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**SOCIO-PSYCHOLOGICAL ANALYSIS OF DEVELOPING  
THE CONCEPTS OF POLITICAL AND LEGAL CONSCIOUSNESS  
IN DIFFERENT PERIODS OF HISTORY**

In the article the author does an attempt to analyze the dynamics of the concepts of political and legal consciousness in philosophical and legal theories and distinguishes their social and psychological component. It is emphasized that already in ancient political and legal consciousness the concept of rule of law emerged and acquired the contours of ideas of the political freedoms of citizens. The author notes a significant contribution of Roman philosophers, in particular Cicero, to the further development of the legal state concept. Cicero was the first to define such property of the law as giving equal rights to the socially different people. The author also outlines European conceptions of legal consciousness at the period of dark ages. The special attention is paid to the concepts of political and legal consciousness, which were engendered in New time, as exactly in this period in the first time the state and society began to be examined as the different phenomena, namely the state appeared as a source of the real political power. Exactly in this period considerable development of political and legal thought resulted in appearance of authoritarian and liberal-democratic political and legal conceptions. The authors of authoritarian political and legal conceptions considered that power must be absolute, unique and indivisible. So, conception of Thomas Hobbes foresees complete limitation of political freedoms. But the the main aspect of liberal political theories were justification of individual's freedom, new aspects of public and civil freedom and question about the limits of power (John Stuart Mill, Jean Jacques Rousseau). XIX and XX century were marked by appearance of theories which asserted the lack of state tyranny, citizen's equality before the law and examined a right as the order of freedom. The analysis done by the author allowed to draw conclusion, that the considered theories of political and legal consciousness reflect certain ideas fixed in theory as well as in the public mind: power, subordination, freedom, rights, duties, responsibilities. Political and legal theories revealed in the article include social and psychological context: human's relation to the society, state and political power.

*Key words:* state, politics, law, society, rights, duties, freedoms, responsibility, justice.

*Problem.* Changes in our country, especially recent events make up-to-date the question of psychological basis for providing creation a new state organization and social relations regulation. A new legal and democratic state cannot exist without citizens' willingness to live obeying certain rules. It goes without saying that societal consciousness must meet the requirements of the new state. So there is a need of finding new theoretical approaches, in particular it refers to the analysis of psychological phenomenon of "political and legal consciousness", specific features of shaping and developing political and legal consciousness of the individual.

*The purpose of the article:* is to follow dynamics of developing political and legal concepts of consciousness in the philosophical and legal theories and distinguish their social and psychological component.

The construct of "political and legal consciousness" is not widespread among scientists, but lately it is described by some philosophers in the scientific articles. This is not by accident.

Numerous theories of law and the state are known to have arisen in the frames of philosophy. Philosophers tried to answer the following questions. How to build a fair society? What should be relationships of man and the state like? What are person's autonomy limits or limits of state intervention in the human life? What should relationships between man and society be based on? What should man should aspire in the social development?

We believe that these problems can be related to **social and psychological** ones, because their socio-psychological analysis at all development stages of philosophical and legal thought will enable understanding the problem of political and legal consciousness in its formation and development.

Analysis of ancient philosophers works gives researchers grounds for concluding that foundations of theoretical concepts of legal consciousness were made in that period. Development of political consciousness concepts wasn't mentioned in the ancient period because ideas of law as a social institution were hardly related to the power institutions. Ideas of political power were personified, i.e. they referred to the personality of a particular ruler in the social and political consciousness rather than to the performance of certain roles and functions regarding society management. This is the case when institution of law, is regarded as the one limiting rulers' power.

Plato referred to the Law as a special value because of imposing certain duties on the people and eliminating manifestation of individual freedom, i.e. everything that was separating the people. Plato's personality is

seen as a one whole with the state (polis); and social life is in order which makes a perfect social harmony. Obviously, it arises from philosopher's psychological views on the personality nature and the aim of individual's social life. His theory of the ideal state was based on his own anthropological (psychological) and socio-political views. Soul perfection and its salvation are regarded as the goal of human life by Plato. However, the philosopher believes that the human cannot do this alone, thus the state appears. He is convinced that philosophers are the only ones able to manage the ideal state. Plato requires for the philosophers-rulers an absolute power, complete control over the citizens (Plato is considered to be the founder of totalitarian state) [15].

