

Images of Corporeality in Law: The Experience of the BRICS Countries

Aleksandra Zorina,

University of Tyumen (Tyumen, Russian Federation)

Ivan Yapryntsev,

University of Tyumen (Tyumen, Russian Federation)

<https://doi.org/10.21684/2412-2343-2024-11-1-58-83>

Abstract. This article presents the authors' approaches to understanding the concept of corporeality in its normative dimension. The purpose of the study is to conceptualize the images of human corporeality that exist in the system of legal regulation. Based on the idea that the research category is a representation of certain characteristics of the human body, the authors substantiate the possibility of using institutional and functional-activity approaches to analyzing human corporeality. Both of these approaches are based on distinct foundations, which include social institutions, fields of activity and functional purposes of the human body. The common basis for the two approaches lies in the biosocial component, which is considered one of the defining characteristics of an image of corporeality. Depending on the approach used, the authors propose three classifications of images of corporeality: private and public, collective and individual and normal and abnormal. Regulatory practices that are aimed at consolidating these images of corporeality are analyzed within the framework of the current legal regulations in the BRICS countries. The authors conclude by noting that corporeality is a biosocial category that serves as the basis for legal subjectivity, while gaps in existing images of corporeality are the basis for its normalization.

Keywords: human body; corporeality; individual; state; BRICS, body functions; collective body; normality; abnormality.

Recommended citation: Aleksandra Zorina & Ivan Yapryntsev, *Images of Corporeality in Law: The Experience of the BRICS Countries*, 11(1) BRICS Law Journal 58–83 (2024).

Table of Contents

Introduction

1. Corporeality: Institutional and Functional-Activity Approaches to Understanding the Concept

1.1. Institutional Approach

1.2. Functional-Activity Approach

2. Private and Public Images of Corporeality

2.1. The Essence of Private and Public Images of Corporeality

2.2. Legal Regulation of Private and Public Images of Corporeality

3. Individual and Collective Images of Corporeality

3.1. The Essence of Individual and Collective Images of Corporeality

3.2. Legal Regulation of Individual and Collective Images of Corporeality

4. Normality versus Abnormality in Images of Corporeality

4.1. Division in the Images of Corporeality through the Prism of Normality and Abnormality

4.1.1. Healthy Body and Sick Body

4.1.2. Male Body and Female Body

4.1.3. Reproductive Body and Non-Reproductive Body

4.1.4. Young Body and Old Body

4.1.5. Living Body and Dead Body

4.2. Abnormality as a Socially Approved Manifestation of Human Corporeality (Using the Example of the Russian Federation)

Conclusion

Introduction

The human body, functioning as a sphere of social as well as legal influence, provides a specific setting for an individual to realize his or her capabilities to interact with the surrounding reality.

Given this understanding of the issue, it becomes important to consider those criteria and requirements that are normatively laid down for possible forms and methods of representation of the human body. This process leads to the formation of various images of corporeality, which affect, among other things, the legal status (i.e. the totality of subjective rights, freedoms and responsibilities) of an individual.

In this regard, the very posing of the question of images of corporeality is predetermined not only and to a lesser extent by the search for their presence in legal regulation but also by the extent to which and how the attribution of these images to a particular individual influences that individual in terms of integration into the existing legal reality.

Before further examining the issues that have been identified, it appears necessary to determine the content of the concept of “corporeality” in its normative context.

1. Corporeality: Institutional and Functional-Activity Approaches to Understanding the Concept

As noted above, a person’s corporeality, to a certain extent, influences the range of his or her subjective capabilities in their legal dimension.

At the same time, corporeality itself is a particular, socially rooted idea of the human body, which is formed by the unity of various characteristics associated with the representation of this body. This allows us to assert that the category of corporeality is biosocial in nature; that is, it is determined both by the internal qualities of the human body and by external social factors.

Such a general idea of corporeality in law does not exclude the possibility of different approaches to revealing the content of this category. In particular, it seems reasonable to talk about institutional and functional-activity approaches to understanding corporeality.

1.1. Institutional Approach

In law, the corporeality of a person is a set of attributes that form a particular image of a person and enable participation in legal relations. Such attributes are proposed to be divided into two groups:

1. Biological
2. Social

Social attributes can be further divided into a number of other factors, including but not limited to the following:

- culture – every person is brought up in a certain culture, which shapes their views, behaviors and values;
- social status – a person’s social status can be determined on the basis of income, profession, education and other factors;
- religion – religious beliefs and practices can have a strong influence on a person’s life and relationships with other people;
- marital status – this category pertains to the presence or absence of marital status, the presence of children and other aspects of a person’s family life;
- ethnicity – nationality and traditions can influence people’s behavior and attitudes etc.

As a result, attributes can form an image of corporeality both ‘from the inside’ and ‘from the outside’, thereby creating a certain idea of the human body.

It is important to distinguish concepts such as body and corporeality. The body is a kind of physical shell of a person, consisting of organs, tissues, bones and muscles; it is a specific material that allows us to perform various functions. In turn,

corporeality is a broader concept; it refers to a deeper and more internal experience associated with the consciousness of the body, both independently by each person and collectively by society. Or, to put it another way, it refers to the ways in which we manifest ourselves in the world around us through our bodies, as well as the ways in which we interact with our body and the outside world.

Thus, the main difference between the body and corporeality is that the body is a physical shell, whereas corporeality is the expression of the subjective and objective experiences associated with the body.

The combination of various characteristics forms a certain image, namely, an idea of the subject.

Attributes of corporality play a key role in the formation of legal relations; for example, the protection of corporeality often becomes the basis for guaranteeing individual rights and freedoms as well as establishing responsibilities. It can be hypothesized that subjectivity is manifested in law through images of corporeality.

The manifestation of subjectivity through the image of corporeality is carried out in several aspects, including the following:

1. Physical Aspect: corporeality determines our existence in the physical world and shapes our experience. The sensations, feelings and perceptions associated with our body influence how we interact with our environment and how we perceive ourselves as individuals.

2. Psychological Aspect: corporeality also affects our psychological component. Our physical condition, health and sense of comfort have an impact on our emotional state, our well-being and ability to function in everyday life. Bodily sensations can affect our self-esteem and our mental well-being.

3. Sociocultural Aspect: cultural standards and societal expectations can influence our perception of ourselves. Beauty standards, social roles and norms can all influence how we perceive our body and our subjectivity.

Images of corporeality in law can also be varied and depend on the context in which subjectivity is manifested. It is proposed to establish that images of corporeality:

- can vary depending on the space in which the body is located, specifically private and public corporeality;
- can vary depending on the quantitative criterion, primarily individual and collective corporeality.

1.2. Functional-Activity Approach

The functional-activity approach to understanding corporeality is predetermined by a number of criteria, namely:

- the field of activity in which the human body is placed;
- the functional task assigned to such a body; and
- the human body itself, its condition and its characteristics.

Accordingly, when taken collectively, these criteria represent a system of qualitative and quantitative characteristics of the human body, which form an image (conceptualization) of the body in a specific situation (in this case, by which we mean place and time).

A few examples of these kinds of images, which differ in terms of the requirements placed on them depending on the situation, can be, in particular, the living body in the field of labor activity (where such characteristics as age, gender, health status, the fact of working ability, etc. will be decisive),¹ the human body in the field of political activity (in this case, the characteristics of appearance, the method of dying and the features of disposal of the body are important²) and the unborn body in the field of clinical research (where factors such as method of conception, period of development of the embryo and fetus, etc. hold significance³).

In this regard, it should be noted that situations are also potentially possible in which the state of the human body does not correspond to the field of activity in which it is placed and, as a result, does not fulfill its functional task. Such a gap in the image of corporeality serves as the basis for its assessment from the point of view of normality and abnormality. Accordingly, this approach used for the formation of images of corporeality in law allows us to assert that corporeality is a complex of various characteristics of the human body, which are either:

- desirable and approved, which predetermines the desire to ensure (guarantee) such an image within the framework of its normalization; or
- considered socially unacceptable and undesirable, which presupposes the establishment of a regulatory framework in relation to such images.

As a result, two distinct regulatory practices are put into place:

- to correct the images;
- to prevent their spread.

Thus, the indicated dichotomy of images of corporeality allows us to identify the general framework of their existence, namely the categorization of human corporeality into the realms of normality and abnormality. The very characteristics of normality and abnormality are prerequisites in exerting normative influence on the human body.

¹ See, e.g., Special Rules on the Labour Protection of Female Employees (Jan. 22, 2024), available at <https://www.hrone.com/blog/special-rules-labor-protection-female-employees-china/>.

