LEGAL AND ETHICAL ASPECTS OF PLAGIARISM AND OTHER FORMS OF MISCONDUCT IN THE CREATION OF NEW SCIENTIFIC KNOWLEDGE IN RUSSIA

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Abstract: The research topic is addressed for several reasons, the most relevant of which are globalization, internationalization, digitalization and integration of Russia into the world academic community, which, along with the benefits, has equally caused numerous violations of academic integrity, jeopardized research ethics and dissemination of scientific knowledge, and led to increase in plagiarism and other forms of academic misconduct. The purpose of this article is to study, analyze and explain the essence of legal and ethical aspects of plagiarism and other dishonest practices in creation of new scientific knowledge, which equally affect students, university teachers and researchers. Some legal, psychological and pedagogical means of prevention have been proposed and justified.

Key words: plagiarism, misconduct, academic community, academic integrity, research, ethics, legal norms.

1. INTRODUCTION

Our interest in the research topic is caused by the rapid growth of plagiarism and other forms of misconduct (e.g., copyright and related rights infringement) in the Russian academic community, and this problem, in our opinion, equally affects students, university teachers, and researchers. According to the Higher School of Economics (HSE University), which since 2002 regularly conducts surveys of students and teachers of Russian universities within the project "Monitoring the Economics of Education", and publishes analytical reports based on them, there is a significant increase in cases of dishonest behavior (up to 75%) in the academic environment, including plagiarism. At the same time, more than half of the respondents (56%) have a negative attitude to such large-scale violations, as they adversely impact academic integrity, research ethics and prestige of universities [1], [2].

The purpose of this article is to study, analyze and clarify the essence of legal and ethical aspects of plagiarism and other forms of misconduct in the creation of new scientific knowledge in Russia. To achieve this goal, it is necessary to examine external and internal factors affecting society, science and education; identify factors that have both positive and negative impacts on the academic community; interpret the concept of "plagiarism" and other forms of academic and scientific dishonesty; analyze and determine the legal and ethical aspects of plagiarism and other unfair practices in academic and scientific pursuits; formulate and recommend some key means of legal, psychological and pedagogical prevention of plagiarism and other forms of violation of academic integrity and research ethics. The research raised the question of available legal measures and ethical strategies that can ensure that teachers and students in Russian universities comply with them when creating new knowledge.

The dynamics of current processes of globalization, digitalization and integration increases the role of science and technology in modern society, motivates people to new knowledge and expands the research. We took into account the request to support the publication activity of teachers and students of Kazan Federal University to ensure their competitiveness in accordance with the goals of the strategic academic leadership program "Priority 2030", initiated in Russia in 2021 [3], in which this university participates. The hypothesis allows us to expect the formation and development of teams of highly motivated members of academic community aimed at creation and dissemination of new scientific knowledge based on academic integrity and research ethics, if the set of proposed legal measures and ethical strategies is implemented and popularized through additional university courses and open classes.

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2.   METHODOLOGICAL FRAMEWORK

The study was conducted within a framework of legal, social, integrative, contextual, competence-based and comparative approaches, covering all aspects of legal and ethical support of academic and research activities of teachers and students in the modern educational environment of university. Both qualitative and quantitative research methods were used to collect and process the relevant data. By means of analysis, synthesis and legal method, the main sources of Russian legislation (Criminal Code of the Russian Federation [4], Civil Code of the Russian Federation [5], Code of Administrative Offences of the Russian Federation [6], etc.) devoted to the protection of copyright and related rights, cases of their infringement (including plagiarism), possible implications and penalties were studied.

These methods, along with the competence-based and comparative approaches, also allowed us to select and summarize scientific information about the best ethical strategies and methods of formation and development of academic integrity and research ethics among university teachers and students in Russia and abroad when creating and disseminating new knowledge [7], [8], [9]. We proceeded from the fact that academic integrity and research ethics should be studied in synergy, since they are interrelated and imply a unity of strategic goals and objectives within research activities in academic settings. The most effective results are achievable only in the unity of participants' recognition of important social, moral and ethical values of academia and their unconditional adherence to legal norms and standards of academic communication, as well as scientific (scholarly) writing, research and publication [10], [11].

