

HISTORICAL STAGES OF FORMATION AND DEVELOPMENT OF THE LEGAL SCIENCE

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The article indicates that the science of law has an approximate history, and it has been a long process. To study this process, it is necessary to analyze the historical stages of development of legal science. The division of the development of legal science into historical stages is usually associated with the historical development of mankind. As we know from general history, this is due to the division of mankind into socio-economic formations.

At the same time, the author considers it necessary to note that the division of the development of science, including legal science, into historical stages has always been conditional, and this is due to the specific requirements of each historical development period in the development of societies and states.

Key words: Azerbaijan, law, history, development, science.

A brief summary of the formation of the legal science. The legal science did not emerge suddenly or by chance. Natural-historical processes, as well as some important social events, had a great and significant impact on its formation and development. Such a natural-historical and social event is a State. The legal literature definitely confirms that the legal science (first of all, the law itself) was formed and developed at the same time as the emergence of states. Certainly, in this process the legal science emerged not directly itself, but as a social phenomenon with the legal state in parallel, in the same historical condition. It is impossible for the state and the law to be formed in isolation from each other, because the state can-

not exist without the law, and the law cannot exist without the state. As for the legal science, it should be noted that it was formed after the full equality of the state and law and the full development of a separate path, as one of the independent spheres of human conscious activity. The idea of “full establishment of the state and law” given here is used in a conventional sense, but it should be taken into consideration that law as a science could and has been formed after the state and law have acquired full citizenship in society.

A well-known historian of state and law, Professor P.N.Galanza writes that law is connected with the norms governing certain areas of scientific state-law relations. In this regard, state law can be considered as a legal science formed in an earlier historical period. Unlike other legal sciences, namely, the state law (now called “Constitutional Law” - Z.M.) studies the state and law as a science as a whole, in interaction [1, p. 13].

Agreeing with this consideration, we want to add that the legal science studies not only law, but also the state, because both the state and law are closely interrelated, but also relatively separate phenomena. However, studying these phenomena in isolation cannot give any scientific results.

From the above mentioned, it can be concluded that when we say that we are studying the history of legal science, at the same time we are talking about the need to study the state. However, in this regard, it is important to note that at present there is no universally accepted

opinion on the concept of the subject of law in the historical and legal literature of the world. However, in different years, different authors have made efforts to define the concept of legal science [2, p. 278-283]. Legal science studies the formation, development and activity of law in chronological order. It is also studied within different states in different historical periods. Thus, at different stages of the history of legal science, certain changes have taken place in the content, subject and structure of that science in accordance with the requirements of the relevant period (social formation).

As its name suggests, only the history of state and law (of course, within its subject matter) deals with the history of the establishment, development and activity of legal science. However, it would not be correct to attribute this to the subject of science about state. Although the state is studied by the science of state and history of law, it is mostly studied within the subject of political science, political history, or more precisely, it belongs to the subject of study and research of the mentioned sciences.

Thus, the formation of legal science is the result of the laws of natural-historical processes. This science stems from the need for law to manifest itself as a social phenomenon, to be the most important regulator of social life, and to have a set of rules for the behavior of each individual. This natural-historical process, of course, was possible within the state, which is the most important product of human society. If there were no state, there would be no need for law, legal science, or the study and research of such a science. In other words, the law has always needed the state, and the state has always needed the law. This means that the legal science at its core is based on the science about state. The legal science, in turn, enriched the state with the elements necessary for it, and constantly mobilized not only society, but also the working mechanism of the state.