² See Канторович Э.Х. Два тела короля. Исследование по средневековой политической теологии [Ernst H. Kantorowicz, *Two Bodies of the King: A Study in Medieval Political Theology*] (2nd ed. 2015); Папавичини Бальяни А. Тело папы [Agostino Paravicini-Bagliani, *The Pope's Body*] (2021).

³ See for more details Попова О.В. Тело как территория технологий: от социальной инженерии к этике биотехнологического конструирования: монография [Olga V. Popova, *The Body as a Territory of Technology: From Social Engineering to the Ethics of Biotechnological Design: Monograph*] 156–222 (2021).

2. Private and Public Images of Corporeality

2.1. The Essence of Private and Public Images of Corporeality

The terms 'private and public corporeality' refer to two different spheres of a person's life, in each of which different aspects of that person's personality and behavior are manifested.

Private corporeality refers to the intimate sphere of a person's life, when one is in settings where there is usually a boundary of privacy, such as at home or among close friends and family. The image of private corporeality suggests greater ease and frankness.

Public corporeality, on the contrary, is associated with the public sphere of life, when a person is in public settings or interacts with a large number of people, such as colleagues, acquaintances or strangers. In public corporeality, one is expected to exhibit a higher level of presentability, monitor their behavior, conform to societal expectations in terms of appearance and abide by certain social norms. That is to say, some image of corporeality is clearly developed, to which the subject of legal relations must correspond.

2.2. Legal Regulation of Private and Public Images of Corporeality

Legal regulation of a person's private and public corporeality is carried out through regulations that define restrictions and requirements regarding behavior and expression of corporeality in public and private situations.

For example, when speaking about family and personal relationships, the presence of norms in the administrative⁴ and criminal⁵ legislation of the Russian Federation on domestic violence results in the state's creation of a certain image of a family person who should, ideally speaking, not use physical force against a partner.

Similar tendencies towards forming an image of private corporeality can be seen in other BRICS countries. This is confirmed by the collection of legal regulations that can be found in the BRICS countries (see Table 1 below). For instance, the model of formation of the image of corporeality in India within the framework of the presented regulation is particularly interesting since the regulation is mainly aimed at women, thereby creating the image of a man commonly causing harm to a woman.

⁴ See Кодекс Российской Федерации об административных правонарушениях от 30 декабря 2001 г. № 195-ФЗ // Российская газета. 2001. № 256 [Code of the Russian Federation on Administrative Offenses No. 195-FZ of 30 December 2001, Rossiyskaya Gazeta, 2001, No. 256], Art. 6.1.1.

⁵ See Уголовный кодекс Российской Федерации от 13 июня 1996 г. № 63-ФЗ // Собрание законодательства РФ. 1996. № 25. Ст. 2954 [Criminal Code of the Russian Federation No. 63-FZ of 13 June 1996, Collection of Legislation of the Russian Federation, 1996, No. 25, Art. 2954], Arts. 116.1, 115.

Table 1: Legal Regulations Governing Images of Corporeality in the BRICS Countries

Brazil	Russia	India	China	South Africa
1. Domestic Violence Law 2006 (Law 11.340/2006) ⁶ 2. Update of Rape crimes in the Criminal Code (Law 12.015/2009) ⁷ 3. Femicide Law of 2015 (Law 13.104/2015) ⁸	1. Code of Administrative Offenses of the Russian Federation 2. Criminal Code of the Russian Federation	1. The Protection of Women From Domestic Violence Act, 2005 ⁹ 2. The Indian Penal Code, 1860 ¹⁰ 3. The Criminal Law (Amendment) Act 2013 ¹¹	1. Constitution of the People's Republic of China ¹² 2. Chinese Civil Code: Book V Marriage and Family ¹³ 3. Law of the People's Republic of China "On Combating Domestic Violence" ¹⁴ 4. Criminal Code of the People's Republic of China ¹⁵	1. The Domestic Violence Act 116 of 1998 ¹⁶ 2. The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 ¹⁷ 3. The Protection from Harassment Act 17 of 2011 ¹⁸

⁶ Law 11340 (The Maria da Penha Law) (Jan. 22, 2024), available at <https://evaw-global-database.unwomen.org/en/countries/americas/brazil/2006/law-11340-the-maria-da-penha-law-of-7-august-2006>.

⁷ Law 12.015/2009 (Jan. 22, 2024), available at https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/lei/12015.htm.

⁸ Law 13.104/2015 (Jan. 22, 2024), available at http://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2015/lei/L13104.htm.

⁹ The Protection of Women from Domestic Violence Act (2005) (Jan. 22, 2024), available at <https://ddashboard.legislative.gov.in/sites/default/files/A2005-43.pdf>.

¹⁰ IPC (The Indian Penal Code), Central Act XLV of 1860, The Acts of the Legislative Council of India of 1861, with an Analytical Abstract Prefixed to Each Act, Vol. 5, Calcutta 129–266 (1862).

¹¹ The Criminal Law (Amendment) Act (2013) (Jan. 22, 2024), available at http://www.ycce.edu/admin/pdf/Anti-rape_bill_2013.pdf.

¹² 中华人民共和国宪法 (2018年修订 [Constitution of the People's Republic of China (revised in 2018)] (Jan. 22, 2024), available at https://www.gov.cn/guoqing/2018-03/22/content_5276318.htm.

¹³ Civil Code of the People's Republic of China (adopted at the 3rd session of the Standing Committee of the Thirteenth National People's Congress of the People's Republic of China, 28 May 2020, promulgated by Decree of the Chairman of the People's Republic of China of 28 May 2020, No. 45, entered into force 1 January 2021) (Jan. 22, 2024), available at <http://www.npc.gov.cn>.

¹⁴ Law of the People's Republic of China of 1 March 2016 "On Combating Domestic Violence" (adopted at the 18th session of the Standing Committee of the Twelfth National People's Congress of the People's Republic of China, 27 December 2015, promulgated by Decree of the Chairman of the People's Republic of China of 27 December 2012, No. 37, entered into effect 1 March 2016) (Jan. 22, 2024), available at <http://www.npc.gov.cn>.

¹⁵ Criminal Code of the People's Republic of China (adopted at the 2nd session of the National People's Congress of the People's Republic of China by the fifth convocation on 1 July 1979, promulgated by Decree of the Chairman of the People's Republic of China No. 5 of 1 July 1979, entered into force of 1 January 1980, as amended and additional) (Jan. 22, 2024), available at <http://www.npc.gov.cn>.

¹⁶ Domestic Violence Act 116 (1998) (Jan. 22, 2024), available at <https://www.gov.za/documents/domestic-violence-act>.

¹⁷ Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 (2007) (Jan. 22, 2024), available at <https://www.gov.za/documents/criminal-law-sexual-offences-and-related-matters-amendment-act>.

¹⁸ The Protection from Harassment Act 17 (2011) (Jan. 22, 2024), available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89625/103005/F-201816747/ZAF89625.pdf>.

In the same vein, by introducing amendments to the Constitution of the Russian Federation clarifying that marriage is a union of a man and a woman,¹⁹ the state creates an image of the corporeality of the spouses as a man and a woman. It is worth noting that in cases where we are talking about marriage as a social institution, the image of the spouses' corporeality ceases to be exclusively private and becomes public.

Within the framework of this issue, the situation of the system of legal regulation in BRICS of the private image of corporeality is quite different (see Table 2 below). Thus, in Brazil and South Africa, same-sex marriage is legalized, unlike in Russia, India and China; accordingly, there exist different ideas about the formation of a unified image of private corporeality in the context of public one.

Table 2: **Laws Governing the Private Corporeality of Same-Sex Marriages in the BRICS Countries**

Brazil	Russia	India	China	South Africa
Legalization of same-sex marriage: decision from the National Justice Council	Spouses – husband and wife: The Constitution of the Russian Federation	India does not recognize same-sex marriages or civil unions. There is no uniform marriage law in India	Spouses – Husband and Wife: The Constitution of the People's Republic of China ²⁰	Legalization of same-sex marriage: Civil Unions Act 2006 ²¹

The norm banning gender reassignment in the Russian Federation²² also creates an image of private corporeality, which can be understood as an awareness of oneself exclusively in the gender that was present at birth, whereby individuals are expected to ideally, identify solely with the gender assigned to them at birth. The practice of gender reassignment in Russia imposes certain restrictions on citizens who have already changed their gender, for example, a ban on the adoption of children. Additionally, one of the consequences of gender reassignment is the annulment of marriages concluded by such citizens. However, this situation is not universal for all countries; examples of the formation of images of private corporeality in the

¹⁹ See Конституция Российской Федерации (принята всенародным голосованием 12 декабря 1993 г. с изменениями, одобренными в ходе общероссийского голосования 1 июля 2020 г.) // Официальный интернет-портал правовой информации [Constitution of the Russian Federation, adopted by popular vote, 12 December 1993 with amendments approved during the all-Russian vote, 1 July 2020, Official Internet Portal of Legal Information], Art. 72, cl. "zh1" (Jan. 22, 2024), available at <http://www.pravo.gov.ru>.