Political, legal and psychological views of Aristotle are of great interest. Characteristic of the human as social (political) entities is the basis for this view. Aristotle considers the concept of "state" and "society" to be almost equal. He considered the essence of the state to be in the **political community** of people united for achieving the common good. Development of moral aspirations of citizens was reviewed with the term of "good", and virtues formation was seen as state goal. According to Aristotle, all state citizens must be equal and free. Freedom is regarded as a **political freedom**, i.e. the opportunity of participating in state governing. Even though "equality and freedom" are proclaimed, Aristotle makes an exception for women and allows slavery as a social need. We can say that for the first time a human in "his state" is a **subject of politics** and a member of the political community and a **subject of law** as private property carrier [3,13,14,15].

The common goal motivating people to unite in one state is a good for everyone. Based on this common goal, politics and law are regarded by Aristotle as **justice**. Policy-justice is a possible merging into the political communities and participation in state government. A right-justice means specific relationship between free and equal members of the policy included in the two systems: the vertical (police-citizen) and the horizontal (between individuals). Aristotle is sure, the law brings "smart" in the relation of domination and subordination. He was convinced that law made people's rights equal in social life, and the law (provisions of law) is a general rule of behavior. He is sure this is the way that the institution of law creates social and psychological climate of calm and **confidence**, because it is mandatory for everyone and depersonificated [2, 5].

Aristotle is the first in separating political and private life and highlighting two spheres of legal regulation of the activity of people and, thus, separates a man and his privacy from interference of the government. He distinguishes law as a rule of behavior and justice or **truth** which is above the law, i.e. divides the concept of social and moral norms. Considering natural law (the right of the individual) to be priority rather than law (posi

tive law), Aristotle believes that state laws must conform with social relations and to reflect changes taking place in the public consciousness.

We should mention that there were no ideas about individual freedom at that time. There was dominating idea of individual **duties** rather than **rights**. Ideas of human freedom were associated with social order, and individual rights were not important. The law ensured social freedom, which regarded as a social duty, not a personal right.

Aristotle believed that law should give benefits to all the citizens, not just those who make laws in order to build a fair society. According to the Aristotle, the fair in the political relations is reasonable, that is why law should **limit** these relations. **Fairness** in society is defined by the law in all spheres of social relations, including political (**power – subordination**) [2,5,8,15].

Thus, we can say that the concept of **rule of law**, but not a person (ruler) and citizen's **political freedoms** were formed in ancient political and legal consciousness.

Ancient Roman philosopher Cicero made a new step in creating the concept of legal state. Cicero and other ancient philosophers didn't relate the concept of law and state. That meant dealing with legal society only, rather than legal state. But Cicero considers the state to be the property of the people and he considers people, to be a union of humans with common interests and equal treating the legal issues. In particular this refers to such property of the law as giving socially different people equal rights. (**This provision almost equals to modern understanding of the nature of law**).

In regarding the freedom Cicero goes beyond Aristotle, who understood personal freedom as obligation to participate in public affairs. He points at social freedom as citizen's **right**. He believes that social freedom is achieved by means of **consensus** [9, 14].

The concept of political and legal consciousness was influenced by medieval Christian doctrine, which became a source of individual morality and brings the "spirit of the Christian sense of justice" in people's relations. Thomas Aquinas was a bright representative of the ideas of Christian doctrine. He creates the concept of Divine law as a manifestation of God's mind and will. He believed that human laws are needed only because people live in sin and should be directed by threats of punishment.

His concept reflects the state of development of European legal consciousness of the XIII century. This is the period when law is not the main regulating mechanism of peoples' relations in private and socio-political life.

In his work "The Amount of Theology" he establishes laws hierarchy: eternal law, divine law, natural and positive law; the highest power is

given to the law of the divine will. He believes that the positive law prevents people from doing evil and ensures peace. [1]

Thomas Aquinas as a carrier of Christian doctrine ideas emphasizes each person's **individuality** that is given by God. Hence is the origin of understanding by each person the individual existence and its **self-value**.

In modern times state and society for the first time are regarded as different phenomena, and state appears as a source of real **political power**. There appears the first political theory of the "limited state". It protects the law from state and state laws, because the laws of civil society (private law) develop together with the community and do not depend on the will of political power. The principles of **equality and freedom** are formed in the civil society and they are transferred to the political relationship. That was the time for political and legal thought to focus on the analysis of different kinds of control over the monarchy. For example, it refers to political and legal traditions of the England; there appear authoritarian and liberal democratic political and legal concepts.

The founder of authoritarian political and legal concept was Thomas Hobbes. His political views were outlined in his treatise "About the Citizen" (1642).

Hobbes believed the "war of all against all" to be natural for the human. Therefore, to have a common good and social peace people should give up their political rights and transfer them to the state. The latter can force everyone to adhere to the decisions made. The power must be absolute, unique and integral. The concept of Hobbes reflects a complete restriction of political freedoms and maintain economic ones [4,7].

