий для публикации
основных научных результатов диссертаций
по юридическим наукам
(Приказ ККСОН МОН РК №894
от 30.05.2013 г.)

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Свидетельство о постановке
на учет СМИ № 17761-Ж
от 25.06.2019 г. Комитета информации
Министерства информации и коммуникаций
Республики Казахстан (Первичная постановка
на учет №6592-Ж. 07.09.2005 г.)

Адрес: Республика Казахстан, 010000,
г. Нур-Султан, пр. Кабанбай батыра, 19,
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Bulletin of Institute of Legislation and Legal Information of the Republic of Kazakhstan

JARSHYSY

scientific and legal journal №1 (64)-2021

Founder and publisher:
RSE on the REM «Institute of Legislation and Legal information of the Republic of Kazakhstan»

Published since 2006

All journal materials are placed on the website
www.zqai.kz

Included in the list of publications of basic scientific results of dissertations on legal sciences (Order CCES MES RK №894 from 05.30.2013)

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The certificate of registration of mass media №17761-G from 25.06.2019 from the Information Committee of the Ministry of Information and Communications of the Republic of Kazakhstan (Number and date of primary registration №6592-Zh.07.09.2005.)

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THE THEORETICAL FRAMEWORK OF USING EMPIRICAL LEGAL RESEARCH METHODS: INTERNATIONAL EXPERIENCE

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Key words: *Empirical Legal Research, methodology, evaluation, universities, corporate governance.*

Abstract. *This article discusses methodological issues related to the use of Empirical Legal Research methods in jurisprudence. To assess the effectiveness of the application of Empirical Legal Research methods, there have been chosen an article published in a peer-reviewed journal, which examines the organizational and legal issues of corporate governance of Australian public universities. The evaluation of that article is carried out based on Tracy's criteria for qualitative research methods.*

As a result of this study, the following conclusions were made: firstly, it was shown that it is important for novice researchers to understand the basics of methodology and the criteria for evaluating research methods; secondly, it was revealed that the methods of Empirical Legal Research, that is, a grounded theory approach as a qualitative research strategy, are empirically effective in studying the university's corporate governance issues; thirdly, it was shown that through empirical methods researchers can collect and analyze an empirical data which is essential in publishing papers in international peer-reviewed journals.

In order to intensify the work on the improvement of methodological knowledge of doctoral students, it is suggested to revise the curricula and assignments and written examinations for doctoral students in terms of the study of empirical research methods. It was revealed that via critical evaluation of articles, novice researchers can obtain fundamental knowledge about philosophical underpinnings and the theoretical framework of research, the evaluation criteria for the research, and current problems in methodology.

ҚҰҚЫҚТЫҚ ЗЕРТТЕУДІҢ ЭМПИРИКАЛЫҚ ӘДІСТЕРІН ПАЙДАЛАНУДЫҢ ТЕОРИЯЛЫҚ НЕГІЗДЕРІ: ХАЛЫҚАРАЛЫҚ ТӘЖІРИБЕ

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Аннотация. *Мақалада заң ғылымында эмпирикалық құқықтық зерттеу әдістерін қолдануға байланысты әдістемелік мәселелер қарастырылады. Эмпирикалық құқықтық зерттеу әдістерін қолданудың тиімділігін бағалау үшін халықаралық импакт-факторлы журналда жарияланған мақала таңдап алынды. Мақалада Австралияның мемлекеттік университеттеріндегі корпоративтік басқарудың ұйымдастырушылық және құқықтық мәселелері қарастырылған. Мақала Трэйсидің сапалы зерттеу әдістерінің критерийлері негізінде бағаланады.*

Зерттеу нәтижесінде келесідей тұжырымдар жасалды: біріншіден, жас ғалымдар үшін әдістеме негіздері мен зерттеу әдістерін бағалау критерийлерін түсіну маңызды екендігі көрсетілді; екіншіден, университеттегі корпоративті басқару мәселелерін зерттеуде эмпирикалық құқықтық зерттеу әдістері, яғни сапалы зерттеу стратегиясы ретінде негізделген теориялық көзқарас эмпирикалық тұрғыдан тиімді екендігі анықталды; үшіншіден, эмпирикалық құқықтық зерттеу әдістері арқылы зерттеуші халықаралық рецензияланған журналдарда мақалалар жариялау үшін қажет эмпирикалық деректерді жинап, талдай алатындығы көрсетілген.