²⁰ Constitution of the People's Republic of China, *supra* note 12.

²¹ Civil Unions Act (2006) (Jan. 22, 2024), available at https://www.gov.za/sites/default/files/gcis_document/201409/a17-061.pdf.

²² See Федеральный закон от 21 ноября 2011 г. № 323-ФЗ «Об основах охраны здоровья граждан в Российской Федерации» // Собрание законодательства РФ. 2011. № 48. Ст. 6724 [Federal Law No. 323-FZ of 21 November 2011 (as amended 24 July 2023). On the Fundamentals of Protecting the Health of Citizens in the Russian Federation, Collection of Legislation of the Russian Federation, 2011, No. 48, Art. 6724], Art. 45.1.

context of the public sphere as viewed through the prism of recognizing the desire for gender reassignment are provided in Table 3 below.

Table 3: Gender Reassignment Rights in the BRICS Countries

Brazil	Russia	India	China	South Africa
Legal, surgery not required ²³	Illegal, prohibition of gender reassignment, apart from medical intervention ²⁴	Legal, surgery not required ²⁵	Legal, but requires surgery ²⁶	Legal, surgery not required ²⁷

When speaking about the situation in modern Russia, it is proposed to hypothesize that the formation of images of private corporeality is determined by both public interests and the images of public corporeality. For instance, in the process of “disposing of the body” to form one’s corporeality, private and public interests both come into the balance, which, for example, are manifested in the following question: is a person free to perform any actions with the body? Does this include any actions at all that are intended to shape his corporeality as he perceives himself? A.Sh. Tkhostov noted in his work that “the answer to the question, what is My body, on the one hand, seems self-evident, since everyone can quite consistently determine what is ‘my body’ and what is not. But, on the other hand, when trying to do this, I immediately encounter rather difficult questions. How will I determine what belongs to me and what belongs to the world?”²⁸ Thus, despite the fact that a person is endowed with various rights and guarantees for the formation of corporeality, which is also manifested in the disposal of his body, the state still intervenes in this area by imposing restrictions such as, for

²³ In March 2018, Brazil’s Supreme Court ruled that transgender people have the right to change their name and gender on their birth certificate without the need for gender reassignment surgery or seeing a doctor. The change can be made now at the notary’s office.

²⁴ Federal Law No. 323-FZ, *supra* note 22.

²⁵ The Transgender Persons (Protection of Rights) Act (2019) (Jan. 22, 2024), available at <https://www.indiacode.nic.in/bitstream/123456789/13091/1/a2019-40.pdf>.

²⁶ There are two regulations from the Ministry of Public Security providing guidance to local departments for managing the process of changing gender markers. These two regulations, the Reply to Questions Concerning the Alteration of Assigned Sex on Household Registration for Citizens Following Sex Change (MPS Ordinance No. 478 (2008)) and the Ministry of Public Security Reply to Questions Concerning the Alteration of Assigned Sex on Household Registration for Citizens Following Sex Change Surgery (MPS Ordinance No. 131 (2002)), require transgender people to submit the following documentation after undergoing GAS procedures to formally apply for changing the gender marker on official documentation.

²⁷ The Alteration of Sex Description and Sex Status Act (2003) (Jan. 22, 2024), available at <https://www.gov.za/documents/alteration-sex-description-and-sex-status-act>.

²⁸ Тхостов А.Ш. Психология телесности [Alexander Sh. Tkhostov, *Psychology of Corporeality*] 78 (2002).

example, a ban on prostitution as an organization and occupation,²⁹ restrictions on the duration of pregnancy that limits a woman's will to have an abortion,³⁰ suicide is not considered a "norm of behavior," since attempted suicide is one of the grounds for involuntary hospitalization in a psychiatric hospital.³¹ Additionally, it is possible that upon release, such a citizen may be subject to medical restrictions in the form of a prohibition from driving³² along with a number of restrictions on employment.³³

When talking about the public and private distinction in relation to corporeality, it is important to consider the spatial requirements of privacy, such as an apartment or a public place; for instance, the case of a kissing couple. The use of the body to make such a choice does not change depending on the location. This is a private action, whether it takes place in a private space or not. However, not every action that occurs in a private space will be considered private in nature; for example, the choice of one person to satisfy sexual needs against the will of another person becomes the subject of criminal law³⁴ and is a matter of private-public prosecution.³⁵

²⁹ See Criminal Code of the Russian Federation, *supra* note 5, Art. 241.

³⁰ See Federal Law No. 323-FZ, *supra* note 22, Art. 56.

³¹ See Закон Российской Федерации от 2 июля 1992 г. № 3185-1 «О психиатрической помощи и гарантиях прав граждан при ее оказании» // Ведомости СНД и ВС РФ. 1992. № 33. Ст. 1913 [Law of the Russian Federation No. 3185-1 of 2 July 1992. On Psychiatric Care and Guarantees of the Rights of Citizens during its Provision, Gazette of the Congress of People's Deputies of the Russian Federation and the Supreme Council of the Russian Federation, 1992, No. 33, Art. 1913], Art. 29.

³² See Постановление Правительства Российской Федерации от 29 декабря 2014 г. № 1604 «О перечнях медицинских противопоказаний, медицинских показаний и медицинских ограничений к управлению транспортным средством» // Собрание законодательства РФ. 2015. № 2. Ст. 506 [Decree of the Government of the Russian Federation No. 1604 of 29 December 2014. On the Lists of Medical Contraindications, Medical Indications and Medical Restrictions for Driving a Vehicle, Collection of Legislation of the Russian Federation, 2015, No. 2, Art. 506].

³³ See Приложение № 2. Перечень медицинских противопоказаний к работам с вредными и (или) опасными производственными факторами, а также работам, при выполнении которых проводятся обязательные предварительные и периодические медицинские осмотры Приказа Министерства здравоохранения Российской Федерации от 28 января 2021 г. № 29н «Об утверждении Порядка проведения обязательных предварительных и периодических медицинских осмотров работников, предусмотренных частью четвертой статьи 213 Трудового кодекса Российской Федерации, перечня медицинских противопоказаний к осуществлению работ с вредными и (или) опасными производственными факторами, а также работам, при выполнении которых проводятся обязательные предварительные и периодические медицинские осмотры» // Официальный интернет-портал правовой информации [Appendix No. 2. List of Medical Contraindications for Work with Harmful and (or) Hazardous Production Factors, as Well as Work during Which Mandatory Preliminary and Periodic Medical Examinations Are Carried Out Order of the Ministry of Health of the Russian Federation, "On Approval of the Procedure for Conducting Mandatory Preliminary and Periodic Medical Examinations" Examinations of Workers Provided for in Part 4 of Article 213 of the Labor Code of the Russian Federation, the List of Medical Contraindications for Carrying out Work with Harmful and (or) Hazardous Production Factors, as Well as Work during Which Mandatory Preliminary and Periodic Medical Examinations Are Carried Out, No. 29n of 28 January 2021, Official Internet Portal of Legal Information] (Jan. 22, 2024), available at <http://pravo.gov.ru>.

³⁴ See Criminal Code of the Russian Federation, *supra* note 5, Arts. 131, 132.

³⁵ See Уголовно-процессуальный кодекс Российской Федерации от 18 декабря 2001 г. № 174-ФЗ // Собрание законодательства РФ. 2001. № 52 (ч. 1). Ст. 4921 [Criminal Procedure Code of the Rus-

Thus, despite the presence of images of private corporeality, images of public corporeality have priority since the formation of images of private corporeality occurs through the prism of the formation of images of public corporeality in order to correspond to a certain image. This is due to the influence of the state on the formation and control of social norms and corresponding standards of behavior. Legal norms have the power to influence individuals and society as a whole to conform to a certain image and norms of public corporeality. This may be related to political, social, economic or cultural aspects. As people strive to conform to certain patterns or standards set by the state, private corporeality may be influenced by public interests and demands.

3. Individual and Collective Images of Corporeality

3.1. The Essence of Individual and Collective Images of Corporeality

The image of individual corporeality in law refers to the legal status of an individual. This means that every person is an independent subject of the law, endowed with certain subjective rights and corresponding obligations. The image of individual corporeality includes rights such as the right to life, liberty, property, dignity, personal integrity among other rights.

