

THE HISTORY OF RUSSIAN SENSE OF JUSTICE
LA HISTORIA DEL SENTIDO RUSO DE JUSTICIA

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Abstract. The historical factors of the formation of the legal consciousness of Russian society are considered in the article. The stages in the development of the Russian sense of justice were identified, which were mainly connected with the periods of development of socio-economic relations. The special attitude of society towards religion contributed to the position in the legal conscience of different settings. The sense of justice acts as a necessary component of the legal system as part of the public consciousness, the content of which are views, beliefs, ideas that relate to the law, as well as sensory and emotional elements that form legal psychology. The legal consciousness performs a significant role in the legal system-the transformation of information flows from the legal system to the subject of legal activity and vice versa.

Keywords. Sense of justice, princely power, legislation, statehood.

1. INTRODUCTION

The period of reforming the Russian society makes high demands on the state of legal values and legal awareness of Russians. On the one hand, the processes of the formation of civil society and legal statehood in Russia are impossible without an appropriate level of legal awareness, adequate development of the legal culture of society and citizens, the high status of legal values. On the other hand, the unformed normative field, the presence of gaps and internal contradictions in the legislative corps, the emergence of tendencies towards the weakening of the formal legal regulation of the social order associated with systemic changes in the institutions of society are factors that objectively promote the spread of various forms of unlawful behavior. In the context of a significant expansion of the boundaries of individual freedom and legitimate initiative, the importance of the choice of the strategy of legal behavior by the individual increases, and, consequently, the importance of the nature of the corresponding motivations, determined in turn by the level of legal awareness and the state of legal values.

The rule of law and civil society are formed jointly, and the process of their creation takes a long historical time. It is also carried out together with the development of society and requires a concerted effort. Neither the rule of law nor civil society is introduced by a one-time act and cannot be the result of pure legislation. The whole process must be organically lived by society.

Russian legal conscience arose over many centuries and had its own peculiarities in each separate period, which were influenced by dynamic socio-economic, cultural-legal and political relations. Analysis of the history of development of sense of justice is important, because it allows to determine the motivation, the attitude of people to the law through the prism of the chronology of events. Having studied the history of the Russian sense of justice, it will be possible later to answer many questions, for example, what are the causes of the offenses, which was the cause of legal nihilism, etc.

The theory of the sense of justice is an important component of the theory of law and the state. The notion that there is a sense of justice, what is its relationship with law, morality, its content and structure, goals and functions - ultimately depends on the legal understanding, ie, from the answer to the question what is right.

Since in the modern legal theory there are different options for legal understanding, respectively, there are different concepts of sense of justice.

It should be noted that the problems of legal awareness are multifaceted, since they stand at the intersection of several humanities: philosophy, jurisprudence, sociology, psychology, pedagogy, political science, etc. Moreover, each of these sciences in its own way studies the sense of justice both from the methodological and from the practical point of view. Applied tasks of each of them determine the ways of scientific research of this phenomenon.

The socio-philosophical analysis of legal consciousness as a specific form of social consciousness was carried out within the framework of historical materialism and the general theory of law.

Studies show that many theoretical positions of legal conscience are obsolete and require new approaches, the theory of legal conscience in turn should be based on the relevant to the realities of modern Russia and its regions empirical data that must be obtained in the light of the latest science and using modern research methods.

In the scientific literature, the sense of justice is defined as a kind of social consciousness, the content of which is the views, beliefs, ideas that relate to the law. It is possible to distinguish three basic definitions of sense of justice, given by scientists of the late XIX - early XX century. Legal awareness is: 1) a positive attitude towards the law; 2) firm legal views that do not include a psychological moment; 3) a set of legal experiences. Legal awareness is a combination of mental and sensory assessments of legal phenomena, legal relations. This definition from formal positions may correspond to the concept of legal ideology. In the structure of sense of justice, there are also sensory elements that form legal psychology. In the legal system, the sense of justice performs a rather significant functional burden: the transformation of information flows of the legal system to the subject of legal activity and vice versa. Such information exchange is carried out in the sphere of legal awareness in legal categories, concepts of legal feelings, through which people assess legal loyalty. Due to incessant communication links, the sense of justice is designed to reflect the overall arrangement and state of legal development, to serve as the intellectual basis of the legal system.