Social, integrative and contextual approaches allowed to examine and assess external and internal factors affecting society, science and education and to identify such factors that have both positive and negative impacts on the academic community. To clarify the conceptual apparatus, we singled out and defined terminology related to various forms of academic and scientific dishonesty, including plagiarism and unfair borrowings, which contradict with such concepts as research ethics, academic integrity, academic excellence, moral standards, ethical norms, etc. Next, we conducted a typological analysis of forms and types of academic dishonesty and misconduct among university teachers and students and formulated an action plan to reduce their prevalence in the Russian academic community.

For the experimental part of this work, observations, questionnaires and survey were carried out in order to determine teachers' and students' attitudes to scientific activity, their perceptions of concepts and actions related to academic and scientific dishonesty in creation of new scientific knowledge, followed by statistical analysis using the open-source statistical program JASP (https://jasp-stats.org/). We sought to measure researchers' motives, intentions and awareness of illegal activities and to propose legal remedies to overcome the temptation of unethical behavior in research and publication, which is often justified by contradictions in the creation of new knowledge. Its essence is that, when researching a new problem or creating new knowledge, authors usually look for the unexplored or contradictory in the already existing knowledge or use other people's theories and ideas. Ironically, researchers are expected to produce original or even unique papers in accordance with the principles of academic integrity and research ethics, which exclude plagiarism and other forms of misconduct [10].

The chosen methodology and research design allowed solving most of the set tasks and conducting the study in accordance with the strategic goals of the "Priority 2030" development program, which aims to transform the major national universities into world leaders in breakthrough high-tech competencies in various knowledge-intensive industries and to provide the labor market with advanced technologies, qualified personnel and interdisciplinary teams of scientists and researchers with a commitment to fundamental values of academic integrity and research ethics [3]. Hereinafter we used the terminology of the well-known US consortium "International Center for Academic Integrity" (ICAI), which considers academic integrity as a moral code and ethical policy of academic community and defines it as a commitment to six fundamental values, namely: honesty, trust, fairness, respect, responsibility, and determination to act in accordance with them in all conditions and under all circumstances. Academic integrity is closely related to research ethics and

involves application of key ethical principles to various issues in academic and scientific research, especially when using the ideas and discoveries of others and giving credit to original authors [13].

3. RESULTS AND DISCUSSIONS

3. 1. External and internal determinants of plagiarism

For the purposes of our study, we examined plagiarism and other forms of misconduct in terms of external and internal determinants (factors) that directly affect the system of higher education in Russia and indirectly create prerequisites for academic fraud and dishonesty. External factors include processes such as globalization, internationalization, digitalization and integration, which, in terms of their growing impact on education systems, social institutions, political and intercultural relations, are of priority worldwide [14]. The positive aspects of these factors include *inter alia* an enhanced unified educational environment; improved quality of teaching and learning; harmonized standards of intellectual and organizational performance; better cooperation in academic, scientific and research fields; expansion of cross-border academic mobility initiatives, projects and programs; increased competitiveness of institutions and workforce, etc. The development of digital technology, for example, has facilitated transition from an industrial to information society, and has made acquisition of higher-order knowledge more efficient through improved channels of communication, easier access to content and Internet resources, better lesson planning, classroom management, etc. [9], [12], [15].

It is clear that digital transformation has brought many benefits to educational systems and institutions of higher learning as it enables them to work more transparently and efficiently by enhancing global perspectives, expanding teaching and learning modalities, improving virtual communication and collaboration, expanding competencies, increasing flexibility, improving time management, enhancing self-motivation, critical thinking and technical skills, etc. [12]. At the same time, however, many universities report that rapid and easy access to the Internet, its resources and computers has caused numerous instances of plagiarism among their students, faculty, and researchers, ranging from minor violations of academic integrity (e.g., "cut, copy and paste") to serious cases of borrowing that jeopardize research ethics and the dissemination of scientific knowledge [10], [12]. In the course of our research we came to conclusion that the listed external processes have positive impacts on society, science and education, but their negative effects sometimes outweigh and create obstacles for the formation and development of culture of honesty, integrity and ethics in academia and society as a whole.

Next, let us consider the internal factors that influence each individual and may deter or, on the contrary, provoke misbehavior in academic environment. Behavioral patterns are formed individually and depend on upbringing, environment, culture, age, education, health, habits, individual personality traits, etc. Internal factors mainly pose moral threats to academic integrity and research ethics, and can range from ordinary ignorance of legal issues relating to intellectual property (IP) and intellectual property rights (IPR) to manifestly dishonest intentions and misconduct. More often than not, today's researchers are not even aware that technologies and much of the Internet or electronic resources they use for research purposes may be protected by copyright and, thus, restricted in their use and application. It is becoming clear that strategic legal, psychological and pedagogical measures are needed to properly inform and instruct novice researchers about IP, IPRs, their protection and the potential pitfalls of any illegal activities related to them, even for academic purposes [10], [12].

