



A SCIENTIFIC ANALYSIS OF THE VIEWS OF THE PEOPLES OF THE ANCIENT EAST AND WEST ON LEGAL CONSCIOUSNESS

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Annotation: The article highlights the ancient history of law and legal consciousness, philosophical thoughts and reflections of ancient Eastern and Western peoples and thinkers of antiquity on law and its understanding, the role of these reflections in the process of studying the social phenomenon under investigation and in modern social life.

Keywords: morality, tradition, order, law, law, legal consciousness, professional legal consciousness, history of legal consciousness, legal consciousness in the ancient East, legal consciousness in the countries of the ancient West.

The definitions, explanations, scientific opinions, and reflections on "law" and "consciousness," analyzed in our previous article, allow for a deeper understanding of the essence and content of these concepts. However, these considerations allow us to understand the content of the two concepts separately. Although the concept of "legal consciousness" is a combination of these two words, its meaning is much broader and requires a deeper study of this concept to understand its content.

To further study the content of legal consciousness, we deemed it necessary to study the history of the origin of this concept. However, we did not encounter the concept of "legal consciousness" as a term in ancient literature. If we look at the history of Russia, let's leave a definition of this concept until 1917, the term itself did not exist.[1]

However, it cannot be concluded that legal consciousness did not exist until the 20th century. It can be said that legal consciousness arose in conjunction with "law," and even before it, with "lawmaking." The reason is that while law is a system of general mandatory rules aimed at regulating social relations arising between subjects of law, legal consciousness is the understanding of these rules and thinking about them. Logically, in order for a certain rule to appear and be established, it must first appear in the human mind, then this idea must be analyzed and confirmed through thinking and understanding, and then it must be accepted by a certain community.

In order to study the initial and historical views on legal consciousness, we will focus on the historical views on the role of the concepts of "law" and "consciousness" in the life of society. Legal scholars divide the formation of these concepts in ancient eastern and western countries into two directions: "In the East, the initial norms indicate that morality, law, and the social system mutually support each other in regulating the life of the population, in governing society, while in the West, the law itself was formed as a regulator alongside the institutions of state power, controlling public opinion, guaranteeing freedom of speech and personal freedom." [2]

The role of disciplinary norms in the normal life of society and its development is invaluable. Although the first human communities did not have laws, their way of life was

regulated by various customs and traditions, rituals, and rules of etiquette. Although these rules do not meet the requirements of today's "law" or "normative legal acts," they resemble modern legal norms due to their recommendatory appearance in the life of the community or the mandatory nature of some and the application of measures of influence in cases of violation. The development of society, the expansion of communities, production, mutual wars, and the domination of communities over each other led to the establishment of clearly defined, mandatory norms for all in society.

When studying the legal consciousness of the peoples of the ancient East, we cannot fail to dwell on the philosophy of ancient China. The first normative views in China, as an integral part of the philosophical worldview, can be traced in one of the ancient sources, "Zhin Fa." It states that the legendary deity "Khuandi" is the sole ruler who makes laws to ensure the integrity of the state and regulate the life of society. Without his permission, people cannot interfere in the affairs of governance and society, and if they interfere, they will face various kinds of suffering.[3]

In addition, this country has produced such renowned philosophers as Lao Tzu, Confucius, Mo-tzu, Shan-yang, and Han Fei-tzu, whose views on law, law, and legal consciousness deserve attention. In particular, one of the ancient Chinese philosophers, Lao Tzu, argued that "Where there are more laws and decrees, there will be more thieves and robbers." [4] In his views, Shan-yang called the state the main mechanism for regulating society, as well as his opinion that "the law should be equal for everyone, both the common people and senior officials" is of great importance in the history of legal consciousness. After all, our legal scholars who have studied legal consciousness have emphasized that this idea of "equality of all before the law" is a phenomenon at the level of a major revolution for that period, when social stratification is growing. Indeed, this idea of equality of all before the law demands that officials who consider themselves above the law in the presence of the ordinary people, who are forced to unconditionally obey the law, unconditionally submit to the existing legal system.

From ancient Egyptian written sources, we can find the following legal views that existed there:

b.c. The "Teachings of Ptahatep" of the 27th century - the natural equality of free people;

"Maat procedures" - ideas about the divinity of the main sources of law of that time, such as customs, laws, court decisions used in society - the conformity of the rules of natural-divine justice;

b.c. At the end of the 21st century, the "Teachings of the King of Gracleopolis" are ideas that living in accordance with justice and law determines a person's afterlife.[7]

From the above, it can be concluded that humanity gave a divine character to the original norms that were in effect. These include the fact that non-compliance with laws and rules leads to divine responsibility, and that sinners are subjected to suffering by provoking the wrath of the gods. However unnatural they may be, they are the first laws in human history.