Докторанттардың әдістемелік білімін жетілдіруге қатысты жұмысты жандандыру үшін эмпирикалық зерттеу әдістерін зерттеу тұрғысынан докторанттарға арналған оқу жоспарлары, тапсырмалары мен жазбаша емтихандарды қайта қарау ұсынылды. Жас зерттеушілер мақалаларды сыни тұрғыдан бағалау арқылы зерттеудің философиялық және теориялық негіздері, бағалау критерийлері және әдістемедегі өзекті мәселелер туралы іргелі білім ала алады.

ТЕОРЕТИЧЕСКИЕ ОСНОВЫ ИСПОЛЬЗОВАНИЯ ЭМПИРИЧЕСКИХ МЕТОДОВ ПРАВОВОГО ИССЛЕДОВАНИЯ: МЕЖДУНАРОДНЫЙ ОПЫТ

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Ключевые слова: эмпирические правовые исследования, методология, оценка, университеты, корпоративное управление.

Аннотация. В статье рассматриваются методологические вопросы, связанные с использованием эмпирических методов в правовых исследованиях. Для оценки эффективности использования эмпирических методов была выбрана статья, опубликованная в рецензируемом журнале, в которой рассматриваются организационные и правовые вопросы корпоративного управления государственных университетов Австралии. Оценка статьи проводится на основе критериев Трейси для качественных методов исследования.

В результате исследования были сделаны следующие выводы: во-первых, было показано, что для начинающего исследователя важно понимать основы методологии и критерии оценки методов исследования; во-вторых, было выявлено, что методы эмпирического правового исследования, то есть обоснованный теоретический подход как качественная исследовательская стратегия, эмпирически эффективен при изучении проблем корпоративного управления в университетах; в-третьих, было обосновано, что с помощью эмпирических методов исследователь может собирать и анализировать эмпирические данные, которые имеют важное значение в публикации статей в международных рецензируемых журналах.

В целях активизации работы по развитию методологических навыков молодых ученых предлагается пересмотреть учебные планы, задания и письменные экзамены для докторантов в части изучения эмпирических методов исследования. Выяснилось, что посредством критической оценки статей начинающие исследователи могут получить фундаментальные знания о философских основах и теоретической основе исследования, критериях оценки исследования и текущих проблемах в методологии.

Introduction. Presently, in Kazakhstan and in the Commonwealth of Independent States countries, the utilization of research methods in legal research is one of the relevant issues. There are several reasons for this. Firstly, PhD students of Law Faculties conduct research based on the methodological framework and research methods inherited from the Soviet era. In other words, research in jurisprudence to some extent neglects the western research methodology. Therefore, the content of dissertations in jurisprudence is not much distinguished from the works of the Soviet period. Second, international peer-reviewed journals place high demands on the methodology and theoretical framework of research. In addition, according to the Rules for awarding degrees¹ and the Rules for the Assignment of Academic Ranks (Associate Professor, Professor)², candidates for the defense of dissertations for the degree of PhD, Associate Professor, and Professor have to publish articles in the peer-reviewed journals listed in Scopus and Web of Science databases. Even in regional universities, academics have to periodically publish articles in journals included in the Scopus, Web of Science databases to be eligible supervise the master students. In general, according to current legislation, university academics and doctoral students are required to write and publish articles in top international journals. However, the weak methodological framework of Kazakhstan's articles hinders the publication of articles in high quality peer-reviewed journals.