Ideas of John Locke, a philosopher, economist and psychologist are of great interest of our research. He is convinced that there are no innate ideas, but all of them are from outside (feeling) and experience of internal (reflection). Ideas acquired from the experience are used as knowledge materia. J. Locke was the first in separating clearly the notion of the individual, society and state, he preferred the individual obeying to the society. Society is over the state. Locke is convinced that society can create a new state power if it is not satisfied with existing one. The aim of the state is protecting individual's natural rights.

John Locke was the one to create a liberal democratic alternative to the authoritarian modernization of Hobbes. Its concept is in the extended postulate of indissoluble unity and correlation of the main political and economic rights. In contrast to Hobbes, natural rights are not lost in the state of Locke, the individual keeps them. Citizens' political rights limit the state power and prevent from economic rights violation. Locke is convinced that it is possible to guarantee individual economic freedom in case of political freedom only. He suggests division of power between various state institu-

tions in order to protect people and society from the encroachments of the state.

J. Locke is democracy theorist condemning any restrictions of representatives of people's rights on behalf of the dynasty. It is revealed in his major political work "Two Treatises of Government" and "Letters of Toleration". He is sure that people created the state by concluding a dual agreement of each individual with others about the transfer of their natural rights to society and with state about keeping their natural right for freedom. The agreement resulted in establishing "rules of the majority", which guarantee individual's protection from tyranny by means of taking laws. The principle of **consensus** gives an opportunity for effective collective action. Locke representative democracy (controlled by the voter) to be the safest and offers a theory of power separation. He believes that the state arises due to mutual people's consent, and this is the background for government **legitimacy** [10.6].

The concept of power separation was developed in the works of the French philosopher Charles-Louis Montesquieu. His famous work "The Spirit of the Laws" (1748) gives the thesis that power division into legislative, executive and judicial is the main guarantee of individual's political freedom. Montesquieu is the author of the constitution draft establishing balance between legislative and executive branches of power [8, 9].

The humanistic ideal of a self-identity leads to the search for new principles of understanding the state and state governor's activity. The views of Nikollo Machiavelli are of great interest in this aspect. Machiavelli was convinced that state appeared out of the God will but arises due to the people's needs, their interest in life protection and property saving. He developed the idea of the **private** and **public** good to be related. Machiavelli regarded legislation and law as the background for **freedom**. But his concept of freedom is rather restrictive. It is because *in normal times* freedom is a security contributing to the **citizenship** (only free people can participate in the political life) they should be taught as for participation in state governing processes. In times of crisis freedom is contrary to the security, and thus it should be limited (requires dictatorship) [9].

Justification of individual's freedom is the main aspect of the liberal political theories. John Stuart Mill in his book "On Liberty" (1859) was seeking about the **limits of power** and highlighted new aspects of social and civil liberty [11].

Radical democratic theory of power of Jean Jacques Rousseau arises as a certain antithesis for liberal democracy theories. This theory is based on the denial individual's independent rôle in the society and its total subordination of the public. Rousseau opposed to representative democracy, and was adherer of the principle of direct national governing. In his scientific

work "Of the Social Contract" (1762) he described the concept of corporate democracy i.e. when people got an agreement and each individual yields his natural rights and becomes part of the whole. In this case, the individual keeps his freedom as a part of the whole. Rousseau defines general will as the whole. This freedom is the state that embodies and protects individual freedom [8, 9, 13].

In the XIX-th century there appeared political theories of the "rule of law" that were developing in the frames of political, sociological, legal science and followed the tradition of protecting rights of society members. Thus, the term of "rule of law" is revealed by Albert Venn Dicey a famous English lawyer in his work "Foundations of public law of England". According to the author the concept of "rule of law" has three values: the lack of state tyranny; citizen's equality before the law; English constitution created historically and not proclaimed by the authorities [9].

XX-th century is characterized by the birth of so-called libertarian theories of law and democracy.

Friedrich Augustus von Hayek is an absolute leader of libertarianism. His legal approach can be related to this branch of science. Freedom is of total value for him because it is the source and condition for all the values. F.Hayek is convinced that there are no general ideas about justice in the society and based on it denies existence of moral justification for the law. Legal freedom means social life conditions when coercion of some people in relation to others is minimal. Right is the order of freedom. He distinguishes two types of order: spontaneous and organized by the government. He is sure that freedom and right can be correlated only with spontaneous self-developing order; social justice is important in an organized manner only. If the legislative branch takes responsibility to create a fair order, it causes decline of spontaneous order and establishment of collectivist forms of society and, finally, totalitarianism.