The first clear socio-political views in the field of law in the history of humanity were held by Hammurabi (c. XVIII century) and Manū (c. II century BC) related to the laws. Hammurabi's laws viewed society as a complex structure, strengthening its social structure based on a strict definition of property, family, criminal, and punitive relationships.[8] This

normative document, known in its time as the "Law written in ink and blood," differed from other normative documents in its strictness. The strength of the laws known to us before Hammurabi's laws lies in the fact that they are given a divine character, and his strength lies in the inevitability of punishment.

The development of ideas about law and its application in Iran, the Transcaucasus, and Central Asia is directly related to the sacred book of Zoroastrianism, the Avesta. Zarathustra's views on the need for a person to live in accordance with truth (law) have left their mark on the history of the concept of legal consciousness. Including:

"In order to be powerful and comprehensible," says Zarathustra, "if you always follow the truth and truth, you will become powerful and powerful. Don't think of anything other than the true word, don't talk about anything other than the true word, don't do anything other than the true deed." [9]

Based on the above-mentioned opinion that law is the multiplicity of "right," the Zoroastrian religion also prohibits actions beyond the rights and powers established by law through the phrase "do nothing but do what is right." In addition, the phrase "if you always follow the truth and truth, you will be strong and powerful" emphasizes how powerful people who understand and follow the requirements of the law will be. In fact, no one can interfere in the peaceful life of members of a true civil society if they understand their rights and obligations and live in compliance with them.

If the views of Eastern philosophy on legal consciousness were analyzed above, let's now turn our attention to Western philosophy. "Earlier in antiquity, problems related to the philosophy of law, such as the relationship between law and justice, law and law, issues of law and the use of force, and the role of law in social values, were at the center of attention of philosophers of that time."

In the formation of philosophical views on law and its application in Western countries, of course, the opinions of such historical philosophers as Homer, Hesiod, Solon, Pythagoras, Heraclitus, Democritus, Socrates, Plato, and Aristotle are incomparable.

Originally, in the ancient West, as in the East, there was a divine attribution of laws. In particular, in the works of Homer (VIII century BC), we can see that mythical deities such as Zeus, Apollo, and Achilles established certain rules in order to establish peace and justice among people, and punished those who violated these rules. However, judging by the content of the stories, the gods did not follow the rules they established. In Homeric times, that is, at the end of the 2nd millennium BC, only what corresponds to views on justice was accepted as law. People of this period used concepts such as dike (truth, justice), themis (habit, customary right), time (honor, honor), and nomos (law).

In the post-Homeric period, ideas about law began to move from the divine to reality. During this period, Hesiod's poems "Theogony" and "Labors and Days" (b.c. VII century), in the opinions of Cleobles and Thessaloniki on the need to follow the "norm" and in the opinions of Thales. For example, if we analyze Thales' philosophical opinion "Don't do what you don't want others to do," it reflects the reflection of social order in the human mind and the requirement of law enforcement, respect for the rights of others. A similar rule can be found in many fundamental laws. In particular, Part 2 of Article 21 of our Constitution, adopted in the new edition, states that a person is obliged not to infringe upon the rights, freedoms, and legitimate interests of other individuals, society, and the state in the exercise of their rights and freedoms.



Among the aforementioned scholars, Salon (b. 594) made a great contribution to the establishment of democracy in Athens. After all, he was one of the first to use the phrase "the law is written for everyone." Solon gave the citizens of Athens the right to participate in the administrative affairs of the state, emphasized that the judiciary was led by the people's assembly, and elevated the People's Council to the level of the highest authority making laws.[13]

The idea of equality before the law was also recognized by the ancient Greek philosopher Pythagoras (6th-5th centuries BC). He compared the established procedures in society to "norms" and put forward the idea that everyone should obey the law equally. This, in turn, was one of the factors contributing to the formation of the principle of equality of citizens before the law. From the views of Pythagoras, it can be concluded that laws are socially recognized, customary procedures that have existed for a long time. Therefore, it is possible that modern scholars distinguish between customary law and written law in the legal views of that time.

In the views of Pythagoras, customary law is recognized, while written law is manifested in the legal views of Heraclitus (530-470 BC). He advocated living not by customary procedures, but by specifically defined, written rules of the polis. "The people," says the philosopher, "should fight for the law as if they were fighting for their fortress." However, we can see that some of Democritus' ideas contradicted Heraclitus' views on written law.