Today, most researchers note the key role of legal awareness in the field of law. Nevertheless, a

sufficiently large volume of philosophical and legal literature devoted to questions of sense of justice does not mean a comprehensive study of this concept. As the number of works increases, new problems are revealed in the development of a number of general aspects of the sense of justice, there is a need to clarify the provisions that seem to be obvious. In this regard, it seems relevant to follow the evolution of the concept of "sense of justice", especially since there is still no universally recognized definition of this category.

2. DISCUSSION

The Wild Viri Institute has undoubtedly played its historical role in the consolidation of society through the strengthening of community relations and the regulation of social relations in general. However, these progressive for their time tendencies of sense of justice were reflected in the positive law only under Yaroslav the Wise. Such "belatedness" was not accidental, but difficult to explain from the current position. The fact is that in Russia the forms of supreme power were threefold from the very beginning. It included the prince, the boyar duma and the people's assembly (veche). But then the question arises about the legal status of each of the elements of supreme power. Logically, after Rurik's calling, there should have been something (contract) to ensure the normal functioning of the new state association. However, nothing of the kind is known. There can be many explanations, but the simplest thing is that this something was primitive power and "gold." In these conditions, the highest was the legal status of the prince's power, she also acted as the source of law. The distinctions between the concepts "law", "custom", "decree" were not clearly defined. The norm became what was provided by force (physical or custom). On the other hand, memories of tribal norms, with their desire for an absolute understanding of freedom, justice and equality, did not disappear. They were preserved in the people's memory and served as the basis for the formation of a democratic tradition and a natural-legal understanding of law (in the future), which often took various forms of anarchism. Impossibility of direct application of tribal norms in relations with the authorities led to their preservation in consciousness, as a complex of absolute ideas, values and interests. The latter, clothed in the form of epics and myths, educated future generations in the readiness to seek the truth. Preservation of these norms was also facilitated by the system of state administration that developed during the first princes (X-XIII cc.). Then the

majority of subjects faced with princely understanding of the law only once a year from November to April during the polyudye. And since Prince Igor princes have become burdened by this duty, and others. Prince Svyatoslav was blamed for this already openly. Hence, we can conclude that, regardless of the nature of the acquisition of power by Rurik, the legal relations established between the first princes and the population had a specific content.

The princes had the duty to protect and share part of the stolen in campaigns, as well as the right to collect a "reasonable" tribute, the population had to pay tribute (Princess Olga fixed), had the right to protect and "love" the prince, depending on the donation. Thus, it was actually a question of a "contract agreement" (transaction). Therefore, the perception and evaluation of princely power were dualistic, breaking all legal relations with the authorities into two blocs. On those where the prince has the right (here it is necessary to obey), and to those where obliged (here, as the case may be, there was a wider scope for activity from criticism (Svyatoslav) to murder (Igor)). Consequently, the assessment of the power activity by the legal conscience could be both positive and negative, when there was a contradiction between two provisions, each of which was equally logically provable (antinomy). Such a contradictory sense of justice potentially did not contribute to the creation of a stable environment in society. Princes could not always rely solely on strength, as was shown by the example of Igor. Considering force as the main factor, they did not forget about the formation of positive responsibility among the population. Rurik, Oleg, Svyatoslav, Vladimir, as N.M. Karamzin, paid the population for the loss of former liberty by glory and prey. An important place was occupied here by joint feasts of the sovereign, nobles and people. They were one of the main means of consolidating the tripartite forms of supreme power. Such feasts were the result of the custom of the prince and the squad's joint meal, but the invitation to the people's meal can be viewed as a consequence of another legal custom - "drinking wine for the consecration of the perfect transaction." Each joint feast was a way of reconciling the contradictions between the sovereign, nobles and people. In this sense, the feast became a legal symbol. It was the feasts that largely shaped the positive social responsibility. Among other things, they clearly fixed the social status of the feasting, were a certain "test of loyalty" to the prince's power and the means of feedback of the prince and society.