Since academic integrity is based on the university's moral code or ethical policies related to high standards of academic integrity and ethics, which mainly depend on such values as avoiding cheating or plagiarism, maintaining high academic standards, honesty and rigor in research and scholarly publications, etc., both students, university teachers and researchers are obliged to follow them. Individual integrity in this respect is vital to the academic environment and every participant in academic community has obligations to support such fair practices that promote academic integrity, prevent dishonesty, and punish offenses when they occur. The academic staff should provide examples of good practice in academic integrity and research ethics by acknowledging appropriately the works, designs, ideas and words of others in their teaching and research. They are expected to fairly use

citations, references and acknowledgements, thus, giving their students examples of decent behavior [12]. Students, in their turn, are expected to follow such practices in support of their academic undertakings and skills. It is imperative that students adopt and follow the principles and standards of their community, which will ensure their behavior to be consistent with those principles and standards.

3. 2. Ethical aspects of plagiarism and misconduct

Academic misconduct manifests itself in many forms with varying degrees of intensity and most often includes any type of cheating and borrowing that occurs during formal academic writing tasks and assignments. A survey conducted among 200 first- and second-year law students at Kazan Federal University (Russia) showed that participants most often commit misconduct in the following ways: by cheating – in attempt to gain an undue advantage in their knowledge assessment through the use of unauthorized materials, information, notes, aids or other devices (64%); by aiding and abetting – through complicity by intentionally or knowingly encouraging, enabling, causing, or attempting to assist another to commit an act of academic misconduct (58%); by collusion – by working together with others when it is unacceptable or when teachers do not allow working in groups or pairs (43%); by falsification – by intentionally twisting or misrepresenting facts or altering data for profit in some academic tasks (34%); by fabrication – in violation of academic integrity, by falsifying research data or results by intentionally inventing, forging, or altering any information, citation or quotation in academic writing (24%). The study revealed that there is a misunderstanding between students and faculty staff regarding the standards of behavior that constitutes academic honesty or dishonesty. Most students neither know nor recognize institutional standards, regulations, norms, rules and legal constraints. In addition, many believe that plagiarism only occurs when someone knowingly passes off language, ideas, or even the works of other authors as their own (78%), thus ignoring other instances or ethical aspects of copyright infringement.

When it comes to plagiarism in academic or scholarly work, some people think of plagiarism as being primarily a student problem. However, plagiarism remains a problem long after the students graduate and become scientists or researchers. According to the results of a survey of 50 teachers and researchers at Kazan University, it was found that each of them had been at least once involved in dishonest practices in the process of writing scientific papers. The 10 questions were sorted by severity and prevalence. It was found that researchers quite often use secondary (88%) and unreliable sources (79%); reuse or duplicate their own previous works or studies without proper attribution (75%); paraphrase or rewrite others' works without citation (67%); conduct repetitive research (62%) or submit a single article to multiple publications (51%); provide incorrect authorship or inaccurate information (41%); violate a code of conduct or act illegally through unethical collaboration (16%); copy and paste another author's words (verbatim) or work without attribution, indentation, or quotation marks (11%); engage in the extreme scenario of complete plagiarism, depriving original authors of credit for their work and potentially stealing their publications without doing any original work (5%).

There are different types of plagiarism, and they are all serious violations of academic integrity and research ethics. Based on feedback, we have collected and identified the most common types of plagiarism that are often "practiced" by Russian researchers. "Direct plagiarism" is the most common and serious form of plagiarism, which involves borrowing exact words from another's unrecognized source or written work, intentionally or not, and passing them off as one's own (74%); "accidental plagiarism" occurs when researchers neglect to cite sources or inadvertently paraphrase a source using similar words, word groups, or sentence structure without proper attribution (66 %); "mosaic plagiarism" involves borrowing phrases from separate sources without using quotation marks or finding synonyms for the author's language while maintaining the overall structure and meaning of the original work (33 %); "patchwork plagiarism" occurs when several different phrases or passages from several different authors are put together and called the new "endeavor" of their own (25%) [12].