Democritus sees laws and even the state as a product of human development, that is, he emphasizes that the state and law arose as a result of human socialization and wars between humanity. He approves of moral norms by comparing laws and moral norms. "Democritus views laws only as a means of governing people." [15]

Among the philosophers of antiquity, Socrates (c. 428-399 BC) expressed very valuable opinions on the observance of laws and regulations, especially on the activities of officials of state bodies based on established laws. "The state should be governed by educated, intelligent, intelligent, and just people." Through this thought, Socrates expresses the requirements for the professional competence of public administration officials, emphasizing that they are "educated," that is, they have acquired the knowledge of that time, "conscious," that is, they have the ability to think and understand various events occurring in public administration and make the right decision, they must be "smart," ready for any situation and have the ability to quickly adapt to innovations, and of course, they must be "fair." Why didn't you comment on what it feels like to be "just"? To be fair... Of course, we could shortly say that this feature is characteristic of our time: "decisions made by officials in one or another area do not contradict generally accepted normative legal acts." However, in illuminating the essence of this quality, emphasized by Socrates, we would like to draw your attention to the thoughts of the philosopher Plato of that time.

Plato (b.c. 469-399), who expressed several opinions about justice, including "everyone should be busy with their own work - it is justice"; "justice is that everyone should have his own and fulfill his own"; "no one shall take possession of another by force nor deprive himself of his own." [17] It is impossible to disagree with Philosopher's opinion that everyone should be busy with their own work. If every official acts within the scope of his authority, does not go beyond the limits of his authority, does not abuse his position, such a management system will become a strong fortress that cannot be broken by any provocation

and aggression. If the officials in the fortress correctly understand their rights and powers, protect them, and do not contradict the rights of other citizens, then the state will become a truly democratic state, and society will become a truly civil society.

"Where the laws are not in force, or where they are under someone's control," he wrote, "I consider the state to be on the verge of destruction. Where the law reigns over the rulers, and the rulers are the servants of the law, there is prosperity for the state, and I see all the good that the gods give to the states. For him, the law is the only true expression of freedom." [18] Based on these considerations, it can be said that, according to the philosopher's reasoning, "justice" lies in the fact that everyone conscientiously fulfills their assigned tasks and does not infringe on the rights and freedoms of others while protecting their own rights and interests.

Analyzing the opinions and reflections of Socrates and Plato, it can be concluded that the philosophers of antiquity also paid great attention to the legal consciousness under investigation, or rather, professional-legal consciousness.

Aristotle (b.c. 384-322), confirming the opinions of the aforementioned philosophers, says that law embodies political justice, and its task is to serve the common good. Based on this, he concludes: "Just as contrary to law governance is not a matter of law, so too is forcible governance, of course, contrary to the idea of law." [20] A practice similar to the philosopher's comments is being widely implemented by human rights organizations in the modern era. Examples include the "Death Penalty," abolished by the Second Optional Protocol to the International Covenant on Civil and Political Rights, adopted by the UN General Assembly in 1989, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1984, and other documents.

Aristotle's reflections on "professional legal consciousness" also deserve attention. Notice his statement that 'the best rulers are susceptible to feelings and passions, except that the law is 'a restrained mind'. It would not be an exaggeration to say that the phrase "strong mind" stands out. The word "Basiq" is defined in the explanatory dictionary of the Uzbek language edited by linguist Abduvahab Madvaliev as "self-controlled, heavy, calm." [22] Based on this definition, we can say that "controlled mind" is the mind that controls the emotion. Analyzing the philosopher's opinion, even the most exemplary officials may be unable to control their feelings and passions in some extreme situations, when only people who are well aware of the requirements of the law can correctly assess the situation and make a legal decision while restraining their feelings.

Another philosopher of antiquity, Epicurus, expressed radical views on legal consciousness. According to him, "Laws and customs are valuable only as a means of implementing personal interests." The fear of punishment, that is, of pain, keeps a person from breaking the law." [23] The philosopher's views on the observance of laws are reminiscent of "marginal legal behavior," meaning that individuals with such behavior comply with the requirements of the law out of fear of punishment.

