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The problem of modernization of ethical and legal public consciousness

The article analyzes the nature of the relationship between ethics (understood as a sphere of social and human activity) and law. Both ethics and law are forms of normative regulation. Ethics is a form of non-institutional, and law, on the contrary, is an institutional normative regulation. Ethics arises with the emergence of man and society, and law appears with the emergence of the state. The development, application and scope of norms in ethics and law are fundamentally different. For centuries, relations in Kazakh society have been based on openness, reciprocity, cooperation, and altruism. Today, along with the market economy, such phenomena as individualism, egoism, and the cult of enrichment began to penetrate, which began to destroy traditional ethics and its values. In order to preserve Kazakhstan not only in its state sovereignty, but also in its identity, the task of modernization (transformation) of the ethical and legal consciousness of citizens arises. First of all, ethical, since ethics is the basis for the stability and stabilization of society. Modernization does not mean abandoning the past, but is the preservation of everything positive in the past and its synthesis with the positive of modernity.

Keywords: ethics, law, public consciousness, ethical consciousness, legal consciousness, modernization, transformation of consciousness.

Introduction

Ethical consciousness historically comes before law. It is formed in the course of practical ethics, summarizes it and regulates it. Ethics and the corresponding consciousness are formed in an archaic society. At its earliest stages, the individual is merged with the social whole, “he is still as tightly tied by the umbilical cord to the genus or community as a separate bee to a bee hive” [1; 346]. Only gradually, in the course of a long historical process, there is a relative separation of the individual from the social whole. He has an inner — human — world, etc.

In the process of human life activity, a system of norms, prohibitions, customs, traditions, etc. was developed that consolidated this life activity and regulated it. Different norms permeated all aspects of people's lives: in relationships within the family and community, between relatives and relatives, tribesmen and strangers, representatives of different generations and different ritual groups, etc. These norms have been formed over many generations, rolled in like coastal pebbles, and continued to improve. They were not recorded since there was no written language, but were passed from parents to children, from older to younger and were fixed in life. Among these norms, ethical norms were formed and functioned.

Ethics (understood here not as a kind of science or a branch of philosophy, but as a form of life practice) and in primitive society did not cover all forms of regulation of relations. Its subject is the relationship of man to man, to society as a whole, as well as to external nature.

The right has special social prerogatives to create and ensure compliance with the norms and laws of the vital activity of its citizens that are suitable for the State. Law regulates social reality — civil society and the functioning of those social institutions that are indirectly subordinated to the state through it. Law is not a simple chip from the system of economic relations, it also has relative independence. Law is a servant of the state, and the goal of the state in the antagonistic type of sociality is to maximize the preservation and reproduction of existing economic and other social relations.

Experimental

During the study structural and functional methods, integrity and historicism principles, a comparative method and synergetic approach were used. Structural and functional methods made it possible to identify the main structural elements in the public consciousness and determine their main functions. The principle of

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integrity and the principle of historicism allowed us to consider ethical and legal consciousness in ethno-cultural characteristics, primarily in relation to the situation in modern Kazakhstan.

Results and Discussion

M.M. Bakhtin considers an act to be the basis of a person's existence in the world. But what is an act? The act can be interpreted both in a broad and in a narrow sense. In the first sense, according to Bakhtin, every manifestation of a person's life — both internal and external — is a human act. "And such an act", he writes, "should be everything in me, my every movement, gesture, experience, thought, feeling — all this is only in me — the only participant in the being-event — only under this condition do I really live, do not tear myself away from the ontological roots of actual being. I am in the world of a hopeless reality, not an accidental possibility" [2; 42].

This particular person, Bakhtin notes, at any here-and-now occupies a specific unique position in the reality surrounding him from all sides and participates in the event of Being with his whole life. He lives out of himself, from his only place at the moment, and in this modality, he is involved in Being. At the same time, Bakhtin emphasizes, "one must remember that living from oneself, from one's only place, does not mean living only by oneself..."; "to live from oneself does not mean to live for oneself, but means to be responsibly involved from oneself, to assert one's tedious valid non-alibi in being" [2; 45, 46]. In this regard, "the whole of life as a whole can be considered as some complicated act..." [2; 8].