There are many issues in the training of researchers, which existed in the Soviet period as well. Yet, this work provides for the development of a methodological framework for the training of research staff and young researchers at the university, highlighting its role and importance. In this case, there is no need for special evidence to determine the importance of methodology in research work. For example, if we look at dissertations in law, it can be seen that they are mainly based on the methods of doctrinal legal research. That is, it is known that in most cases legal research is based on logical,

formal-legal, comparative-legal, international-legal, and historical-legal methods. Gawas rightly states that “the doctrinal research is concerned with the analysis of the legal doctrine and how it has been developed and applied and these types of research known as pure theoretical research” [1, 129]. He also highlights that the legal researchers tend to collect data from case laws, legislation, law journal and article, law reforms reports, parliamentary materials, policy documents, relevant text law books, etc. To understand more about it we attempt to analyse some well-known definitions of legal research methodology.

As known, the author's inaccurate definition and interpretation of the methodology and methods lead to a violation of the integrity of the research, which gives rise to the main problem faced by almost all researchers of the theory of law – the substitution of concepts and, as a result, wrong conclusions [2, 98]. There is a range of statements about the definition of the concept of “methodology”. According to Marchenko, “the combination of methods of research knowledge of reality forms the research methodology” [3, p. 20]. Syrykh also considers methodology to be a system of methods, that is, methodology in the exact meaning of this word is learning about methods [4, p. 70]. Kerimov gives a broad interpretation of the methodology of research which reflects its main purpose. In this respect, the methodology of law acts as a “general scientific phenomenon that unites the entire set of principles, approaches, and methods of cognition (worldview, philosophical methods of cognition and teaching about them, general and private scientific concepts and methods) developed by all social sciences, and used in the process of understanding the specifics of legal reality, its practical transformation [5, p. 88]. Latter definition of methodology points out possibility using Empirical Legal Research methods in legal studies. Gawas rightly states that “in this transitional time, legal scholars, law teachers and academic lawyers are using evidence and methods from other disciplines into their reasoning to bolster

¹ Приказ Министра образования и науки Республики Казахстан от 31 марта 2011 года № 127 ‘Об утверждении Правил присуждения степеней’. <http://adilet.zan.kz/rus/docs/V1100006951>

² Приказ Министра образования и науки Республики Казахстан от 31 марта 2011 года № 128. ‘Об утверждении Правил присвоения ученых званий (ассоциированный профессор (доцент), профессор). <http://adilet.zan.kz/rus/docs/V1100006939>

their reform law and legal system towards the research development” [1, 129].

Already a century ago, lawyers became convinced that law lives not only in the texts of “black-letter law” (in common law, established legal traditions that are not subject to doubt), but also in courts and society [6]. Over the past 20 years, Empirical Legal Research methods have become increasingly important in the field of legal research, while before that the palm belonged to the normative analysis of the law, “doctrinal interpretation of law” (black letter law), based on the search for a balance of rights and obligations under the law [7, p. 130]. Tolerance is required in the pluralism of legal methodologies, their mutual exchange with other disciplines. There is a need for interaction between lawyers and sociologists in the context of the exchange of methodology; an intellectual discussion about how lawyers develop legal norms of behavior and how sociologists explain the various actions and motives of individuals’ actions. Thus, unlike other sciences, legal scholars have a definite advantage - they have many available methods in their arsenal. Using these methods will allow jurisprudence to converge with other disciplines, as a result of which the study of law will become more effective and fruitful [8].

Empirical legal research (ELR) is “an evidence-based method of research that systematically carries out the task of unearthing, analyzing, and interpreting facts in relation to law and its functioning” [9, 303]. Researchers also highlight that the tools employed for the collection of data in ELR are those borrowed from other disciplines and are different from doctrinal research tools. Interview, questionnaire, case study, observation, survey, sample study, ethnography, and other tools of fieldwork pour invaluable data necessary for first-hand assessment [9, 315]. Webley also states that empirical methods such as grounded theory provide a framework for the whole research process and it is a theory of research, a data collection method, a mode of analysis, and a way of generating theory [10].