Feasts played an important role in regulating social relations. Undoubtedly, feasts required high costs, but at the same time a certain periodicity of the conduct, depending on the need for the prince to support public opinion. And the weaker the positions of the prince, the more often there was a need for feasts. It is not accidental that the works organized by Vladimir I Svyatoslavovich (the Holy One) stand out from all. Three times violating the custom of succession to the throne: according to the blood (the son of a slave), according to seniority (the youngest son of Svyatoslav) and by testament (ordered to reign in Novgorod), as well as the violation of the existing norms of customary law (killing the first heir Yaropolk and others) could not cause sympathy from the nobles. Therefore, at the level of anticipation of the connectedness of law and power, the question of the legitimacy of Vladimir's power could not but rise in the higher strata of society. This caused the need to seek his support from the people, for whom questions about succession to the throne were far from being of first importance. But as the political and legal positions strengthened, economic issues came to the fore. Vladimir's attempts to reduce the number of guests at the banquets aroused the displeasure of the people, began to be seen as "the prince's avoidance of his duties." Very illustrative in this sense was the epic "Ilya Muromets in a quarrel with Prince Vladimir."

By this epic, Ilya of Murom, the prince did not invite to a feast, in response the hero with the use of weapons committed acts qualified from the point of view of modern criminal law as hooliganism. But epic approves the actions of the hero, and not the prince. In the actions of the hero, the authors of the byliny see an attempt to defend the truth, to protect the rights of the common man to respect and the recognition of equal rights for him. Ilya's illegal actions are regarded as correct, when only by force it is possible to restore justice. Such an assessment clearly demonstrates the contradiction between the emerging ideologies of statism and anarchism, as well as the real significance of Orthodoxy both for the ordinary inhabitants of Kievan Rus and for princely power.

Probably, Prince Vladimir should be considered the first of the Russian rulers, from which the alienation of power from the people on a qualitatively new level began. The heyday of the economy of Kievan Rus, coupled with the personal abilities of the prince, contributed to the successful fulfillment of his duties. And for this he received the nickname Red Sun. But there was also the second side of his activity, he significantly invaded the area of rights

belonging to ordinary citizens. The objective process of socio-economic differentiation was significantly strengthened by his subjective efforts. The main thing is that he invaded the spiritual realm, and in this sense it can be put on a par with Ivan IV Vasilyevich Grozny and Peter I Alekseevich. But pagan ideas were poorly developed and decorated at that time, therefore, "invasion of the spiritual realm" cannot be limited only by the religious sphere. It is a question of forcible alteration of the sense of justice of pagan Russia, a change in the understanding of the content of legal relations between subjects and power. At the same time, his actions were not caused by beliefs of faith, which could be justified taking into account the time in which he lived, and political advantage.

His reign in Kiev (952 - 1015) began with the reform of the pagan cult in order to fight against Christianity. But in 987 - 988 years. Vladimir concluded an agreement with the Byzantine Emperor Basil II. Under the treaty, the prince had to send a six-thousand detachment to help the emperor, accept Christianity and baptize the population of the country, and for this the sister of the emperor Anna was to marry Vladimir. But Vasily II did not hurry to fulfill the contract. Then the Russian troops seized the Byzantine city of Korsun (Chersonese) and Vladimir declared an ultimatum to the emperor. Anna married the prince, the captured city returned to Byzantium. As a result, the reform of the pagan cult ended with the fact that Prince Vladimir ordered "to overthrow the idols."

For the sake of his political interests, which historically coincided with the interests of the state, Prince Vladimir inflicted the first trauma on the people's sense of justice. In L.N. Gumilev, the adoption of Christian morality was not psychological abuse of converts, but the problem here is different. Prince Vladimir showed the possibility for the authorities not to recognize the existing norms of natural law in their relations with subjects and not to recognize the spirituality behind subjects as subjects of these relations on a mass (total) scale, if political interest requires it.

Prince Vladimir "nationalized", "collectivized" faith in the name of politics as a goal, in the name of self-interest as a motive with direct intent. Here one can disagree with N.A. Berdyaev in that the first Bolshevik in Russia was Peter I, the first Bolshevik (in the sense of N.A. Berdyaev) should be called Prince Vladimir I.

At the same time, Prince Vladimir has a number of merits. Through his activities he laid the nucleus of the new sense of justice of the Russian people,

which for ages constituted his main content. This is a religious and moral component of Russian sense of justice, which makes it easy to accept the ideology of statism. But the most important thing is that the adoption of Christianity became the starting point in the formation of Russian statehood on a new, primarily political and religious basis.

Thus, it can be argued that Prince Vladimir laid the foundation of Russian statehood, having formalized the organizational and ideological form of exercising his functions. All subsequent monarchs completed what he had begun.

However, this base was initially fragile. Just one year after the death of Prince Vladimir, his son Yaroslav tried to restore paganism, change the direction of the country's development. But the population did not support him. On this, the alternative to the development of Russia on a different path has exhausted itself.