This interpretation of the essence of the act is fully justified. However, for a more specific and detailed analysis, it is necessary to apply the concept of an act in a narrow sense. This does not mean that the act is reduced to just an ethical phenomenon. The essence of the interpretation of the act in the narrow sense is as follows. There are three modes in human life: act, behavior, and action. An act is a manifestation of vital activity in the inner and spiritual world of a person, in the world in which the motivation of his behavior and actions is formed, their individual sanction is determined and a volitional decision is made to be executed. An act is what in its truth, in reality, is behavior and action, that is, the life discovery of a person for the person himself. In other words, the act is the being of the inner man (for the inner man, see: [3]), and behavior and action are the forms of being of the outer man. In this regard, the actions and behavior of this individual in the external social world may not coincide with the true content and meaning of his act. Behavior, for example, is only a visible "trajectory" of the existence of an external person in the external world, fixed by other consciousnesses (the consciousnesses of Others).

Considering M.M. Bakhtin's extended interpretation of the act, one should object to him regarding the architectonics of the act. He says about the moments of the act: "These moments are: I-for-myself, the other-for-me and I-for-another; all the values of real life and culture are located around these architectonic points of the actual world of the act: scientific values, aesthetic, political (including ethical and social) and finally, religious. All spatio-temporal and meaningful-semantic values and relationships are drawn together to these emotional-volitional central moments: I, the other and I for the other" [2; 49, 50]. Bakhtin here misses two more important points: the world-for-me and I-for-the-world. After all, as S.L. Rubinstein correctly notes, "there is a question not only about man in relation to the world, but also about the world in relation to man as an objective relation" [4; 7].

At the dawn of human history, the phenomenon of normative regulation is being formed in primitive society. O.G. Drobnitsky writes: "The concept of normative regulation is the initial, basic category on which one can... deduce, isolate the concept of morality..." [5; 232]. This author does not distinguish between morals and morality (as will be discussed below). Normative regulation is the way in which society unites its individuals and subordinates their vital activity to the task of preserving the social whole, transmitting experience from generation to generation and opposing the forces of nature and hostile tribes. Historically, "normative regulation initially appears as something external, forced, only then "internalized" or realized in a new interaction of individuals..." [5; 239]. Normative regulation is inherent in such phenomena as custom, tradition, etc. It is also inherent in ethics and ethical consciousness.

Consciousness, which is formed and functions in ethical practice, differs in that it "operates with normative-value categories, represents a special modality of thinking" [5; 215] and consciousness as a whole. The main concepts that it operates with are "good" and "evil", "due" and "existing", "duty", "conscience", "ethical principle", and some others. These concepts are also found in theoretical (in particular, philosophical) thinking. However, there they appear as a subject of research. In the ethical consciousness, they are the structural moments of this consciousness. In addition, unlike, for example, theoretical thinking, ethical consciousness is emotionally loaded, therefore, the concepts that form it are also loaded. In addition, ethical

praxis, and, consequently, ethical consciousness does not form a more or less fixed sphere of society. It is “present in all areas of public life — private life and politics, interstate and interpersonal, class and family relations; it affects human behavior in the spheres of material production and economic operations, spiritual creativity and scientific and cognitive activity, in communication with others and in the individual’s attitude to himself” [5; 229]. This is, according to Drobnitsky, a considerable difficulty in the study of this phenomenon.

Ethical consciousness as a form of social consciousness

With the formation of the state, as noted above, other social institutions subordinate to the state arise. Norms are also being developed in these institutions. These are specifically institutional norms. “Here the norms are created by the activities of special institutions that have special prerogatives for that. Special institutions implement regulatory requirements and support them with their power and influence, monitor their implementation and implement sanctions” [6; 257]. These norms are developed and function in a number of institutions, administrative institutions, etc. These norms are nothing more than requirements imposed on individuals and groups of individuals. “And the institutional requirements themselves have a statutory (“official”, as they sometimes say) character. They are always recorded in the form of explicitly and unambiguously expressed verbal formulas, most often written, having the force and meaning of the document, and are executed in strict accordance with these formulas. Therefore, the method of substantiating such requirements can be formalized into a strictly observed procedure...” [5; 258]. O.G. Drobnitsky summarizes: “Speaking more generally, institutional norms are clearly distinguished into a “special form of being” in public life: the functions of regulation are separated from the practice of norm enforcement itself, placed in a special sphere of activity of special institutions and individuals. The norm exists, as it were, independently of mass behavior, i.e., it is perceived not only by him directly, but also by the action of special instances” [5; 258].