Like all other humanities, the legal science has been developed during the process of its formation due to the improvement of knowledge in this field. In this sense, it cannot be imagined in isolation from human activity. So, the legal science means a specific area of human activity. From this point of view, the main function of this activity is the development of

objective knowledge of law, as well as their systematization. It is necessary to take into account that objective knowledge of law is a theoretical embodiment of the legal realities of society. Like other fields of social sciences, legal science is one of the forms of public consciousness. Forms of social consciousness have always included the following:

- 1) the process of acquiring knowledge about any science (here the legal science) as a relevant type of activity. It is a cognitive process, consisting of the creative (individual and collective) efforts of researchers specializing in various fields of law to acquire new knowledge of law;
- 2) the accumulation of necessary and new knowledge about law is the result of this process. The scientific results obtained in the course of this process can be expressed in various scientific publications, dissertations (research works on master's, doctor of philosophy, doctor of sciences), speeches at conferences and other scientific symposiums, expert opinions, drafts of normative legal acts, scientific program being developed, projects, etc.

It is important to note that analysis and research in the process of scientific activity aimed at acquiring new knowledge are comparative. This is one of the most widely accepted methods of approaching science at the present stage. The comparative method is now widely used in legal science. It consists of comparing two or more objects by stacking or comparing them. The comparative method involves determining the general regularities of objects known to science from ancient times to the present, as well as, as shown in the literature, the properties of these objects in different periods, in the past and present, changes that have occurred in them or aimed at identifying development traditions [3, p. 14].

Thus, in legal science the comparative method is used in the comparison of objects that existed at the same time and at different stages of historical development, their specific features, the changes and development traditions in those objects in accordance with the requirements of the time (content of normative legal acts, changes and improvements, etc).

The structure of legal science. There is no science without structure. The structure of

each science includes the subject, object, methods and means of perception, the novelty of the results of scientific research. Any change in the structure of science is usually associated with the emergence of new fields of science and their justification in practice. The latest innovation in the historically formed structure of legal science is the novelty of the results of scientific research. In previous periods, there was no such element in the structure of legal science (for example, slavery, feudalism, modern legal science).

A. Subject of legal science. Research in every field of science involves a person. That person is called a physical person in legal science (within the science of civil law). In this sense, a subject in legal science means a specific researcher or scientific team acting in that role.

The researcher is not an ordinary individual. Thus, the researcher must have a certain level of professional knowledge in the field of research, a set of general and specific knowledge. In particular, a person conducting research in the field of legal science must have the necessary legal thinking and legal culture. In addition to the legal way of thinking, the researcher-lawyer must have general and special methods of cognition, and take special initiative in scientific research. In other words, in addition to the ability to engage in scientific research, the person must also have the desire to do so.

B. The object of legal science. The object of legal science is the whole set of legal events and processes of legal reality. It contains the following components:

- a set of individual doctrines and concepts, theories and teachings of the ideas of law, as well as thoughts of philosophers at different stages of development of legal science;
- a set of legal norms;
- a set of public relations regulated by legal norms;
- Law-making;

It should be noted that similar objects may exist in other humanities related to law (e.g. philosophy, sociology, political science, history, economic theory, etc.). Therefore, a number of neighboring sciences are distinguished from legal sciences. For example, philosophy of law,

sociology of law, history of law, comparative jurisprudence, comparative state studies, etc.

C. The subject of legal science. When we talk about the subject of any science, first of all, the focus is directed on what that field of science has learned. At the same time, there is a subject of scientific research, which answers the question of what the relevant science is researching.

The subject of legal science is the object directly studied by this science. In this sense, as its name suggests, legal science studies the origin, development and regularity of law. At the same time, the legal science studies the current state of law. The first of the central elements of the study of legal science is jurisprudence. Jurisprudence cannot be equated with law. Law is a general concept, and it covers the components of legal science, the laws of development. Legal terminology (legal language) itself is directly related to law. However, other developmental patterns that directly affect law are also part of the study of legal science as a whole. Other evolving patterns are usually economic, political, cultural regularities.

Jurisprudence, which is an integral part of the legal science as a whole, is a separate specialty. Jurisprudence also has its own components, and such parts include:

- ✓ Legal practice;
- ✓ Violation of law (crimes and offences);
- ✓ Legal liability (legal liability - disciplinary liability, administrative liability, material liability, etc.).