To evaluate the effectiveness of the use of Empirical Legal Research methods, there have

been chosen an article published in a peer-reviewed journal “Studies in Higher Education” (2014, Vol. 39, No. 4, 560-573) titled “Australian public universities: are they practising a corporate approach to governance?” by J. Christopher [11], which examines the organizational and legal issues of corporate governance of Australian public universities. Such a methodological evaluation is conducted within the unit “Understanding research methods”, which is taught in the first year of doctoral studies at the Faculty of Law and Social Sciences, University of Bristol³. Thus, this paper comprises the following sections. Section one illustrates a general description of the methodology, relevance, and scientific novelty of the selected article on methodological analysis. The second part describes a theoretical framework of chosen research work. The third section shows the evaluation process which was carried out based on Tracy’s criteria for qualitative research methods. Finally, a conclusion is made on the benefits of the methodological assessment for doctoral students, and the strengths and weaknesses of the article are identified.

Research framework. As Slife and Williams (as cited in Creswell) rightly point out, in many research papers the philosophical framework remains hidden, and the authors tend to express their theoretical approach to research implicitly, so we can only guess it, taking into account the features of the study [12]. Describing the methodological basis of his research, Christopher states that the study is conducted based on a qualitative approach [11]. Through the methodology and research process, we can assume that according to Crotty the philosophical paradigm of this study can be classified as social constructionism. He argues that social reality is constructed by society and at the same time emphasizes the role of culture and other factors influencing it [13]. He also notes that we should not separately consider the natural world from the social world since they form one human world. In this work Christopher tries to understand the process of moving to a corporate approach through the perceptions of managers, which indicates the subjective nature of reality [11].

³ The University of Bristol has been named as the world’s 58th best university in the latest QS World University Rankings 2021, 9th in the United Kingdom and 14th in Europe according to the league table, which analyses the world’s top 1,000 universities in 85 countries / <http://www.bristol.ac.uk/news/2020/june/qs-2021-rankings.html>

Founders of social constructionism Berger and Luckmann consider society as both objective and subjective reality [14]. They believe that social communication is a significant way to maintain, modify and restructure subjective reality. All knowledge in society is socially constructed. In this article, the subjective reality can be seen from the interviewees' perception while the objective reality is the process of forming the corporate culture at universities.

According to Charmaz the terms constructivism and social constructionism tend to be used interchangeably and usually covered by the common term constructivism [15]. The difference is that in social constructionism, the main "constructing" force is not the individual (which is a characteristic of constructivism), but society, the system of social communications [16].

Describing the term "social constructivism" Creswell refers to the work of Crotty [12]. However, Crotty calls this term "social constructionism". Creswell highlights that within social constructivism, the researcher tries to find the meaning of the phenomena through interaction with respondents in certain situations and open-ended questions are drawn up to get as much information as possible from the interviewees [12]. Christopher interviewed three groups of officials during the data collection and constructed his personal view based on the opinion of the respondents [11].

In order to delve deeper into the theoretical underpinnings of the inquiry, it is necessary to dwell on the research design (strategy of inquiry). Qualitative research, by its nature, is carried out inductively in the field, where certain theories are developed based on the analysis of the collected data. The founders of grounded theory Glaser and Strauss note that it is possible to discover theories, concepts, hypotheses, and propositions directly through the data [17]. In this case, Christopher as a result of collected data and data analysis revealed two main themes and suggested some theoretical propositions [11]. Thus, we can assume, that according to Creswell the research design or the strategy of inquiry of this research is grounded theory [12]. Moreover, some authors emphasize the close link between social constructionism and the grounded theory. For example, Andrews states that social constructionism is more appropriate to the grounded theory methodology [16].