These norms are radically different from non-institutional norms. The latter “are formed in the very process of people’s joint life activity and mass communication” [6; 258]. The developed norms of behavior and actions are fixed in the public and individual consciousness, in habits and in general in the composition of life. In addition, these norms are not taken out somewhere outside, but are fulfilled by being woven into the daily practical and spiritual life of members of society. Thus, non-institutional norms “are generated and reproduced in a completely different way than legal and organizational institutions” [5; 260]. In the conditions of an antagonistic type of sociality, ethics, like, for example, custom, is a non-institutional form of normative regulation.

However, due to the fact that in these conditions’ society turned out to be differentiated, formed by different groups, clans, classes, etc., ethics splits into two types — morals and morality. “Moral is connected with the potential universality of man as a transcendent infinite being, and therefore its principles are unconditional, irrefutable and universal.

Morality is connected with the actual limitations of a person as a member of a particular social group in their present existence and represents a finite system of norms and rules. It is a morality adapted to the preservation of a given social organism, a morality “with reservations”, restrictions. It is not universal, but always group (class, national, etc.)” [6; 78]. As Marx notes, “every social form of property has its own morality...” [7; 568]. This applies to all ethical categories. For example: “The Republican has a different conscience than the royalist, the haves have a different conscience than the have-nots, the thinker has a different conscience than the one who is unable to think. A person who has no other vocation to become a juror, except for a censor, and a censor’s conscience” [8; 140]. Both moral and morality originated a long time ago. Morality is connected with the so-called golden rule of morality, while morals is connected with the talion principle. The various formulations of the golden principle go back to the highlighted K. Jaspers “axial time” and are found in the “Mahabharata” (the book “Mokshadharma”), in the sayings of the Buddha, Homer, Confucius, and others. His classic formulation is the one that appears in the Sermon on the Mount of Jesus Christ: “So in everything, as you want people to do to you, so do you to them; for this is the law and the prophets” [9; 1272]. The talion principle (Latin talio, talionis; comes from talis in the meaning of “such (same)... as...”), or the principle of retribution, equal (equivalent) in force to an act or crime. The classic formulation of talion is as follows: “life for life, an eye for an eye, a tooth for a tooth, a hand for a hand, a leg for a leg”, etc. The talion principle has its roots in deep Archaisms, where relations between local ethnic groups were built on the principle of “We are them”, “our own — others”.

Legal awareness as a form of public consciousness

Law, unlike ethics, is an institutional form of normative regulation. Moreover, the essence of institutional normative regulation is most fully expressed in law. Law, as Marx notes, “in its content is the right of inequality, like any right. By its very nature, the right can consist only in the application of an equal measure; but unequal individuals (and they would not be different individuals if they were not unequal) can be measured by the same measure only insofar as they are viewed from the same angle, taken only from one particular side... and see nothing more in them, are distracted from everything else” [10; 19]. The main category of law is the law (legal law). This law is a state will that has acquired the status of universality, representing the reflected interest and needs of civil society. The content of the state will is determined primarily by material, economic conditions, interests and needs, therefore, law is determined primarily by them, but indirectly through the state.

The law prescribes regulatory functions to individuals, performing which individuals enter into relations with each other (into legal relations) not as subjects and individuals, but as personifications of legal categories, as functional legal units through which Law exercises itself, establishing a system of Law-order.

However, law cannot regulate all social reality without exception; it regulates only the most important realities from the point of view of the state. The rest is regulated by ethics — mainly morality. The boundaries between law and morality are not rigidly fixed, they are different not only in different social formations, but may be different in different state organisms of the same social formation. Experience shows that law has a tendency within itself to expand the scope of its jurisdiction, which, generally speaking, is only an expression of the desire to institutionalize (in particular, nationalization) all spheres and forms of human activity. It should be noted that the nature of the correlation between the spheres of activity of law and ethics is a criterion for the health of society. Any extension of the powers of law within social reality is a narrowing of the scope of ethical regulation. This may be due either to the strengthening of state power over civil society (for example, in despotic and totalitarian regimes), or to such a degree of decomposition of moral consciousness (“decline of morals”) of individuals, members of civil society that generally accepted moral sanctions are unable to carry out ethical regulation without legal intervention. But in any case, the expansion of the jurisdiction of the law speaks of an unhealthy situation in Society. Meanwhile, lawyers (“lawmakers”) often, with a sense of, as it seems to them, legitimate professional pride, declare the facts when they managed to put some aspect of living life under the control of the almighty Law. In general, the smaller the sphere of society needs legal regulation, the healthier it is. And vice versa: the more public spheres need and are in need of legal regulation, the less healthy it is.