Friedrich Hayek believes that since there cannot exist a single view of justice in the society, the state cannot take responsibility for maintaining justice in the society. Society is a spontaneous order, which is defined by the law; otherwise there can be a danger of totalitarianism [9].

The Russian School of Law of the late XIX-th and early XX-th century made a significant contribution in the development of political and legal concepts.

Representatives of this school continued the tradition of natural law thinking about political and legal awareness. Their theory is based on the personality concept under which personality and its dignity are in the center of social life, and its structure includes spiritual dimensions. It means that person is recognized to be free and neither society nor government can deprive it from the freedom. The state needs to protect personality's primary

freedoms by means of laws. Since personality is the primary element of the state thus the encroachment on the human freedom and dignity can destroy the state. Philosophers are convinced that life purpose of any society and law should be an individual. First, it should be the personality and proper to it individuality, spirituality and human dignity. Legal consciousness of society is based on the primary legal consciousness consisting of the system of evaluation notions about **rights and duties, prohibited and permitted, fair and unfair**. A prominent Russian philosopher S.L.Frank in his fundamental work "Spiritual Background of the Society" highlights the concept of the "ideal background" of legal relations and relations between power and society, which is their **credibility**. The notion of legal authority and power relations in society is revealed by S.L.Frank by means of the basic category for his analysis of "needed". Frank considers the category of "needed" to be the primary one that constitutes human life and, first of all, the moral life. The ideal power of "needed" is a voice of conscience, and person's specific is constantly transforming itself, because of the moral consciousness. Moral consciousness of the human (understanding of "needed") is a practical expression of human spirituality.

According to S.L.Frank real legal relations are based on the primary legal relationship consisting in understanding the feeling of "needed" in the relations between people. So Frank denies attempts of positivist theories to interpret the law as a set of guidelines of the dominant force in the society, i.e. power, or as a voluntary agreement. This position is explained by him as power guidelines or agreements that can be a source of law only in case if recognized as legitimate (authoritative).

Frank considers the primary source of law and power to be is their authoritativeness, i.e. only **an authoritative power has power authority**. Relationships based on credibility, provide internal approval of subordination. This is the only case when requirements are not regarded as pressure.

Political power is defined by philosopher as authority, the will of which is mandatory for society members, because it defines the ideal "needed" as specific human relations. The voluntary subordination to power or legal norm is based on the direct awareness of the duty based on the understanding of legality, the credibility of the government and legal norms. Loss of credibility leads to a loss of psychological forces. Thus we face a destruction of legal institutions and authorities. As it was mentioned, Frank considers the basis of voluntary recognition of the authorities to be the credibility that is determined by the criteria of **truth** [12].

Socio-psychological analysis of the concepts of political and legal consciousness in different historical periods enables us to make **conclusions** as follows:

1. Political and legal theories are based on the concept of personality that responds to the social and psychological problems concerning individual's relationship with society and state.

2. Theories of political and legal consciousness reflects certain ideas fixed in theory as well as in the public mind: power, subordination, freedom, rights, duties, responsibilities, prohibitions, permissions, truth, justice, trust that make certain behavior standards.

3. Political and legal theories revealed in the article include social and psychological context: human's relation to the society, state and political power, ideas about behavior standards, priority of personal or social values, social equality of the representatives of different social groups, criteria of justice of laws and state regarding individual's rights protection and criteria of trust-distrust, acceptance (legitimacy)-rejection of power and legal institutions, ideas of law as a regulatory mechanism of social relations etc.

Psychological background for establishing a legal, democratic state is the appropriate level of legal and political awareness, political and legal culture of the main social groups, the youth in particular. That is why the state, state and public institutions face a range of practical problems, and scientists should participate in solving them.

In January 2014 the Laboratory of "Psychology of Political and Legal Relations" was created in the Institute of Social and Political Psychology of the National Academy Pedagogical Sciences of Ukraine. Its first scientific research is "Psychological Factors of Establishing Political and Legal Consciousness of the Youth in the Ukrainian Society Modernization". Its goal is building an integrated social-psychological concept of establishing legal and political consciousness of the individual.