The collective body, on the other hand, refers to groups of people or organizations that can be recognized as legal subjects. This may include entities such as corporations, public organizations, government agencies, labor unions and other groups that have united to achieve common goals or have common legal interests. The “collective body” in the field of law also has its own set of rights, duties and responsibilities.

Images of individual and collective corporeality are important concepts in law that help define legal status and form the basis for the protection and application of legal rules to individuals and groups.

An interesting collective subject to consider is “people.”

According to J. Agamben, the semantics of the word “people” in European languages has a dichotomy (such as “*populus*” in Latin, “*popolo*” in Italian, “*peuple*” in French, ‘*pueblo*’ in Spanish and “people” in English). On the one hand, it describes the unified integrity of the people as a political body. On the other hand, it describes individual bodies that are a fragmented multitude of people.³⁶ The people give legitimacy to government bodies through elections and delegation of their powers. However, the people have the opportunity to withdraw their support not only through elections but also through street protests that express their collective body. Public authorities do not want such expressions of collective corporeality but are not able to completely neutralize, subjugate or destroy them since the source of legitimacy stems from the people themselves.

sian Federation No. 174-FZ of 18 December 2001, Collection of Legislation of the Russian Federation, 2001, No. 52 (part 1), Art. 4921], Art. 20.

³⁶ Агамбен Дж. Средства без цели [Giorgio Agamben, *Means Without Ends*] 38 (2015).

Another interesting object of study for the analysis of collective corporeality is society. Society, as a form of collective corporeality in law, is a collection of people who unite into social groups and form legal relations between themselves and with the state. Society is commonly regarded as a single whole, having its own rights and obligations towards both the state and other members of society. The legal regulation of collective corporeality is aimed at protecting the interests of society as a whole, including ensuring social protection, establishing rules of behavior and moral standards and regulating economic and political relations. As part of the legal regulation of collective corporeality, the state acts as a guarantor of the protection of the rights and freedoms of all members of society and ensures compliance with laws and regulations.

Individual corporeality and collective corporeality have a mutually influencing effect. The characteristics, legal status and activities of each individual subject have a direct impact on the formation and functioning of the image of collective corporeality.

Images of individual corporeality, being an independent element of society, can influence images of collective corporeality through their actions, choices, decisions and participation in various legal processes. In this way, individual actors contribute to the formation of collective norms, values and legal standards.

On the other hand, formerly established images of collective corporeality have the ability to influence images of individual corporeality through legal norms, culture, political structure and social obligations. This can happen through the establishment and regulation of the rights and responsibilities of citizens, as well as through providing opportunities for participation in decision-making and the formulation of legislation.

Moreover, the image of collective corporeality can influence the image of the individual by disciplining it, censoring it or simply not accepting it into the collective corporeality because individual corporeality differs from the generally accepted and established image of collective corporeality. It is possible to highlight the dominant position of collective spaces in various cultural and historical eras. For example, the agora and theater in ancient Greece, the gladiatorial circus, the baths and the Senate square in Rome, the temple and mysteries in the Middle Ages, the market and carnival squares and streets in the Renaissance, as well as a variety of discipline spaces, including barracks, manufactories and factories, in addition to places of punishment and isolation, such as hard labor, prison, psychiatric hospitals and insane asylums in modern times.³⁷ All of these places, in their respective eras, played a key role in the formation of collective corporeality, using a variety of methods to influence individual corporeality.

³⁷ Корецкая М.А. Народ как носитель суверенности и границы политической теологии // Социодинамика. 2019. № 1. С. 11 [Marina A. Koretskaya, *The People as a Bearer of Sovereignty and the Boundaries of Political Theology*, 1(11) Sociodynamics 10, 11 (2019)].

3.2. Legal Regulation of Individual and Collective Images of Corporeality

Moving on to this section, it seems necessary to put forward the hypothesis that the legal regulation of the formation of images of individual corporeality is secondary in relation to the collective body, as well as in private and public corporeality. This is because all regulation is aimed at creating a certain image of corporeality that would fit into the collective image. At this stage, it is worth clarifying that the above-mentioned hypothesis is not universal for all situations; this relationship may change. As an example, let us examine the situation of modern Russia within the context of this study.

In the Russian Federation, tobacco smoking is prohibited in various places, including cafes, playgrounds, public transport, metros, train stations and outdoor areas at a distance of less than fifteen meters from metro and train station entrances, as well as in the public areas of apartment buildings.³⁸ This prohibition is due to the formation of an image of “healthy individual” corporeality, which subsequently influences the formation of an image of healthy collective corporeality. Tobacco smoke may be inhaled by non-smokers, which can be harmful to their health. For this reason, smoking is allowed only in specially designated areas, which must be located away from residential buildings and large crowds of people. In general, the trend in the formation of this type of individual corporeality through collective corporeality can be traced in all of the BRICS countries (see Table 4 below).

Table 4: **A Comparison of Smoking Regulations in Public Places across the BRICS Countries**

Brazil	Russia	India	China	South Africa
Smoking is prohibited in public places ³⁹	Smoking is prohibited in public places	Smoking is prohibited in public places	Smoking is prohibited in public enclosed places ⁴⁰	Smoking is prohibited in public places ⁴¹

Demography⁴² is an important national priority of the state of the Russian Federation. In order to form a certain image of collective corporeality, it is necessary to

³⁸ Федеральный закон от 23 февраля 2013 г. № 15-ФЗ «Об охране здоровья граждан от воздействия окружающего табачного дыма и последствий потребления табака» // Собрание законодательства РФ. 2013. № 8. Ст. 721 [Federal Law No. 15-FZ of 23 February 2013. On Protecting the Health of Citizens from the Effects of Environmental Tobacco Smoke and the Consequences of Tobacco Consumption, Collection of Legislation of the Russian Federation, 2013, No. 8, Art. 721].

³⁹ Tobacco Control Law (Jan. 22, 2024), available at <https://www.tobaccocontrolaws.org/legislation/india>.

⁴⁰ Tobacco Control Law (Jan. 22, 2024), available at <https://www.tobaccocontrolaws.org/legislation/china#:~:text=Smoke%20Free%20Places,such%20as%20long%2Ddistance%20transport>.

⁴¹ The Tobacco Products Control Act 83 (1993) (Jan. 22, 2024), available at <https://www.gov.za/documents/tobacco-products-control-act>.

⁴² Указ Президента Российской Федерации от 7 мая 2018 г № 204 «О национальных целях и стратегических задачах развития Российской Федерации на период до 2024 года» // Собрание зако-

create an image of individual corporeality. This is accomplished through a variety of legal mechanisms, such as providing financial support for families at the birth of children, including the provision of maternity capital; increasing the affordability of housing for families with children; and maintaining the reproductive health of the population (by increasing the availability and quality of medical care for women during pregnancy and childbirth, as well as for newborn children and increasing the efficiency of in vitro fertilization technology).⁴³ In this way, such norms encourage people to procreate, and therefore, to form their corporeality with the subsequent reproduction of the genotype. Moreover, the state introduces certain restrictions and prohibitions, which also affect the formation of individual corporeality. For example, artificial termination of pregnancy at the request of a woman is permitted only up to twelve weeks⁴⁴ of pregnancy and the circulation of drugs used for abortion is strictly regulated.⁴⁵ These kinds of norms are determined, among other things, by concern for the health of each person, but they are also aimed at creating a unified image of individual corporeality.

In addition to the fact that issues pertaining to a person's reproductive choice have become normalized, these topics are also the subject of discussion concerning collective corporeality. When a person makes the conscious choice to form an image of corporeality without reproducing children, then that image does not coincide with the existing and generally recognized image of others, which leads to non-acceptance of such a subject by the collective body. That is, the image of individual corporeality becomes the object of evaluation for collective corporeality. Evaluation is often based on adherence to instructions provided by superiors, observance of traditions and practices, fulfillment of health criteria, etc. In cases of non-compliance, social sanctions aimed at normalizing behavior may be applied to the person. It is important to note that such sanctions are not always physical; moral condemnation or expressions of disapproval can also act as sanctions. Moreover, often the people

нодательства РФ. 2018. № 20. Ст. 2817 [Decree of the President of the Russian Federation No. 204 of 7 May 2018. On National Goals and Strategic Objectives of the Development of the Russian Federation for the Period until 2024, Collection of Legislation of the Russian Federation, Collection of Legislation of the Russian Federation, 2018, No. 20, Art. 2817]; Указ Президента Российской Федерации от 21 июля 2020 г. № 474 «О национальных целях развития Российской Федерации на период до 2030 года» // Собрание законодательства РФ. 2020. № 30. Ст. 4884 [Decree of the President of the Russian Federation No. 474 of 21 July 2020. On the National Development Goals of the Russian Federation for the Period until 2030, Collection of Legislation of the Russian Federation, 2020, No. 30, Art. 4884].