The will of the state, transposed into law and transformed within it in accordance with its specifics, is a legal law. From the external, formal side, it is a verbally formulated maxim of proper (from the point of view of law) behavior and action. This maxim is formulated explicitly and unambiguously. By its content, the law expresses an idealized (that is, not only ideelle, but also ideale) legal attitude of representatives of civil society in various legal situations. Thus, although the ideal (from the word “ideal”) attitude is imprinted in the law, it is ideal from the point of view of the status quo, from the point of view of pleasing it to the state.

The operation of legal norms and laws is ensured by the mediating activities of special bodies under the jurisdiction of law and the State. Law, Lenin wrote, “is nothing without an apparatus capable of forcing compliance with the norms of law” [11; 99]. If ethics (not only morality, but also morality) knows the encouragement and condemnation of an act and action from the point of view of compliance with its norms and laws, then the right in the name of the law can only punish, it cannot encourage by its very definition. “The law as such, — Hegel notes, — can only prohibit, not allow...” [12; 338]. For compliance with legal norms and laws, there are no rewards in the same legal form, unlike the same morality, which knows exactly the moral reward.

The legal law sets the scale of mandatory uniform behavior and prescribes unconditional compliance with it to those to whom it applies. Anyone who falls under the jurisdiction of this law is obliged to strictly obey it, regardless of their inclinations, intentions, preferences or assessments. The main subject of a legal law is what constitutes its violation. The law is inactive where and when it is observed; the legal law is awakened to action where and when it is violated. By these deviations from him and his violations, he is actually alive. He is only interested in lawlessness, or anti-legality. In fact, a legal law cannot be observed better or worse (meaning the qualitative aspect), it can only be observed within its boundaries, beyond which a deviation from it begins. Hence the name of the latter — “crime”. But the legal law applies only to those spheres of life and to such actions that have already acquired legal status and are fixed in the relevant code.

Therefore, in practice, actual crimes may often take place (that is, such acts or actions against which moral sanctions are powerless), which are not such, since there is no corresponding “article” in the legal code.

Differences between ethics and law

Ethics as a non-institutionalized normative regulation appeals primarily and mainly to the inner, and not to the outer, person. After all, everyone is in fact what his actions are; only the person who acts is authentic — this person. But the true content and meaning of the act are inaccessible to observation and identification from the outside (unless one distracts from the phenomenon of extrasensory perception, which very few people possess nowadays). By action and behavior, it is impossible to verify the content and semantic architectonics of the act. After all, a person in external behavior and action can strictly observe all generally accepted maxims, norms and imperatives, but why he observes them (out of conviction or out of desire or out of need to impress loyalty and respectability), it does not clearly appear from the acts of behavior and action themselves. The law — an institutionalized form of normative regulation — approaches a person in a fundamentally different way, standing working on a person. The sphere of his jurisdiction is an external person, therefore, only the actions and behavior of a person, his being in an external, social reality, and not the actions and their truth. The inner man is inaccessible to the law, but he is not interested in it. Law regulates those actions and behaviors of people who are no longer amenable to ethical regulation. In this regard, as noted above, the greater the scope of people’s life is covered by legal regulation, the unhealthier the existing society is. And vice versa.

Ethical consciousness as a form of public consciousness is formed in ethical practice and is inseparable from it. Legal consciousness as a form of public consciousness is formed mainly in the Institute of law. As a system of legal norms and laws, it is being developed at the Institute of Law, standing we are working on society and being transmitted to it. Therefore, in any society, there are two levels of legal awareness — specialized and non-specialized, or ordinary. Specialized legal awareness is the property of all functionaries — developers of legal norms, practical lawyers — operatives, investigators, prosecutors, employees of the Ministry of Justice, law enforcement officers, as well as special researchers — jurists, legal philosophers, etc. All of them, to one degree or another, think in legal categories and tend to fetishize legal norms, law and law in general. This is especially true for developers and for the implementers of norms and laws. “But”, Marx notes, “society is not based on law. This is a fantasy of lawyers. On the contrary, the law should be based on society, it should be an expression of its general interests and needs arising from this material mode of production, as opposed to the arbitrariness of an individual” [13; 259]. Society is not only based on legal laws, but also does not develop in accordance with these laws. On the contrary, law-making itself must conform to the actual immanent laws of the functioning and development of society. Legal laws, on the other hand, can both contribute to the latter and hinder their action.