It is obvious that plagiarism has tremendously risen over the past years in all sectors of education and research [16]. Most of university students (92%), teachers (89%) and researchers (62%) associate

this increase with computers and the Internet. They believe that technologies have changed the nature of plagiarism, made it easier and more widespread. It is common for researchers accused of plagiarism to claim that they are unaware of their misconduct, or that they are allegedly unfamiliar with the need to cite original authors or to quote and reference other works. This can probably be true, especially if other people's works are published on the Internet. Similarly, researchers often demonstrate ignorance of the legal and ethical issues concerning copyright and related rights protection of any open access publication and resources posted on the Internet. Thus, it is necessary to train and instruct researchers at every stage of their research work, suppressing even attempts at plagiarism, whether intentional or accidental [16].

3. 3. Legal aspects of plagiarism and misconduct

For the purposes of our research, we raised the question about the legal definition of the term "plagiarism". We were also interested whether any form of academic misconduct, including improper borrowing, would always be interpreted as plagiarism in Russia. We identified that in the Russian legislation the concept of plagiarism is only found in Article 146 of the Criminal Code of the Russian Federation as a synonym of "a willful or deliberate appropriation of someone's authorship" [4]. Here plagiarism means publishing someone else's work under one's own name or borrowing fragments of someone's work without indicating the source. It becomes evident that willfulness or intent to commit an act is important for its legal qualification as a crime of plagiarism. It is also important that the act becomes socially dangerous only if it causes damage in large amounts (more than 100.000 rubles) and especially large amounts (1.000.000 rubles or more) (Art. 146, p.1); provides for the infringement of copyright or related rights with the purpose of sale for a large profit (Art. 146, p.2); committed by a group of persons by prior conspiracy and/or with the use of official position (Art. 146, p.3) [4].

The question of whether any form of academic misconduct, including improper borrowing, will always be treated as plagiarism in Russia is legitimate if we proceed from the previously voiced contradiction that any new text is the result of borrowing from the already existing sources. According to researcher Julia Kristeva [17], any new knowledge is always a product of absorption, assimilation and transformation of some other already existing knowledge. Most actions related to academic misconduct and improper borrowing of someone else's intellectual property of different scale are sometimes erroneously called plagiarism, which does not correspond to the meaning of the term. Such a free interpretation of the term "plagiarism" is explained by the imprecision, vagueness and reduced disclosure of its essence and content, even in the previously mentioned article 146 of the Criminal Code of the Russian Federation [4]. Cases of misappropriation of other people's works that entail not criminal but civil or administrative liability should be considered as improper borrowings, and not plagiarism (Arts. 1252, 1253 и 1301 of Civil Code of the Russian Federation) [5]; (Arts. 7.12 (p.1), 14.33 (p.2) Code of Administrative Offences of the Russian Federation) [6].

Improper borrowing can be regarded and defined as plagiarism only if one of the following features is present: fragments of someone else's work are reconstructed, but original authors and title are not indicated; the work completely copies someone else's original work without indicating the source; co-authors are not indicated. The term "plagiarism" should be considered rather as a legal concept that can be used in relation to a specific case and a specific person only by a court decision, and the fact of plagiarism can be established solely in court through the due process of law. Only taking into account the qualifying features listed in Article 146 of the Criminal Code of the Russian Federation, any form of academic misconduct as well as the instances of allegedly stolen authorship can be qualified as plagiarism, require punishment and accordingly be named with this term. If a criminal offense contains certain qualifying elements of plagiarism and is proved, the punishment for plagiarism varies from a fine and forced labor to imprisonment up to 3 years [4].

4. CONCLUSION AND RECOMMENDATIONS

In the course of our study we concluded that academic integrity and research ethics are critical for all stakeholders involved in creation of new scientific knowledge. In the absence of strong legal norms, ethical standards, and strict institutional rules, it is quite difficult to use other authors' works honestly, reproduce their results, or apply their scientific findings without attempting to plagiarize or cheat. The recent statistics on checking scientific papers through Antiplagiat (a Russian plagiarism detection tool) confirmed cases of massive plagiarism among researchers. And although disciplinary penalties may follow for negligent scientists, it is clear that repressive methods alone are unlikely to change the situation. There is an urgent need to rethink the morality and ethics of higher education in Russia and apply pedagogical strategies that would educate and train the researchers in legitimate means of communicating other people's words and ideas without violating the principles of academic integrity and research ethics. These tools are *inter alia* indirect speech (paraphrasing, summary, synthesis. reactive writing) and direct quotation, and certainly the need to always cite, and attribute authorship.

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