⁴³ «Основные направления бюджетной, налоговой и таможенно-тарифной политики на 2023 год и на плановый период 2024 и 2025 годов» (утв. Минфином России) [The Main Directions of Budget, Tax and Customs Tariff Policy for 2023 and for the Planning Period of 2024 and 2025 (approved by the Ministry of Finance of Russia)].

⁴⁴ Federal Law No. 323-FZ, *supra* note 22.

⁴⁵ Приказ Министерства здравоохранения Российской Федерации от 1 сентября 2023 г. № 459н [Order of the Ministry of Health of the Russian Federation No. 459n of 1 September 2023] (Jan. 22, 2024), available at <https://www.consultant.ru>.

themselves understand the rationale behind the sanctions that were applied to them because of their familiarity with the norms and traditions of their society.

4. Normality versus Abnormality in Images of Corporeality

The idea of normality as a conceptual framework for understanding the characteristics of the human body is not completely new to the fields of social sciences and humanities. In this particular case, we should talk about the ideas of M. Foucault, who studied both the manifestation of abnormality and the corresponding reactions on the part of society and the state to its existence and manifestation,⁴⁶ as well as various kinds of disciplinary practices of normalization affecting the human body;⁴⁷ and the approaches of J. Agamben, who considered the existence of the human body in the abnormal conditions of a concentration camp⁴⁸ etc.

In order to fully grasp the problem of images of corporeality through this prism, it would be prudent to state that normality and abnormality should be considered through the prism of assessing the human body from the perspective of both internal and external actors (including, first of all, society, the state, as well as other social institutes). In this sense, normality as such reflects the state of the human body, which is perceived socially (and in certain cases personally) as desirable and recognized as necessary, that is, acts as a certain social convention.

The opposite situation, in which the state of a person's body deviates from the generally accepted framework and is not recognized by surrounding subjects as necessary and desirable for the person himself and society, is associated with an abnormality of corporeality.⁴⁹

At the same time, it should be noted that the very characteristic of normality and abnormality of corporeality, depending on a specific situation (such as, the field of activity, functions assigned to the human body and its overall condition) is the basis for the legal subjectivity of an individual.

The described general framework for the formation of images of corporeality in the context of their normality and abnormality was used to determine the fork in the path of these kinds of images in the current legal regulation.

⁴⁶ Фуко М. Ненормальные. Курс лекций, прочитанных в Коллеж де Франс в 1974–1975 учебном году [Michel Foucault, *Abnormal: A Course of Lectures Given at the Collège de France in the 1974–1975*] (2005).

⁴⁷ Фуко М. Надзирать и наказывать. Рождение тюрьмы [Michel Foucault, *Discipline & Punish: The Birth of the Prison*] 7–42, 165–207 etc. (2022).

⁴⁸ Агамбен Дж. Homo Sacer. Суверенная власть и голая жизнь [Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*] 151–239 (2011).

⁴⁹ As a digression, we note that the state of abnormality can also be associated with a socially approved deviation from the image of a normal body.

4.1. Division in the Images of Corporeality through the Prism of Normality and Abnormality

Keeping in mind the above-discussed framework of the images of corporeality, perceived through the prism of the characteristics of the body as either normal or abnormal, it is permissible to talk about the following images of human corporeality existing in law.

4.1.1. Healthy Body and Sick Body

Health as a criterion in the formation of corporeality is used in legal regulation both at the international⁵⁰ and national levels.⁵¹ Attention paid by society and the state to ensuring and reproducing healthy bodies is associated with ensuring public interests in preserving the population. Thus, in particular, in the People's Republic of China (PRC), the current program regulations and legal acts consider the problem of health promotion at the national level as one of the main directions of state development.⁵²

The issue of determining the degree of health of a particular person is associated with the need for a normative definition of the criteria for a healthy body and a sick body, which in this case is considered as abnormal.⁵³ This means establishing the need to have certain criteria for classifying a body as healthy or sick and, as a result, including appropriate regulatory practices to bring it to the desired state, that of a "healthy body."

⁵⁰ In particular, the Charter of the World Health Organization establishes that health is a state of complete physical, mental and social well-being and not just the absence of disease and physical defects. See Charter (Constitution) of the World Health Organization (WHO) (adopted in New York on 22 July 1946), Official Documents of the World Health Organization, No. 2, p. 100.

⁵¹ Federal Law No. 323-FZ, *supra* note 22; Национальная программа семейного здоровья – Стратегия семейного здоровья [National Family Health Program – Family Health Strategy] (Jan. 22, 2024), available at <https://www.gov.br/saude/pt-br/acao-a-informacao/acoes-e-programas/estrategia-saude-da-familia>; Стратегия «Здоровый Китай 2030», отражающий основные направления развития сферы здравоохранения [The Healthy China 2030 Strategy, Reflecting the Main Directions of Development of the Healthcare Sector]. See also A. Elyar Najmehchi, *China's Healthcare Sector Promising for 2020 and Beyond*, China Daily, 25 December 2019 (Jan. 22, 2024), available at <https://www.chinadaily.com.cn/a/201912/25/WS5e02bfeaa310cf3e35580799.html> etc.

⁵² See Guilhem Fabre, *The Chinese Healthcare Challenge: Comment on 'Shanghai Rising: Avoidable Mortality as Measured by Avoidable Mortality Since 2000'*, 4(3) Int. J. Health Pol'y Mgmt. 195 (2015).

⁵³ In this case, it is necessary to clarify the fact that the patient's body is classified as a manifestation of abnormal physicality. The presence of a particular disease is perceived as a situation that goes beyond the normal, in the sense that the disease itself is not perceived as normal. At the same time, when corporeality is understood as the basis of legal personality, the sick body can be normatively considered normal, that is, as a basis for extending appropriate regulation to the bearer of such a body. See, for e.g., the social program Bolsa Família, which aims to support low-income families if their children attend school and are vaccinated. See also Fábio V. Soares et al., *Evaluating the Impact of Brazil's Bolsa Família: Cash Transfer Programs in Comparative Perspective*, 45(2) Latin Am. Res. Rev. 173 (2008).

This approach is confirmed by existing regulatory requirements for the diagnosis and treatment of coronavirus infection (COVID-19),⁵⁴ as well as regulations that apply to individuals with certain diseases.⁵⁵

4.1.2. *Male Body and Female Body*

In this case, the gender division of corporeality does not act as the attribution of a particular body to the image of normal or abnormal (although there are certain situations, bearing in mind the time and location of the body, in which a male body or a female body was considered normal or abnormal solely based on their gender⁵⁶).

It should be noted that the image of normal corporeality in this situation is predetermined by the biology of gender, while the image of abnormal corporeality is associated with the desire to change this state of the human body through external influences, thus classifying gender change as deviant behavior and an abnormality in the sphere of corporeality.

One recent example that confirms the presence of an appropriate image of corporeality in law is the normative regulation of gender reassignment issues. Thus, in particular, in the Russian Federation, the most recent regulatory decisions have established a ban on gender reassignment.⁵⁷ However, it is important to note that this ban does not apply to cases in which sex reassignment does not include medical interventions related to the treatment of congenital anomalies (developmental defects) or genetic and endocrine diseases that affect the formation of the genital organs in children, since such cases, in the absence of the necessary treatment, are associated with a risk to the health of the unborn child and mother.

Setting aside the assessment of the validity and appropriateness of the corresponding regulation, which is beyond the scope of this study, we note that

⁵⁴ See Временные методические рекомендации «Профилактика, диагностика и лечение новой коронавирусной инфекции (COVID-19)» (версия 17 от 14 декабря 2022 г.) (утв. Министерством здравоохранения Российской Федерации) [Temporary Guidelines Prevention, Diagnosis and Treatment of New Coronavirus Infection (COVID-19) version 17 (14 December 2022) (approved by the Ministry of Health of the Russian Federation)] (Jan. 22, 2024), available at https://static-0.minzdrav.gov.ru/system/attachments/attaches/000/061/253/original/BMP_short_V17.pdf.

⁵⁵ See, for e.g., Law No. 9.313 of 13 November 1996. On Free Medicines for the Treatment of HIV/AIDS (Jan. 22, 2024), available at https://www.planalto.gov.br/ccivil_03/leis/l9313.htm.

⁵⁶ An example is restrictions in the sphere of labor activity, when women are not allowed to perform certain labor functions. See Order of the Ministry of Labor and Social Protection of the Russian Federation No. 512n of 18 July 2019. On Approval of the List of Industries, Works and Positions with Harmful and (or) Dangerous Working Conditions in Which the Use of Women's Labor is Limited (Jan. 22, 2024), available at <https://www.consultant.ru>. Similar regulations apply in China. See Special Rules on the Labour Protection of Female Employees (Jan. 22, 2024), available at <https://www.hrone.com/blog/special-rules-labor-protection-female-employees-china/>.