Ordinary legal consciousness does not have the refinement that is inherent in specialized legal consciousness and is not purely legal. It is a symbiosis of elements of legal consciousness and ethical consciousness (most often morality). An ordinary person looks at certain legal norms and laws lowered from above through the prism of the ideas of justice, correctness, etc. professed by him. In the sphere of ordinary people, anti-legal views, moods and even beliefs are often formed, often taking the form of practical actions and deeds. In such an anti-legal consciousness, the norms and laws of the current law appear to be obstacles to the implementation of its intentions, satisfaction of needs and interests. In this case, they seek to evade the action of norms and laws, to “circumvent” them.

Transformation of Kazakhstan’s ethical and legal consciousness

If we now turn to the Kazakh reality, it is necessary to note the following. The transition of a sovereign state after the destruction of the Soviet Union and the transition to the rails of a market economy (to call a spade a spade, to the rails of capitalism) entailed many negative consequences. The main ones in the light of this topic are the following. Firstly, the old ties and communication relationships began to collapse. They began to be rapidly replaced by relations of individualism and egoism. Society was rapidly atomized. There was a radical polarization of the super-rich, who appropriated state (considered public) property and those who were below the poverty line. Only gradually the number of those who were below the poverty line began to decline. However, this did not change the essence of the relationship. Cases and forms of fraud have sharply increased in relation to the least protected segments of the population (pensioners, disabled people, etc.). In Kazakhstan society, as in all post-Soviet societies, a crisis of trust has formed. Secondly, the tendency to grant legal privileges and indulgences to various kinds of employers has intensified at the legal level, as

a result of which an ordinary employee turned out to be legally unprotected before the law, which not only does not protect him, but also does not intend to protect him. In this situation, the bearers of specialized legal awareness see in their legal activities the source of their well-being, or even enrichment, a condition of their social stability, etc. The bearers of the ordinary sense of justice see in standing. We have a hostile force over them, which is only in rare cases able to protect and defend their interests. However, by now, such phenomena have diminished. Nevertheless, Kazakhstan's legal consciousness needs its modernization.

Therefore, if our state intends to fix the cash (which has been going on for 30 years) and to make itself a social state, not in words, but in deeds, it should not only reduce the gap between the super-rich and the super-poor, but eliminate the very basis of such a gap. To do this, the state must comprehensively overcome individualistic-egoistic moods and relationships in society. It should do everything possible to prevent the expansion of the consumer attitude of citizens to society and the state, to other people, to culture. It is necessary to restore and strengthen people's trust in the state and in each other. The economy must be rebuilt on an ethical (even if only on a moral) basis. The economy practiced in the West for four centuries, based on impersonal principles of economic determinism, in which the economic man (*homo oeconomicus*) is just its function, is disastrous for man and society, as evidenced by the last 100–150 years. Only a humanized economy will contribute to the fact that the sphere of normative regulation will take on an increasingly non-institutional character, assigning institutional regulation (law) an increasingly narrow sphere of public life. Thus, as a result of such transformations, the legal consciousness will gradually be imbued with an ethical principle, and as for ordinary people directly engaged in the field of law, their consciousness will be freed from fetishistic illusions about the essence, purpose and possibilities of law.

Conclusions

The overall strategy should consist in the critical restoration of traditional ethical and common value orientations for the peoples of Kazakhstan in the first place. After all, the basis of human community is not politics, not law, not religion, not scientific knowledge, but ethics. Ethical consciousness should become the core of the modernized public consciousness in Kazakhstan. Ethics should become the basis of politics (at least internal), law (it should produce ethically sound laws), science (scientific research — both fundamental and especially applied — should be under the control of ethical norms and imperatives), etc. Kazakhstan, like other post-Soviet states, has adopted a market economy from the West, free from ethical regulations. As a result, economic laws act in the image and likeness of the natural forces of nature. The consciousness of entrepreneurs of any rank is imbued with the cult of profit and super profits achieved by any means. In turn, the working population over the past 30 years has imbued with faith in the power of money and the cult of money. The thesis “Money solves everything” for the majority of the population, regardless of property and status, has become an immutable truth. The market economy in its modern form dehumanizes a person, turns him (including national capitalists) into a means, into an instrument of blind economic processes. That is why it is necessary to ethicize all spheres and levels of Kazakhstan's society and state, especially the economy. To do this, the relevant legal laws must also be adjusted. The economic policy of the Republic of Kazakhstan should be human-centered. It is necessary to work out acceptable ways to reduce the gap between the super-rich, for whom Kazakhstan is only a place of doing business, and those who have fallen below the poverty line (beggars, homeless, etc.). Without this, it is a good illusion to expect a serious modernization of the consciousness of Kazakh society. The Kazakh state should actually become a social state.