Currently, in the research literature, there

are three main versions of grounded theory: Glaser's (classical), Straussian and Corbin's, and Charmaz's (constructivist), which creates some discussions among scholars about the concept of grounded theory. Compared to other strategies of inquiry, the application of grounded theory can be confusing for novice researchers, since it takes time to understand the differences between them and what kind of theory is more appropriate for the research topic [16]. According to the founders of grounded theory, there are several key elements of this theory: constant comparison between data and data, data and concepts, and between concepts; strong focus on the research process: sensitizing concepts, testing and searching for deviant cases, writing memos to build theory; sampling through theoretical sampling until theoretical saturation; the central goal is the creation of theory [18], [19], [15].

Christopher writes, "This began with coding using the open coding technique". The process of coding and pattern matching was facilitated by utilizing the Nvivo software package comparative analysis of a participant's responses in line with the constant comparative method" [11, p. 563]. Moreover, the author states that a purposeful sampling approach was utilized, and saturation of information was achieved. As we can see, the main key elements of grounded theory are represented within this article.

Proponents of the classical grounded theory believe that the classical theory is more flexible in an epistemological sense and can be easily applied by representatives of various ontological and epistemological schools and is not limited to any single theoretical point of view [20]. Here, within data collection, various research methods can be used, and it is considered that "all is data". Also, it is not necessary to formulate research questions before starting data collection while in Constructivist grounded theory, prior to the data collection, the researcher develops key questions based on a literature review of the research topic. However, O'Connor et al. argue that the Classical theory is compatible to positivist, objectivist assumptions whereas the constructivist approach is based on interpretivist, subjectivist assumptions [21]. The founder of the Constructivist grounded theory, Charmaz argued that knowledge is created by human beings and that the world around

us tends to be changeable [22]. She stated, “when social constructionists combine their attention to context, action, and interpretation with grounded theory analytic strategies, they can produce dense analyses with explanatory power, as well as conceptual understanding” [23, p. 408].

To sum up, it can be seen that the author applied some research tools of all three versions of grounded theory and based on this strategy of inquiry he managed to develop his theoretical statements.

Main part

Criteria for Evaluation of Qualitative Research

Lincoln claims that researchers have attempted to create common criteria for evaluating qualitative research for a long time, but they were unsuccessful [24]. It turned out that some criteria were suitable at certain stages of the study but did not fit at other stages. He believes that even within the framework of one research paradigm, depending on the research strategy, different evaluation criteria can be applied. For example, Charmaz offers the following evaluation criteria for the Constructivist grounded theory: credibility, originality, resonance, and usefulness [15].

There are a lot of researchers who suggested diverse criteria for an evaluation of qualitative research [25], [26], [27]. However, Tracy's criteria are more applicable and complete than others because she has introduced criteria consisting of exclusive, comprehensive and sequential sub-criteria, which give researchers great opportunities to evaluate the quality of qualitative research [28]. In order to evaluate the qualitative research in more detail, the author's work will be assessed by Tracy's criteria: a) worthy topic, (b) rich rigor, (c) sincerity, (d) credibility, (e) resonance, (f) significant contribution, (g) ethics, and (h) meaningful coherence. Tracy assumes that these criteria are designed to explain to researchers and readers the values of qualitative research and create a platform for the exchange of thoughts regarding quality among methodologists from various paradigms [28].

Worthy topic

At the end of the twentieth century, serious changes took place in the global higher education system towards the marketisation and massification of higher education, many

countries adopted the New Public Management approach [29], [30]. Due to budget cuts in higher education, universities were interested in the attraction of financial resources from business, the establishment of public-private partnerships, which led to the financial and managerial dependence of universities on various stakeholders [31]. Governments had to encourage institutions with greater autonomy, entrepreneurship, and accountability [32]. Clark assumes that universities had to enhance their entrepreneurial activities to remain competitive in severe economic conditions [33]. As a result of market transformations, universities adopted the corporate model, cutting costs and seeking profit-making opportunities [34]. Also, tough competition between countries and universities in the export of educational services added an additional impetus to further reforms in higher education governance. The above mentioned and other factors influenced the introduction and development of an efficient corporate approach in university governance in many countries. Speaking about the relevance of the chosen topic, Christopher gives a brief overview of ongoing reforms: “The pressure to move toward the corporate culture from the public sector and collegial and autonomous culture was initially driven by the Dawkins Report in 1988. Subsequent governmental reforms, such as the National Governance Protocols in 2004 and the Bradley Review in 2008....” [11, p. 560]. The author cites some government acts aimed at reforming this sphere and points out the emerged legal and managerial problems in the field of the corporate governance, which need to be researched.