⁵⁷ See Federal Law No. 323-FZ, *supra* note 22, Art. 45.1.

this approach is symptomatic from the point of view of assessing whether or not corporeality in this plane is normal or abnormal.⁵⁸

At the same time, the intensification of the biotechnological component in itself in this area, namely the development of various options for achieving the desired result, implies that law as a regulator of social relations needs to pay more attention to this field. This allows us to draw the conclusion that the regulation of the problem under consideration is dynamic.

Speaking about the regulation of this area of public relations in the BRICS countries, it should be noted that in Brazil, India and China, the possibility of gender reassignment itself is not subject to a regulatory ban. Moreover, in the PRC, such a change in corporeality is associated with the need for surgical intervention,⁵⁹ which is the basis for altering the official public records of an individual and is carried out only when there are appropriate grounds for such changes.⁶⁰

4.1.3. Reproductive Body and Non-Reproductive Body

Another image of corporeality that is regulated in the modern world is also associated with the characteristics of the reproductive function of the body. In this case, we should talk about the reproductive body and the non-reproductive body. The distinction between the two is based on the inherent biological function of the body to reproduce its own genotype and procreate.

From the point of view of ensuring public (and often private) interests, the typical image of corporeality is that of the reproductive body. This is confirmed by the establishment of appropriate benefits and the implementation of suitable incentives aimed at encouraging fertility (examples in this case include maternity capital,⁶¹ preferential mortgages,⁶² etc.).

⁵⁸ In this regard, one should pay attention to the very formal legal logic of the legislator in the Russian Federation, in which the ban on gender reassignment is considered an independent organizational form of protecting the health of citizens since it is included in the corresponding chapter of the federal law.

⁵⁹ The data is based on the website, <https://www.equaldex.com/>.

⁶⁰ See Sex Reassignment Procedural Management Standards (Jan. 22, 2024), available at <https://database.ilga.org/china-lgbti>.

⁶¹ See Федеральный закон от 29 декабря 2006 г. № 256-ФЗ «О дополнительных мерах государственной поддержки семей, имеющих детей» // Собрание законодательства РФ. 2007. № 1 (ч. 1). Ст. 19 [Federal Law No. 256-FZ of 29 December 2006. On Additional Measures of State Support for Families with Children, Collection of Legislation of the Russian Federation, 2007, No. 1 (part 1), Art. 19].

⁶² Федеральный закон от 3 июля 2019 г. № 157-ФЗ «О мерах государственной поддержки семей, имеющих детей, в части погашения обязательств по ипотечным жилищным кредитам (займам) и о внесении изменений в статью 13.2 Федерального закона «Об актах гражданского состояния» // Собрание законодательства РФ. 2019. № 27. Ст. 3522 [Federal Law No. 157-FZ of 3 July 2019. On Measures of State Support for Families with Children in Terms of Repaying Obligations on Mortgage Housing Loans (loans) and on Amendments to Article 13.2 of the Federal Law "On Civil Status Acts," Collection of Legislation of the Russian Federation, 2019, No. 27, Art. 3522].

Similar legal regulation aimed at regulating issues of birth planning is present in all of the BRICS countries, in particular in the PRC, where special policies aimed at encouraging childbearing at the appropriate age have been established, along with special rules designed to encourage and provide social security to pregnant women.⁶³

In this regard, the image of a non-reproductive body, assessed as abnormal, is associated with corresponding restrictions, encompassing both those that are already existing (for example, restrictions on abortifacients, support for the development of assisted reproductive technologies, etc.) and those that are being actively discussed in some parts of society (such as a complete ban on abortion, childlessness tax, etc.).⁶⁴

At the same time, in a certain sociocultural context, the image of non-reproducing corporeality can be perceived as corresponding to the accepted norm. For example, India has made specific commitments through the Family Planning 2030 initiative⁶⁵ to achieve a total fertility rate of 2.1 percent, which is the level needed to maintain the global population at current levels. These obligations involve various forms of fertility and family planning measures (such as increasing the population's access to preventive pregnancy methods, disseminating new contraceptive technologies, popularizing behavioral models associated with reducing the birth rate, etc.).

In addition, it should be noted that there may be certain gaps between the existing normative regulations of corporeality in the context of its perception, such as in relation to reproduction and social practices deeply rooted in certain fields of activity. In particular, the reproductive body, as a manifestation of the reproductive function, can be considered abnormal if we are talking, for example, about the field of work, where a woman's potential pregnancy can act as an obstacle to employment. It would appear that the state should be responsible for eliminating these kinds of inconsistencies, as failure to do so would make the mechanisms for promoting fertility less effective.

4.1.4. Young Body and Old Body

The normalization and creation of images of corporeality are quite often associated with the establishment of various age requirements so that a person can claim to exercise certain rights and freedoms or be held accountable.

In particular, the standardization of the age criterion is manifested in the establishment of certain benefits for young individuals. For example, there are special

⁶³ Law of the People's Republic of China of 29 December 2012. On Population and Family Planning (Jan. 22, 2024), available at <http://www.nhc.gov.cn/fzs/s3576/202303/5f2c908317154d2f8e57d1df4b0df41a.shtml>.

⁶⁴ It is obvious that there is ambiguity in characterizing these images as abnormal or normal since their assessment varies depending on the current situation; in particular, they may be predetermined by the country component.

⁶⁵ See <https://www.fp2030.org/india/>.

socially oriented programs for young scientists⁶⁶ and young families⁶⁷ that are aimed at enhancing their contributions in various fields and increasing their efficiency in performing their assigned functions (in this case, in terms of research activities and reproduction).

There also exists the opposite situation, in which benefits are secured for persons who have reached a certain age, notably the provision of financial support through pension payments.⁶⁸ In this instance, the state, fulfilling its social function, ensures that such bodies, namely those that are older, perform a symbolic function, through which the bodies of young people are demonstrated to have an appropriate level of socio-economic guarantees upon reaching a certain age.

In this regard, the experience of regulating this area of public relations in the Federative Republic of Brazil, where there are separate regulatory legal acts regulating the specifics of health care issues for individuals of different ages, is of interest. In particular, age groups such as children, teenagers,⁶⁹ and the elderly are distinguished from others.⁷⁰ In this case, it is reasonable to say that depending on the criteria that the human body must meet – that is, so as to be considered normal – it is subject to appropriate guarantees.

In a different vein, the age of the body as a basis for forming an image of corporeality is used when establishing age limits for carrying out certain activities.

⁶⁶ See проект федерального закона «О внесении изменений в Федеральный закон «О науке и государственной научно-технической политике» в части государственной поддержки молодых ученых» [Draft Federal Law, On Amendments to the Federal Law, On Science and State Scientific and Technical Policy in Terms of State Support for Young Scientists] (Jan. 22, 2024), available at <https://regulation.gov.ru/Regulation/Npa/PublicView?npaID=115309>.

⁶⁷ See Постановление Правительства Российской Федерации от 30 декабря 2017 г. № 1710 «Об утверждении государственной программы Российской Федерации «Обеспечение доступным и комфортным жильем и коммунальными услугами граждан Российской Федерации» // *Собрание законодательства РФ*. 2018. № 3. Ст. 546. [Decree of the Government of the Russian Federation No. 1710 of 30 December 2017. On Approval of the State Program of the Russian Federation, "Providing Affordable and Comfortable Housing and Utilities to Citizens of the Russian Federation," Collection of Legislation of the Russian Federation, 2018, No. 3, Art. 546]

⁶⁸ The regulation also recognizes other grounds for assigning various pension payments that are not related to reaching age. Their presence does not refute the described hypothesis but confirms the presence of other images of corporeality that serve as the basis for this type of payment – for example, a disability pension for an individual and the bearer of the patient's body, etc. See Федеральный закон от 28 декабря 2013 г. № 400-ФЗ «О страховых пенсиях» // *Собрание законодательства РФ*. 2013. № 52 (ч. 1). Ст. 6965 [Federal Law No. 400-FZ of 28 December 2013. On Insurance Pensions, Collection of Legislation of the Russian Federation, 2013, No. 52 (part 1), Art. 6965], Art. 11; Федеральный закон от 15 декабря 2001 г. № 166-ФЗ «О государственном пенсионном обеспечении в Российской Федерации» // *Собрание законодательства РФ*. 2001. № 51. Ст. 4831 [Federal Law No. 166-FZ of 15 December 2001. On State Pension Provision in the Russian Federation, Collection of Legislation of the Russian Federation, 2001, No. 51, Art. 4831], Art. 11.