Modernization of all forms of Kazakhstan's public consciousness should, in our opinion, be carried out based on ethics (ideally, morality). Some of its forms in this aspect are easier to modernize, some are more difficult, but — we are convinced — everything is possible. Even religious consciousness. The Dalai Lama, for example, writes: “What we need today is a decision that does not turn to religion for support and can be equally accepted by both people with faith and without it: secular ethics” [14; 11]. In other words, since there is no single religion on the planet, it is necessary to approach each one from the standpoint of ethics and thereby ethicize it.

Summing up, we summarize the tasks of modernization of Kazakhstan's public consciousness in this way.

It is necessary to restore collectivist values and principles in the public consciousness. This should be a large-scale and long-term action in its implementation. It should include direct propaganda, education, and the introduction of the ideas of collectivism in the learning process, in mass communication, in cinema and literature. We must clearly imagine that without the establishment of collectivist values in the Kazakh public consciousness, it is impossible to modernize it.

Recreating the positive values of the Kazakh and other peoples inhabiting Kazakhstan, it is necessary at the same time to ensure that they do not oppose each other, especially on the value scale.

Emphasizing the importance of religion for people, we pursue the idea that it is still not a cardinal basis for establishing a fundamental difference between people. It is necessary to proclaim the simple truth that religion serves a person, not a person religion.

It is necessary to promote a moderate lifestyle, to explain that the cult of consumerism destroys the spiritual and spiritual world of a person.

The condition for the correct transformation of Kazakhstan's public consciousness is the policy of the state to overcome the gap between the super-rich and the poor, which is taking place today. The consciousness of the super-rich class will be the most difficult to transform. The words "rule of law", "welfare state" and the like should cease to be beautiful ideological phrases and become an everyday reality.

All the marked points should not be considered as stages of the model implementation, but should be implemented simultaneously.

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References:

- 1 Маркс К. Капитал. Критика политической экономии. — Т. 1. Процесс производства капитала. — Кн. I / К. Маркс, Ф. Энгельс // Сочинения К. Маркса, Ф. Энгельса. — 2-е изд. — Т. 23. — М.: Политиздат, 1960. — 907 с.
- 2 Бахтин М.М. О философии поступка / М.М. Бахтин // Собрание сочинений: [В 7-и т.]. — Т. 1. Философская эстетика 1920-х гг. — М.: Русские словари; Языки славянской культуры, 2003. — С. 7–68.
- 3 Колчигин С.Ю. Внутренний человек / С.Ю. Колчигин. — Алматы: SagA, 2015. — 295 с.
- 4 Рубинштейн С.Л. Человек и мир / С.Л. Рубинштейн. — М.: Наука, 1997. — 191 с.
- 5 Дробницкий О.Г. Понятие нравственности. Историко-критический очерк / О.Г. Дробницкий. — М.: Наука, 1974. — 388 с.
- 6 Арсеньев А.С. Проблема цели в воспитании и образовании. Научное воспитание и нравственное воспитание / А.С. Арсеньев // Философско-педагогические проблемы развития образования. — М.: Педагогика, 1981. — С. 73–96.
- 7 Маркс К. Очерки «Гражданская война во Франции» / К. Маркс, Ф. Энгельс // Сочинения К. Маркса, Ф. Энгельса. — 2-е изд. — Т. 17. — М.: Политиздат, 1960. — С. 497–616.
- 8 Маркс К. Процесс Гольштакта и его товарищей / К. Маркс, Ф. Энгельс // Сочинения К. Маркса, Ф. Энгельса. — 2-е изд. — Т. 6. — М.: Политиздат, 1957. — С. 139–147.
- 9 Святое Евангелие от Матфея. Библия. Книги Священного Писания Ветхого и Нового Заветов с параллельными отрывками и приложениями. — М.: Никея, 2013. — С. 1265–1303.
- 10 Маркс К. Критика Готской программы / К. Маркс, Ф. Энгельс // Сочинения К. Маркса, Ф. Энгельса. — 2-е изд. — Т. 19. — М.: Политиздат, 1961. — С. 9–32.
- 11 Ленин В.И. Государство и революция. Учение марксизма о государстве и задачах пролетариата в революции / В.И. Ленин // Полное собрание сочинений. — Т. 33. — М.: Политиздат, 1973. — С. 1–120.
- 12 Гегель Г.В.Ф. Иенская реальная философия / Г.В.Ф. Гегель // Сочинения разных лет: [В 2-х т.]. — Т. 1. — М.: Мысль, 1970. — С. 285–385.
- 13 Маркс К. Процесс над Рейнским краевым комитетом демократов. Речь Маркса / К. Маркс, Ф. Энгельс // Сочинения К. Маркса, Ф. Энгельса. — 2-е изд. — Т. 6. — М.: Политиздат, 1957. — С. 254–272.
- 14 Далай-лама XIV (Тензин Гьяцо). Помимо религии: этика для всего мира / Далай-лама XIV (Тензин Гьяцо). — Новосибирск: ООО «Издательство Дже Цонкапа», 2013. — 155 с.