From the analysis of opinions on law, legal consciousness, and professional legal consciousness among the peoples of the Ancient East and West, we can conclude the following:

first, it is impossible to find legal consciousness as a direct concept in written monuments left by the peoples of the ancient east and west, but there are opinions and



judgments about the understanding of law and its observance, and their place in the history of law is incomparable;

secondly, legal consciousness arose in conjunction with "law," even before it, "lawmaking";

thirdly, in the early human communities, social relations were regulated by various customs and traditions, rituals, and rules of etiquette;

fourthly, humanity gave a divine character to the original norms that existed in practice;

fifth, the history of the principle of equality of all before the law goes back to the peoples of the ancient east and west;

sixth, in the opinions of ancient philosophers, we can see the division of law into customary law and written law;

seventh, educated, conscientious, intelligent and fair people should be appointed to positions in state administration bodies;

eighth, "justice" lies in the conscientious performance of each person's assigned tasks and the inviolability of the rights and freedoms of others while protecting their own rights and interests;

ninth, professional legal awareness allows officials to correctly assess the situation and make a legal decision, controlling their emotions in extreme, emotional situations;

tenth, the fear of punishment is one of the factors guaranteeing the observance of the law by legal entities.

The above-mentioned conclusions, no matter how ancient, are of great importance in modern social life. However, even these opinions cannot fully reveal the content and essence of social phenomena called legal consciousness, professional-legal consciousness.

References:

- 1.Тишина И. В. Понятие «правосознание» в исторической ретроспективе и современной науке // Известия РГПУ им. А. И. Герцена. 2008. №67. – С. 273. URL: <https://cyberleninka.ru/article/n/ponyatie-pravosoznanie-v-istoricheskoy-retrospektive-i-sovremennoy-nauke> (дата обращения: 16.02.2024).
- 2.Сагдуллаева Д.Ш. Жамият демократлашуви шароитида фуқаролар ҳуқуқий маданиятини такомиллаштиришнинг ижтимоий-фалсафий асослари. Диссертация. Тошкент, 2010. – б.18.
- 3.История древнего Востока. От ранних государственных образований до древних империй. Москва, Восточная литература РАН, 2004 – с.86.
- 4.История китайской философии. – М.: Прогресс, 1989. – с.47.
- 5.История философии. – Ростов на Дону: Феникс, 2000. – с.32.
- 6.Сагдуллаева Д.Ш. Жамият демократлашуви шароитида фуқаролар ҳуқуқий маданиятини такомиллаштиришнинг ижтимоий-фалсафий асослари. Диссертация. Тошкент, 2010. – б.24.
- 7.Сагдуллаева Д.Ш. Жамият демократлашуви шароитида фуқаролар ҳуқуқий маданиятини такомиллаштиришнинг ижтимоий-фалсафий асослари. Диссертация. Тошкент, 2010. – б.20.

8. Васильев Л.С. Проблема генезиса китайского государства. – М.: Восточная литература, 1983. – с.102.
9. Муҳсин Умарзода. Овисто сирлари // Жаҳон адабиёти. Тошкент, 1997. - № 4. 199-200-бетлар.
10. Ҳуқуқ фалсафаси. Маърузалар курси. Ўзбекистон Республикаси ИИВ Академияси, 2012. – б.21.
11. Қонунчилик маълумотлари миллий базаси, 01.05.2023 й., 03/23/837/0241-сон
12. Знаменитые греки. Жизнеописания Плутарха. - Л.: Госучпедиздат, 1961. - с.40-41.
13. Чанышев А.Н. Курс лекций по древней философии. – М.: Высшая школа, 1981. – с.138.
14. Сагдуллаева Д.Ш. Жамият демократлашуви шароитида фуқаролар ҳуқуқий маданиятини такомиллаштиришнинг ижтимоий-фалсафий асослари. Диссертация. Тошкент, 2010. – б.20.
15. Нерсесянц В.С. Философия права. – М.: Норма-Инфра, 1999, - с. 408-409.
16. Нерсесянц В.С. Философия права. – М.: Норма-Инфра, 1999, - с. 409-410.
17. Платон. Законы. – М.: Наука, 1993, - с.114.
18. Кечекьян С.В. Учение Аристотеля о государстве и праве. – М., Л.: АН СССР, 1947, с.9.
19. Аристотель. Никомахова этика. Соч.: В 4-х т. Т.4. – М.: Мысл, 1983, с.237.
20. Аристотель. Никомахова этика. Соч.: В 4-х т. Т.4. – М.: Мысл, 1983, с.237.
21. Ўзбек тилининг изоҳли луғати. – Тошкент: 2006-2008. – б.320.
22. Гуннар Скирбекк, Нилс Гилье. Фалсафа тарихи. – Тошкент: Шарқ, 2002, - 150 бет.