⁶⁹ Law No. 8069 of 13 July 1990. On Medical Care for Children and Adolescents (Jan. 22, 2024), available at https://www.planalto.gov.br/ccivil_03/leis/l8069.htm#art266.

⁷⁰ See Law No. 10741 of 1 October 2003. On Medical Care for Older People, Including Care and Maintenance (Jan. 22, 2024), available at https://www.planalto.gov.br/ccivil_03/leis/2003/l10741.htm.

For example, the maximum age for holding certain positions (such as civil servants,⁷¹ judges,⁷² heads of educational organizations,⁷³ etc.) is normatively established as is the minimum age for carrying out certain tasks is often fixed. Similarly, it is common practice to establish a certain age threshold upon reaching which individuals are eligible to participate in electoral elections, while often the age limits are differentiated for the exercise of active and passive suffrage.⁷⁴

In this regard, it would also be of interest to standardize the age of a woman at which her body retains reproductive functions. For instance, in accordance with the guidelines set forth by the World Health Organization (WHO), the reproductive age of women is from 14 to 49 years.⁷⁵ Failure to perform a given body function within the allotted age range is comparable to the assessment of a particular body as abnormal, namely that of not fitting into the established normative and social rules of behavior.⁷⁶

⁷¹ See Федеральный закон от 27 июля 2004 г. № 79-ФЗ «О государственной гражданской службе Российской Федерации» // Собрание законодательства РФ. 2004. № 31. Ст. 3215 [Federal Law No. 79-FZ of 27 July 2004. On the State Civil Service of the Russian Federation, Collection of Legislation of the Russian Federation, 2004, No. 31, Art. 3215], Art. 25.1. Similar age limits are established in the Constitution of the People's Republic of China. See Art. 79 of the Constitution of the People's Republic of China (Jan. 22, 2024), available at https://constituteproject.org/constitution/China_2018.

⁷² See Федеральный конституционный закон от 21 июля 1994 г. № 1-ФКЗ «О Конституционном Суде Российской Федерации» // Собрание законодательства РФ. 1994. № 13. Ст. 1447 [Federal Constitutional Law No. 1-FKZ of 21 July 1994. On the Constitutional Court of the Russian Federation, Collection of Legislation of the Russian Federation, 1994, No. 13, Art. 1447 (1994)]; Art. 101 of the Constitution of the Federative Republic of Brazil (Jan. 22, 2024), available at https://www.constituteproject.org/constitution/Brazil_2017.

⁷³ See Трудовой кодекс Российской Федерации от 30 декабря 2001 г. № 197-ФЗ // Собрание законодательства РФ. 2002. № 1 (ч. 1). Ст. 3 [Labor Code of the Russian Federation No. 197-FZ of 30 December 2001, Collection of Legislation of the Russian Federation, 2002, No. 1 (part 1), Art. 3], Art. 336.2.

⁷⁴ See, e.g., Федеральный закон от 12 июня 2002 г. № 67-ФЗ «Об основных гарантиях избирательных прав и права на участие в референдуме граждан Российской Федерации» // Собрание законодательства РФ. 1997. № 38. Ст. 4339 [Federal Law No. 67-FZ of 12 June 2002. On the Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation, Collection of Legislation of the Russian Federation, 1997, No. 38, Art. 4339], Art. 4. In this regard, attention should be paid to the regulation of the voting age in the Constitution of the Federative Republic of Brazil; where mandatory (at least 18 years of age) and optional (at least 70 years of age) criteria for inclusion in the electoral lists are established. See Art. 14 of the Constitution of the Federative Republic of Brazil (Jan. 22, 2024), available at https://www.constituteproject.org/constitution/Brazil_2017.

⁷⁵ Женщины и здоровье // World Health Organization (WHO) [*Women and Health*, World Health Organization (WHO)] (Jan. 22, 2024), available at <https://www.who.int/ru/news-room/fact-sheets/detail/women-s-health>.

⁷⁶ This, of course, does not exclude the possibility of birth beyond the established age, but this is associated with certain risks for the health of both the woman and the fetus or child. A kind of negative assessment of such pregnancy is also reflected in the previously existing terms applied to women in this case – old-time pregnant, older primigravida.

4.1.5. Living Body and Dead Body

From the point of view of normalization, the image of a living and dead body is quite important, which is predetermined by their different target and functional settings. In this regard, it is advisable to dwell on the criteria for classifying a body as living or dead.⁷⁷

It seems that the criteria of life are inextricably linked with the subjective right to life, which entails the recognition of a specific subject as a bearer of appropriate capabilities. In the Russian Federation, the right to life is associated with the fact of birth (Art. 17 of the Constitution of the Russian Federation). Consequently, the moment of the birth of a child, signifying the separation of the fetus from the mother's body,⁷⁸ is the basis for recognizing the child as alive and applying appropriate legal regulation to him. Accordingly, defining a body as living is associated with the problem of establishing the legal status of the fetus and embryo, at the moment when it is recognized as a subject of the right to life.

With regard to the criteria for death, from the point of view of the ethical and philosophical understanding of this area, there is no unambiguity in resolving this issue. However, in the current regulation, there are two main approaches to determining the fact of death and the including the deceased body in the sphere of legal regulation. These two approaches are as follows:

- statement of irreversible death of the entire brain (brain death),⁷⁹ which occurs with the complete and irreversible cessation of all its functions, typically recorded with a beating heart and artificial ventilation of the lungs;
- biological death, which is established based on the presence of early or late cadaveric changes.⁸⁰

Life and death, as two states of the body that straddle the boundary between them, predetermine the specifics of the legal impact on them. At the same time, speaking about the development of biolaw, it should be noted that the regulation of corporeality is not limited exclusively to the living body,⁸¹ but extends to the unborn body and the dead body. In this case, with regard to such bodies, ideas about corporeality change accordingly depending on their functionality and the

⁷⁷ The problem of determining the criteria of life and death appears to be one of the most basic ones in the study of issues of corporeality in their legal and regulatory perception, especially since this aspect is predetermined by a broad sociocultural context and therefore assumes a significant difference in country manifestation. In this regard, consideration of this issue deserves independent research, and in this work it will be limited exclusively to regulation in the Russian Federation.

⁷⁸ See Federal Law No. 323-FZ, *supra* note 22, Art. 53.

⁷⁹ See Закон Российской Федерации от 22 декабря 1992 г. № 4180-1 «О трансплантации органов и (или) тканей человека» // Ведомости СНД и ВС РФ. 1993. № 2. Ст. 62 [Law of the Russian Federation No. 4180-I of 22 December 1992. On Transplantation of Human Organs and (or) Tissues, Gazette of the SND and the Armed Forces of the Russian Federation, 1993, No. 2, Art. 62], Art. 9.

⁸⁰ See Federal Law No. 323-FZ, *supra* note 22, Art. 66.

⁸¹ Takis Vidalis, *The Emergence of Biolaw: The European Experience and the Evolutionary Approach* 16–17 (2022).

field in which they are located (a notable example would be embryos used in clinical research and specially grown for this purpose⁸² or museum exhibits consisting of certain body parts of a person).

Thus, the presented examples, which reflect the presence of various approaches to the formation and understanding of bodily images in normative regulation, allow us to speak about the existence of a general framework for perceiving the human body through the prism of its compliance with the given functional and activity criteria that underlie the classification of the body as normal and abnormal. Moreover, this characteristic of the human body can be perceived differently both in different countries (including those located in the same international association such as BRICS) and in different fields of human activity. One example of the manifestations of the dynamism of this quality of the human body would be normatively approved deviations from the given framework of normality.

4.2. Abnormality as a Socially Approved Manifestation of Human Corporeality (Using the Example of the Russian Federation)

In analyzing the images of corporeality as identified through the prism of the criterion of normality, it is also advisable to highlight those images that deviate from the ideas of typical, normal corporeality but at the same time act as socially encouraged and approved.

It should be clarified that abnormality in this case should be considered a state of corporeality that differs from its normal functioning but can be recognized by others and by the person affected as such. Overcoming the framework of ordinary corporeality is a necessary and sufficient basis for the extension of certain legal regulations to a person.

Examples of this kind of anomalous states of being that give rise to the corresponding images of corporeality, can include:

1. The image of a hero – in particular, the current regulatory framework contains such concepts as a mother-heroine (for example, a woman who is a citizen of the Russian Federation and gave birth to and raised ten or more children who are also citizens of the Russian Federation⁸³) and “hero of the Russian Federation,” wherein the basis for conferring this title lies in the accomplishment of a heroic feat,⁸⁴ that is, an

⁸² See for more details Helga Nowotny & Giuseppe Testa, *Naked Genes: Reinventing the Human in the Molecular Age* 95 (2011).