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Этикалық және құқықтық қоғамдық сананы жаңғырту мәселесі

Мақалада этика (әлеуметтік-адам өмірінің саласы ретінде түсініледі) мен құқық арасындағы қарым-қатынастың сипаты талданған. Алдымен олардың жалпы негізі анықталады. Бұл нормативтік реттеу құбылысы. Осы негізді ескере отырып, этика да, құқық та нормативтік реттеудің нысандары болып

табылады. Айырмашылық мынада: этика — институционалды емес форма, ал заң, керісінше, институционалды нормативтік реттеу. Этика адам мен қоғамның пайда болуымен бірге туындаса, құқық мемлекеттің пайда болуымен бірге пайда болады. Этикадағы және құқықтағы нормалардың дамуы, қолданылуы және қызмет көрсету аясы түбегейлі ерекшеленеді. Авторлар қазіргі қазақ қоғамының этикалық және құқықтық санасын жаңғырту мәселесін талқылаған. Қазақ қоғамында ғасырлар бойы қарым-қатынастар ашықтық, өзара қарым-қатынас, ынтымақтастық, альтруизм негізінде құрылғаны атап өтілген. Қазақстан өз алдына өте құнды Тәуелсіздікке қол жеткізгеннен кейін оған нарықтық экономикамен қатар дәстүрлі этиканы, оның құндылықтарын жоя бастаған индивидуализм, эгоизм, баушылық ғұрыптар сияқты құбылыстар ене бастады. Ал бүгінгі таңда Қазақстанды тек өзінің мемлекеттік егемендігінде ғана емес, өзіндік ерекшелігімен де сақтау үшін азаматтардың этикалық және құқықтық санасын жаңғырту (трансформациялау) міндеті туындап отыр. Ең алдымен, этикалық, өйткені ол этика қоғамның тұрақтылығы мен тұрақтануының негізі болып табылады. Модернизация өткенді жокқа шығаруды білдірмейді, бұл өткендегі барлық жағымды нәрселерді сақтау және оны қазіргі кездегі жағымдымен синтездеу.

Кілт сөздер: этика, құқық, қоғамдық сана, этикалық сана, құқықтық сана, модернизация, сананың өзгеруі.

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Проблема модернизации этического и правового общественного сознания

В статье проанализирован характер взаимоотношения между этикой (понимаемой как сфера общественно-человеческой жизнедеятельности) и правом. Сначала устанавливается их общее основание. Таковым является феномен нормативной регуляции. В свете данного основания и этика, и право являются формами нормативной регуляции. Различие состоит в том, что этика является формой неинституциональной, а право, напротив, — институциональной нормативной регуляции. Этика возникает вместе с возникновением человека и общества, тогда как право появляется вместе с появлением государства. Выработка, применение и сфера действия норм в этике и в праве принципиально различны. Авторами обсужден вопрос о модернизации этического и правового сознания современного казахстанского общества. Отмечено, что в казахском обществе веками отношения строились на открытости, взаимности, сотрудничестве, альтруизме. После обретения Казахстаном Независимости, что само по себе весьма ценно, в него вместе с рыночной экономикой стали проникать такие феномены, как индивидуализм, эгоизм, культ обогащения, что стало разрушать традиционную этику и её ценности. И сегодня в целях сохранения Казахстана не только в его государственном суверенитете, но и в его самобытности, встаёт задача модернизации (трансформации) этического и правового сознания граждан. Прежде всего, этического, так как именно этика является основой стабильности и стабилизации общества. Модернизация не означает отказ от прошлого, а является сохранением всего положительного в прошлом и его синтеза с положительным в современности.