As Tracy notes, the worthy topic is considered as interesting and can surprise readers if it shakes them from their common sense and reality [28]. In this article, the author puts forward a new idea, the assertion about the modern corporate approach in Australian universities and rejects the opinion prevailing in society about this. Thus, it gives food for thought to researchers and looks at this topic from a different perspective.

As a result of the study, the author brings to the public discussion a new theoretical statement regarding the corporate governance of universities in Australia. He argues that the existence of the corporate governance approach in Australian universities is a myth and it does

not correspond to reality. Christophe concludes that: Firstly, due to the structural and operational issues in Australian public universities, the corporate approach is not supported; and secondly, there is currently a pseudo-management culture in Australian public universities, where the university's leadership is trying to strike a balance between the former public-collegial governance and the corporate approach to provide the stability in the universities [11].

Rich Rigor

In this work, Christopher interviewed 35 respondents and used a purposeful sampling approach to divide university employees into three groups – 9 vice chancellors, 14 second-tier management staff members, made up of university secretaries and governance executives, executive deans of divisions, and chief financial officers and 12 chief audit executives [11]. According to the strategies of inquiry within grounded theory a researcher must conduct at least 20 interviews throughout the data collection process to saturate the categories [35, p. 157]. As we can see, the author carefully and thoughtfully selected interviewees in order to obtain comprehensive and detailed information about the corporate approach of university management. It is also noted that several universities were selected for an in-depth understanding of the real situation. Therefore, the sampling approach of the author is consistent with the purpose of the study.

Regarding the data collection and data analysis, within open data encoding Nvivo software was used and was accompanied by a constant comparative method. To confirm the data obtained through interviews, the secondary analysis method was used, where a lot of textual materials and official documents regarding the object of study were studied and compared. According to Tracy, in order to ensure rich rigor, the researcher must devote appropriate time to fieldwork, collect enough materials, follow appropriate procedures for analysis and the processing of materials etc [28]. In this article, the procedure of inquiry of qualitative research is consistent with Creswell's logic of the inductive approach – the inductive logic of research in a qualitative study [12].

However, in the research process, there are some drawbacks that can adversely affect the thoroughness of the study and subsequently affect the results of the work. The limitation of

this study is that the author has not indicated the duration of the interviews, so we do not know how much time was spent on collecting materials and whether enough time was allocated for this.

Also, the author noted that only senior university staff and heads of financial and control bodies of the university were involved in the interviews, suggesting, “As a limitation of this study, it should be noted that the findings are limited to the perceptions of certain staff members from a management perspective...” [11, p. 572]. Thus, academics were not involved in the interview. The role of academics in the managerial life of the university can be considered in different ways. As practice shows, due to the economic crisis and the financial interests of the government, reforms in the governance system in universities often take place without taking into account the interests of academics. Such a policy sometimes leads to dissatisfaction among the teaching staff and even to specific resistance from university academics. For example, Lucas notes that the academic resistance of a group of researchers influenced the revision of the QAA policy in universities in England [36].

In addition, the author did not pay enough attention to the literature review on the research topic, which prevents the reader from learning more about the historical genesis and theoretical foundations of the corporate governance approach. The role of the author and his theoretical sensitivity are also important aspects that show the author's theoretical preparedness and his ability to identify key questions on the topic of research and give his point of view [37].