⁸³ See Указ Президента Российской Федерации от 15 августа 2022 года № 558 «О некоторых вопросах совершенствования государственной наградной системы Российской Федерации» // Собрание законодательства РФ. 2022. № 34. Ст. 5959 [Decree of the President of the Russian Federation, No. 558 of 15 August 2022. On Some Issues of Improving the State Award System of the Russian Federation, Collection of Legislation of the Russian Federation, 2002, No. 34, Art. 5959].

⁸⁴ Закон РФ от 20 марта 1992 г. № 2553-1 «Об установлении звания Героя Российской Федерации и учреждении знака особого отличия – медали «Золотая Звезда»» // Ведомости СНД и ВС РФ. 1992. № 14. Ст. 719 [Law of the Russian Federation, No. 2553-1 of 20 March 20 1992. On the Establishment of

action associated with overcoming any framework of the ordinary human condition (such as self-sacrifice, death, etc.).

2. The image of a donor – in this particular scenario, it would be appropriate to talk about the donation of blood and its components, wherein the special title of “Honorary Donor”⁸⁵ is established and associated with certain socio-economic benefits. Additionally, it involves the participation of individuals in organ or tissue transplantation, including after death, while also providing for certain restrictions for such individuals as well as granting rights related to subsequent medical rehabilitation.⁸⁶

3. The image of an athlete, which is formed through the assignment of appropriate categories and titles (such as candidate master of sports, master of sports, etc.). Achieving these results presupposes the fulfillment of certain standards, performance in various competitions and is inextricably linked with constant physical exertion and changes in the human body.

4. The image of a saint – despite the fact that issues of sacredness remain outside the scope of legal regulation, in certain aspects, this can be regarded as an image of corporeality in law. As a general rule, the basis for canonization typically involves the manifestation of miracles, which are defined as extra-ordinary human abilities manifested either during the life or death of a person, as well as cases involving significant suffering of the person (for example, the execution of a prominent royal family). In this case, the normativity of this image of corporeality is manifested, firstly, in the existing procedures for resolving the issue of recognition as a saint,⁸⁷ and secondly, in the fact that images of this kind can realize a symbolic or communicative function, subject to their recognition by society or the state and veneration as, for example, national holidays.

Conclusion

During the course of the research into the category of human corporeality in its normative manifestation, the authors formulated two approaches to its definition,

the Title of Hero of the Russian Federation and the Establishment of a Special Distinction – the Gold Star Medal, Vedomosti SND and the Armed Forces of the Russian Federation, 1992, No. 14, Art. 719].

⁸⁵ See Федеральный закон от 20 июля 2012 г. № 125-ФЗ «О донорстве крови и ее компонентов» // Собрание законодательства РФ. 2012. № 30. Ст. 4176 [Federal Law No. 125-FZ of 20 July 2012. On the Donation of Blood and its Components, Collection of Legislation of the Russian Federation, 2012, No. 30, Art. 4176], Art. 23.

⁸⁶ See Закон Российской Федерации от 22 декабря 1992 г. № 4180-I «О трансплантации органов и (или) тканей человека» // Ведомости СНД и ВС РФ. 1993. № 2. Ст. 62 [Law of the Russian Federation No. 4180-I of 22 December 1992. On Transplantation of Human Organs and (or) Tissues, Gazette of the SND and the Armed Forces of the Russian Federation, 1993, No. 2, Art. 62], Arts. 3, 10, 11, 12.

⁸⁷ See Современный порядок канонизации святых в Русской Православной Церкви [*The Modern Order of Canonisation of Saints in the Russian Orthodox Church*] (Jan. 22, 2024), available at <https://comcan.ru/podgotovka-k-kanonizatsii/sovremennyy-poryadok-kanonizatsii-svyatykh-v-russkoy-pravoslavnoy-tserkvi/>.

institutional and functional-activity. The findings of these two methodologies revealed that:

1. Corporality is a biosocial category. Its formation is influenced by both internal (biological) and external factors. External factors may vary depending on the approach to understanding corporeality, for example, various social institutions, fields of activity in which the human body is placed and functions that are assigned to the human body.

2. The image of corporeality is the basis of legal subjectivity; that is, it plays a certain role in determining the rights and obligations regarding the human body.

3. The gap in existing images of corporeality is a reason for rationing. In the event that the image of corporeality does not correspond to general ideas about normality or, in general, does not align with the generally accepted norms, then this constitutes a reason for the introduction of legal mechanisms to eliminate such a gap.

Our analysis of human corporeality within the framework of the institutional approach has demonstrated that the public prevails in the formation of the image of corporeality over the private. However, it is important to note that this statement is not universal but depends on the situation that is being considered, namely the location and time.

When considering the concept of corporeality within the framework of the functional-activity approach, it can be concluded that normalization is the basis for the formation of images of corporeality in law. In other words, these normative frameworks of corporeality are fixed, and moreover, they are aimed at the formation of images that correspond to the idea of normality on the part of external actors (such as society and the state) and often the person himself, thereby excluding or minimizing abnormal images.

Acknowledgements

The research was carried out within the framework of the Mirror Laboratories between the National Research University Higher School of Economics (Perm) and the University of Tyumen on the topic Topical Issues of Human Rights Research in the Context of Bioethics.

References

Fabre G. *The Chinese Healthcare Challenge: Comment on 'Shanghai Rising: Avoidable Mortality as Measured by Avoidable Mortality Since 2000'*, 4(3) International Journal of Health Policy and Management 195 (2015). <https://doi.org/10.15171/ijhpm.2015.36>

Nowotny H. & Testa G. *Naked Genes: Reinventing the Human in the Molecular Age* (2011).

Soares F.V. et al. *Evaluating the Impact of Brazil's Bolsa Família: Cash Transfer Programs in Comparative Perspective*, 45(2) Latin American Research Review 173 (2008). <https://doi.org/10.1017/s0023879100009390>

Vidalis T. *The Emergence of Biolaw: The European Experience and the Evolutionary Approach* (2022). <https://doi.org/10.1007/978-3-031-02359-0>

Агамбен Дж. Homo Sacer. Суверенная власть и голая жизнь [Agamben G. *Homo Sacer: Sovereign Power and Bare Life*] (2011).

Агамбен Дж. Средства без цели [Agamben G. *Means Without Ends*] (2015).

Канторович Э.Х. Два тела короля. Исследование по средневековой политической теологии [Kantorowicz E.H. *Two Bodies of the King: A Study in Medieval Political Theology*] (2nd ed. 2015).

Корецкая М.А. Народ как носитель суверенности и границы политической теологии // Социодинамика. 2019. № 1. С. 10–19 [Koretskaya M.A. *The People as a Bearer of Sovereignty and the Boundaries of Political Theology*, 1(11) Sociodynamics 10 (2019)].

Паравичини Бальяни А. Тело папы [Paravicini-Bagliani A. *The Pope's Body*] (2021).

Попова О.В. Тело как территория технологий: от социальной инженерии к этике биотехнологического конструирования: монография [Popova O.V. *The Body as a Territory of Technology: From Social Engineering to the Ethics of Biotechnological Design: Monograph*] (2021).

Тхостов А.Ш. Психология телесности [Tkhostov A.Sh. *Psychology of Corporeality*] (2002).

Фуко М. Надзирать и наказывать. Рождение тюрьмы [Foucault M. *Discipline & Punish: The Birth of the Prison*] (2022).

Фуко М. Ненормальные. Курс лекций, прочитанных в Коллеж де Франс в 1974–1975 учебном году [Foucault M. *Abnormal: A Course of Lectures Given at the Collège de France in the 1974–1975*] (2005).

Information about the authors

Aleksandra Zorina (Tyumen, Russian Federation) – Teaching Assistant, Theoretical and Public Law Disciplines Department; Expert, “Bioethics, Biolaw, Biopolitics” Research Center, “4Bio” Laboratory, Center for Innovative Design and Applied Research; Postgraduate Student, Theoretical and Public Law Disciplines Department, Institute of State and Law, University of Tyumen (38 Lenina St., Tyumen, 625000, Russian Federation; e-mail: a.e.zorina@utmn.ru).

Ivan Yapryntsev (Tyumen, Russian Federation) – Head, “4Bio” Laboratory, Center for Innovative Design and Applied Research; Associate Professor, Theoretical and Public Law Disciplines Department, Institute of State and Law, University of Tyumen (38 Lenina St., Tyumen, 625000, Russian Federation; e-mail: i.m.yapryntsev@utmn.ru).