Ключевые слова: этика, право, общественное сознание, этическое сознание, правосознание, модернизация, трансформация сознания.

References

- 1 Marx, K. (1960). Kapital. Kritika politicheskoi ekonomii [Capital. Critics of Political Economy]. Vol. 1. Protsess proizvodstva kapitala: Kn. I. — Criticism of Political Economy. Vol. 1. The process of capital production: Book I. Sochineniia K. Marksa, F. Engelsa — Marx K., Engels F. Works. Ed. 2. Vol. 23. Moscow: Politizdat [in Russian].
- 2 Bakhtin, M.M. (2003). O filosofii postupka [On the philosophy of the act]. Sobranie sochinenii. Filosofskaiia estetika 1920-kh gg. — Collected works. Philosophical aesthetics of the 1920s. (Vols. 1-7; Vol. 1). Moscow: Russkie slovari; Yazyki slavianskoi kul'tury [in Russian].
- 3 Kolchigin, S.Yu. (2015). Vnutrennii chelovek [Inner man]. Alma-Ata: SagA [in Russian].
- 4 Rubinshtein, S.L. (1997). Chelovek i mir [Man and the world]. Moscow: Nauka [in Russian].
- 5 Drobnitskii, O.G. (1974). Poniatie npravstvennosti. Istoriko-kriticheskii ocherk [The concept of morality. Historical and critical essay]. Moscow: Nauka [in Russian].
- 6 Arsenev, A.S. (1981). Problema tseli v vospitanii i obrazovanii. Nauchnoe vospitanie i npravstvennoe vospitanie [The problem of purpose in upbringing and education. Scientific education and moral education]. Filosofsko-pedagogicheskie problemy razvitiia obrazovaniia — Philosophical and pedagogical problems of education development. Moscow: Pedagogy [in Russian].
- 7 Marx, K. (1960). Ocherki «Grazhdanskoi voiny vo Frantsii» [Sketches of the “Civil War in France”]. Sochineniia K. Marksa, F. Engelsa — Marx K., Engels F. Works. Ed. 2. Vol. 17. Moscow: Politizdat [in Russian].

- 8 Marx, K., & Engels, F. (1957). Protsess Golshtaka i ego tovarishchei [The process of Golshtak and his comrades]. *Sochineniia K. Marksa, F. Engelsa — Marx K., Engels F. Works. Ed. 2. Vol. 6*. Moscow: Politizdat [in Russian].
- 9 Sviatoe Evangelie ot Matfeia. Bibliia. Knigi Sviashchennogo Pisaniia Vetkhogo i Novogo Zavetov s parallelnymi otryvkami i prilozheniiami (2013). [Holy gospel from Matthew. Bible. Books of the Holy Scriptures of the Old and New Testaments with parallel passages and applications]. Moscow: Nikeia [in Russian].
- 10 Marx, K. (1961). Kritika Gotskoi programmy [Criticism of the Gotha Program]. *Sochineniia K. Marksa, F. Engelsa — Marx K., Engels F. Works. Ed. 2. Vol. 19*. Moscow: Politizdat [in Russian].
- 11 Lenin, V.I. (1973). Gosudarstvo i revoliutsiia. Uchenie marksizma o gosudarstve i zadachakh proletariata v revoliutsii [State and revolution. The doctrine of Marxism about the state and the tasks of the proletariat in the revolution]. *Polnoe sobranie sochinenii — Complete works*, Vol. 33. Moscow: Politizdat [in Russian].
- 12 Hegel, G.V.F. (1970). Ienskaia realnaia filosofiiia [Jena real philosophy]. *Sochineniia raznykh let — Works of different years. (Vols. 1-2, Vol. 1)*. Moscow: Mysl [in Russian].
- 13 Marx, K. (1957). Protsess nad Reinskim kraevym komitetom demokratov. Rech Marksa [Trial against the Rhine Regional Committee of Democrats. Marx's speech]. *Sochineniia K. Marksa, F. Engelsa — Marx K., Engels F. Works. Ed. 2. Vol. 6*. Moscow: Politizdat [in Russian].
- 14 Dalai Lama XIV (Tenzin Gyatso). (2013). Pomimo religii: etika dlia vsego mira [Beyond Religion: Ethics for the Whole World]. Novosibirsk: OOO «Izdatelstvo Dzhe Tsonkapa» [in Russian].