Sincerity

Tracy noted that “sincerity as an end goal can be achieved through self-reflexivity, vulnerability, honesty, transparency, and data auditing” [28, p. 842]. The author tried to be honest in his statements, as he was accurate in interpreting the data of interviewees. He finished his work on a pessimistic note, noting that in Australia's universities, the corporate approach is not supported, and it is pseudo or hybrid in nature. However, Christopher and Leung a year later published the following article on this topic, where he changed his opinion and claimed that “...changing to a corporate culture in universities is still continuing, but at a slow rate” [38, p. 187]. Here we can see that the author tries

to be honest and self-reflexive with himself, his research and his audience [28].

Trainor and Graue propose three versions of transparency essential to an appraisal of quality: methodological transparency, interpretive transparency, narrative transparency [39]. In terms of methodological transparency, within the research process the author utilized appropriate approaches of inquiry to design, sample, data collection, and analysis. However, the author has not clearly defined a philosophical worldview (paradigm) and research design (strategy of Inquiry). This misleads the reader in understanding the epistemological and methodological aspects of the research process. The interpretive transparency demonstrates that the researcher is a key instrument in conducting research. As is known, the author carried out the study based on a qualitative method where the researcher and participants played a crucial role in reaching research findings. In this work, the narrative transparency is clear enough, since the author managed to support his statements with direct quotes from the interview.

Credibility

Guba and Lincoln suggest the trustworthiness criteria (credibility, transferability, dependability, and confirmability) in evaluation of qualitative research [40]. In the process of conducting the research, the researcher should provide as much information as possible and penetrate deeper into the details and interpret them for the reader in an understandable and accessible way. Tracy notes that in order to demonstrate the complexity of their data, researchers must provide sufficient amount of material so that readers can draw certain conclusions on this issue [28]. Having compiled a list of open-ended questions, he collected the necessary data from the interviewees, and through the use of certain types of theory, reaches conclusions. As a result of the inductive sequence, he comes to new assertions and assumptions, which is a characteristic feature in qualitative research. However, the author did not give any information about seeking verification with participants (member checks) and sharing with other researchers (peer debriefing) throughout the research, which can negatively reflect on the credibility of the research findings.

Data triangulation is visible in this article, as we can see, the author conducted inter-

views with various groups of officials, used secondary data from official and unofficial sources, the necessary documents provided by interviewees. As Mertens highlights, to corroborate the collected data through interviews, the author utilised textual data from the university websites and supporting documents such as strategic planning documents, annual university reports etc [25]. Theory triangulation is also used by the author since he utilised a multi-theoretical approach including stakeholder theory, resource dependency theory and stewardship theory, which were applied to examine and interpret the data according to Denzin [41] and Patton [42]. Therefore, we can see that the author compared the opinions of various officials regarding the corporate approach in universities. Also, conducting a comparative analysis of the corporate governance in public universities and private companies, he identifies some issues that contradict the implementation of the corporate approach.

Resonance

This article left me with a double impression. Firstly, this is the first article, which I analysed from the position of social sciences, where I need to understand the philosophical aspects, methodology and epistemology of research, and give a critical evaluation of this work. Secondly, like any creative work, the author sets forth his thoughts based on his sensitivity to this topic. Some of the allegations do not have enough justification and are not transparent, as these are the subjective views of officials, which must be supported by specific documents or official data.

Significant Contribution

The article identifies some problems that impede the development of the corporate approach to governance in universities in Australia, such as structural, managerial and legal issues, which do not make it possible to work with stakeholders on an equal basis. It also notes the bureaucratic system in the public sector, which does not allow universities to act as subjects of a market economy. The author also points out other problems in the life of universities that adversely affect the formation of the corporate culture of behavior. The fact that the author rejects the generally accepted opinion about the corporate governance approach and claims that some kind of hybrid

form of governance operates in Australian universities shows the heuristic significance of this article.