At the stage of understanding the problems and creating a social-psychological concept of political and legal consciousness by scientific research staff of the Laboratory has conducted conceptual backgrounds and operation notion of "political and legal consciousness". The structure of the political and legal consciousness is discovered and described by Z. Sivers, V. Dukhnevych. Socio-psychological analysis of the components of the structure of political and legal consciousness: the idea of justice as part of political and legal consciousness of the individual is carried out by Z. Sivers. Confidence in the state and legal institutions as a part of political and legal consciousness is regarded by I. Larkina. The internal regulation of political and legal consciousness is examined by V. Duhnevych. In-system relations of different types of responsibility in the system of political and legal consciousness are studied by S. Baranova. Communication mechanisms of legitime political and legal norms are regarded by O. Osadko. The phenomenon of "political and legal nihilism", "political and legal infanti-

lism”, “political and legal amateurism”, “political and legal idealism” are analyzed by O.Kudermiina. The phenomenon of information manipulation of the Consciousness is studied by O.Moiseeva.

### *References*

1. Thomas Aquinas. *Summa Theologica* / Thomas Aquinas. – K.: Nika-Center, 2008. – 536 p.
2. Aristotle. *Politics* / Aristotle / – M.: AST, 2010. – 400 p.
3. Belskaya Ya. L. *About some Approaches to the Concept of Human rights* / Ya. L. Belskaya. – M., 1991. – 151 p.
4. Thomas Hobbes. *On the citizen* / Thomas Hobbes. – M.: Harvest, ACT, 2001. – 304 p.
5. Dovatur A. *Politics of Aristotle* / A. Dovatur. – M – L: Nauka, 1965. – 393 p.
6. Zaichenko G. A. *John Locke* / G. A. Zaichenko. – M.: Mysl, 1973. – 206 p.
7. *History of Political and Legal Teachings* / Ed. V. P. Malakhov., 2nd ed. add. – M.: Yunyts, 2007. – 319 p.
8. *Brief History of Philosophy* / Ed. I.I. Boguta. – M.: Thought, 1991. – 591s.
9. Kozlykhyn I.Yu. *The Idea of the Legal State. The history and Contemporaneity* / Yu. I. Kozlyhyn/ – St. Petersburg, 1993. – 137 p.
10. *John Locke: Works in 3 volumes, Vol. 1* / Ed. I. S. Narskiy, A. L. Subbotyna. – M.: Thought, 1985. – 621 p.
11. *On the Freedom. Anthology of World Liberal Thought (1<sup>st</sup> half of the XX century)* / Trasl. from English. A. N. Nevedomskiy. – M.: Progress – Tradition, 2000. – P. 288-392.
12. Frank S. L. *Spiritual Fundamentals of the Society* / S. L. Frank. – Moscow: Respublika, 1992. – 511 p.
13. Heffe A. *Politics. Right. Fairness. The Founders of the Critical Philosophy of Law and State* / Trans. from English. – M.: Gnosis, 1994. – 319 p.
14. Chanyshev A. N. *Lectures on the Ancient and Medieval Philosophy* /A.N. Chanyshev. – M.: Vyshaya shkola, 1991. – 512 p.
15. Chicherin B. N. *Political Thinkers of the Ancient and New World* / B. N. Chicherin. – St. Petersburg: Lan, 1999. – 336 p.

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**Наукові студії із соціальної та політичної психології :**  
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Цей випуск збірника, який присвячено 20-річчю Інституту соціальної та політичної психології НАПН України, є своєрідною візитівкою його наукових підрозділів. Автори намагалися відобразити найбільш вартісне з того, що створено за двадцять виповнених творчого пошуку літ, окреслити перспективи дальшого розвитку тих наукових напрямів, які утверджують в Україні їхня установка. Висвітлюються питання історіогенезу соціальної психології, особистісного життєконструювання в сучасних реаліях, масової політичної свідомості та поведінки, групової ідентичності, соціального діалогу та політичної соціалізації молоді. Аналізуються концепції політико-правової свідомості, проблеми медіапсихології та медіаосвіти, управління громадською думкою, моніторингу ситуаційних чинників особистісного і суспільного розвитку.

Для фахівців, що працюють у царині психології, соціології, політології та інших галузях соціогуманітарного знання.

The current issue presents the results of scientific and research work of the Institute of Social and Political Psychology of the National Academy of Pedagogical Science of Ukraine in 2014. The issue covers the best practices in methodology, theory and history of social psychology. The broad field of social psychological problems of Ukrainian society transformation is discussed – starting from analysis of dynamics in political and psychological processes in modern Ukraine to deabsolutisation of traditional family and marriage values. The results of research on mass political consciousness, social psychology of personality, group interaction, media psychology and media education are presented. The authors of the issue analyze psychological problems of education and upbringing in social and political dimensions. Methodology of social and political psychology is proposed.

For social and political psychologists, specialists from allied science, teachers, undergraduate and PhD students.

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