Attempt of Yaroslav Vladimirovich was caused not by religious, but by political considerations. Therefore, with Christianity, as with faith, he was reconciled, but with the power of the Greek Church - no. Becoming prince of Kiev, Yaroslav I Vladimirovich (Wise) made his first attempt to liberate the Kiev metropolitanate from the care of the Patriarch of Constantinople. However, the Church under the leadership of the Byzantine metropolitans, having a thousand-year management experience, was a serious political rival. Distribution in Russia in the X-XI centuries church statutes and church law against the backdrop of the irregularity of Russian law blurred the boundaries of secular and spiritual power. The main motivating factors were the developing socio-economic relations and the complication of the regulation of public relations in this connection. Thus, both socio-economic and political conditions required the continuation of the construction of statehood. On this path, the next step was to formalize the existing norms in written law. That was done by Prince Yaroslav the Wise. He gave the necessary form to the norms of customary law and princely jurisprudence in the first Russian code - the Russian Truth. Local (tribal) norms were opposed by a single law acting throughout the country. This marked a new stage in the development of the Russian state, the legal system and the sense of justice. In fairness, it must be said that the first attempts in this direction were made by Prince Vladimir (charters), but in some cases his legislative measures were premature and unsuccessful.

The indisputable merit of Prince Yaroslav the Wise was that they were given the notion of good and evil

in positive law, which gave them the importance of imperatives. But at the time of the emergence of the Russian Truth, Russia was at a higher level of development than other peoples at the time of the creation of the "barbarian truths". Therefore, Russian Truth was distinguished by considerable originality. Already this fact alone allows us to talk about a certain originality of Russian statehood, the legal system and, accordingly, the sense of justice.

But there was one more moment, which laid down for a certain time and specificity in the Russian sense of justice. In those conditions, there was no secular idea or concept that could integrate people's views on the organization of their society and the notions of good and evil. Undoubtedly, Christianity had its own idea, which turned into the dominant one. The consequence of this was that the right, instead of coordinating the needs of the conceptual order with moral values, was influenced by religious and moral ideals. This situation contributes, according to V.S. Solov'ev, that the question of the relationship between law and morality is solved by the negation of the positive law as a conditional phenomenon in the name of absolute demands. This leads to increased public custody and interference in the inner world of man. A somewhat different point of view was expressed by I.A. Ilyin. In his opinion, true religiosity arouses the will to natural law and therefore can deny the positive right, but can not deny the very law. This creates a dilemma: either to reject the positive right and the state, or to sanctify them. Religion tends to favor their rejection, since it fundamentally rejects the task of earthly life. And if he recognizes this task, then by the naivety of the sense of justice, which mistakenly reduces the statehood to violence, rejects the principle of imperious coercion. With all these outcomes, religion will not fulfill its vocation - to transform the earthly life.

3. CONCLUSION

From the foregoing it follows that the foundation of Russian sense of justice was laid already in Kievan Rus. The concepts of "custom," "decree," "law" did not receive sufficient certainty in those conditions in connection with the active penetration into the legal sphere of the moral principle, which, in particular, was caused by a special position in the society of religion. This circumstance contributed to the foundation in the sense of justice of the basis for a number of installations. Representations about the relationship between the legal and moral as the ratio of the conditional and absolute with the subsequent denial of the legal. Recognition of the permissibility

of interference in the inner world of a person by public organizations. The dualistic perception of state power in the range from sanctifying it to the power's attention only to violence with subsequent denial.

Thus, the foundations of the non-purposefulness of the sense of justice for a positive right were laid, when the main objective of the sense of justice is to achieve compliance with the existing positive law, and its value orientation toward law. That is, the evaluation of positive law is not from the point of view of its self-sufficiency and necessity, but from the point of view of its conformity to the higher ideal. When it is more important not to achieve the ultimate goals (to correspond to the positive law), but the process evaluated by the criterion of value. In other words, the consideration of a positive law as a conditional, volatile phenomenon, in most cases not corresponding to absolute values, and therefore not mandatory. Thus, a certain perspective alternative in the development of legal awareness was laid. It was based on the choice of a natural or positive focus of legal consciousness. At the same time, the religious and moral sanctification of the supreme power, understood as a source of positive law, in many respects linked the evaluation of the positive law with the personality of the monarch.

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