Ethics

In order to comply with ethical standards, the author ensured the anonymity of all interview participants by adopting fictitious names. Also, the university names have been marked with letters and numbers to preserve secrecy. Thus, respect for the participants and their interests was ensured. As mentioned above, in qualitative research, the researcher plays a decisive role and his professional level about the research topic is also important. Awareness and deep knowledge can both positively and negatively affect the results of the study. The influence of the researcher on the research process creates some ethical issues, it is so difficult to identify potential conflicts of interest or the potential bias of the enquirer [43]. Unfortunately, the author does not provide any information on the prevention of possible problems of this nature.

Meaningful Coherence

Tracy notes that high-quality work should achieve its goal, use those methods that are well suited to the chosen theory and paradigm, consider and connect the necessary literature with the research topic [28]. In my opinion, Christopher achieved an answer to the initial research question and suggested his point of view based on the collected data [11]. He used consistent methods and techniques that are appropriate for qualitative research under the social constructionism paradigm. In fact, the author has managed to achieve the aim of inquiry and utilised the appropriate strategy of inquiry, and the methodological framework which were considered in detail in the previous chapters.

Conclusion. This study showed that empirical research methods are important in legal research and can significantly enrich the methodological base. The literature review has shown that empirical research methods are widely used by Western legal scholars in the study of legal issues. It was noted that the methodological framework of dissertations and articles of Kazakhstani scholars and doctoral students requires improvement as well.

It was also revealed that Kazakhstani current legislation obliges researchers to publish in foreign peer-reviewed journals listed in Scopus, Web of Science databases. Kazakhstan's legal scholars should take into account that they

mainly have to publish in journals in English where empirical multidisciplinary studies are encouraged by publishers. In this case, obtaining the necessary knowledge in the methodology of Western countries can significantly help Kazakhstani legal scholars publish in peer-reviewed journals.

In order to intensify the work on the improvement of methodological knowledge of doctoral students, it is suggested to revise the curricula and assignments and written examinations for doctoral students in terms of the study of empirical research methods. It was revealed that via critical evaluation of articles, novice researchers can obtain fundamental knowledge about philosophical underpinnings and the theoretical framework of research, the evaluation criteria for the research, and current issues in methodology.

As mentioned above, this article focused on the research work of doctoral students and novice researchers who are just learning to write research papers. Moreover, it was noted that in Kazakhstani legal science empirical research methods are still neglected and their role has not been sufficiently studied. To conclude, it is proposed to introduce a similar subject in methodology as a compulsory discipline in the curriculum of doctoral students in law. The effectiveness of this teaching method for improving the theoretical and methodological skills of doctoral students is evident from the practice of the Faculty of Law and Social Sciences, University of Bristol. As can be seen the methodological evaluation of the paper demonstrated in this article based on the criteria of qualitative research shows the effectiveness of using written assignments for doctoral students and helps them think critically, learn more about the methodological base and theoretical framework of the research.

It was concluded that doctrinal legal research and empirical legal research, thus, are not mutually exclusive. They complement each other. Empirical legal research cannot supplant doctrinal legal research. It can be a valuable supplement or adjunct to doctrinal legal research. It is now accepted that theoretical research without any empirical content is hollow and that empirical work without supporting theory is shallow [9].

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УДК: 349.23/24

ПРОБЕЛЫ И КОЛЛИЗИИ ПРАВОВОГО РЕГУЛИРОВАНИЯ ТРУДА В СФЕРЕ ФИЗИЧЕСКОЙ КУЛЬТУРЫ И СПОРТА В РЕСПУБЛИКЕ КАЗАХСТАН

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Ключевые слова: трудовые отношения, физическая культура, спорт, дифференциация, профессиональные спортсмены и тренеры, спортивный контракт

Аннотация. В настоящей статье приводятся результаты исследования правовой природы спортивного контракта и правового статуса профессиональных спортсменов и тренеров, являющихся сторонами трудовых отношений с физкультурно-спортивными организациями.

В статье обосновывается необходимость специальной правовой регламентации труда в сфере физической культуры и спорта. Авторы рассматривают зарубежный опыт, включающий законодательство государств Евразийского экономического союза, а также Франции, Италии, Испании, США, где установлены самостоятельные нормы, регулирующие