D. Methods and means of understanding legal science. First of all, it should be noted that the methodology of legal sciences is the subject of study and research of philosophy, especially legal philosophy. Therefore, the methodology is another topic and is not included in the analysis of this article. These tools mainly cover technical means (computing and computer equipment, video equipment, etc.).

E. The novelty of scientific research in law. This structural element includes the latest research in the field of law. The importance of such innovations is reflected in their enrichment of the science of the theory of state and law, the history of teachings on law and the state, as well as the philosophy of law and the sociology of law. Innovations, first of all, have a

strong impact on the development of legal science as a whole.

One of the issues in the focus of the humanities at the present stage is the problem of the relationship between religion and law. The literature of the 70s and 80s of the last century noted that law was closely connected with religion, and such interdependence arose even in primitive community society [4, p. 94-95]. In our opinion, such an interaction can be attributed to the last period of primitive society. It was during the period of social maturity (primitive society, in general, passed through the stages of savagery, development and maturity) that primitive people already had speech, the first elements of religion (deism, fetishism) began to appear, and as a result the council of elders that played a key role in governing society, used customs, traditions and other social norms, especially religious norms. Even in this situation, the interaction between law (meaning law in the sense of social norm) and religion has taken shape.

In the field of legal science, religious views have played an important role in the formation of legal norms.

Thus, it can be concluded that the legal science has an approximate history, and this has been a long process. To study this process, it would be expedient to analyze the historical stages of the development of legal science.

The division of the development of legal science into historical stages is usually associated with periods of historical development of mankind. As we know from general history, this is due to the division of mankind into socio-economic formations. At the same time, it should be noted that the division of the development of science, including law, into historical stages has always been conditional, and this is due to the specific requirements of each historical development period in the development of societies and states. For example, there is such a historical period in the development of legal science that no theories and teachings that could stimulate the development of legal science have been put forward during that historical period.

If the historical stages of the development of legal science are approached in terms of the division of mankind into socio-economic formations, then the division into periods will be taken as follows:

1) The history of the Ancient world (about 30th century BC - 5 century AD), i.e. the period before the collapse of the Roman Empire (476 AD) when the first states were formed. This stage is mainly related to the historical genesis of legal science in ancient Greece and Rome.

2) History of the Middle Ages (late 5th century - late 15th century). The discovery of America in 1492 and the beginning of globalization specifies period. This period is associated with Byzantine law, then with the law of European states, and finally with the emergence of legal education.

3) New period (16th-19th centuries). This period is specified by The First World War (1914-1918) and the revolutionary events of 1917 in Russia. Namely during this period that legal science was formed in the modern sense. The period itself, and the processes taking place in it, are mainly related to the states of Europe and the United States.

4) The recent period (the period from the twentieth century to the present). This period is associated with the development of legal science, and the development of legal science has acquired a global character at this stage.

It should be noted that this chronology was proposed by A.M.Lushnikov [5, p. 5].

According to some considerations, it is difficult to fully agree with the chronology presented by the author. First, it is generally accepted that law and legal science emerged at the same time with the emergence of states. Although A.M.Lushnikov supports this aspect, he relates the emergence of law and legal science with ancient Greece and Rome [5, p. 6].

It is far from the truth, because the first states or state institutions were formed in the Ancient East (in Ancient Sumer, Egypt, as well as in Azerbaijan and so on in Eastern slave civilizations). So, in this regard, it cannot be ruled out that law and legal science was formed namely in ancient Greece and Rome.

Second, there is no explanation of how the discovery of America and the beginning of globalization were linked to the emergence of legal science. In general, the author's conclusion is somewhat ambiguous.

Third, neither the First World War nor the revolutionary events in Russia had anything to do with the formation of the legal science. On

the other hand, it is not clear exactly what revolutionary event took place. If such an event relates to the events of October 1917, it should be noted that in October 1917 a coup d'état took place in Petrograd, not a revolution, and that the interim government handed over power to the Bolsheviks without any resistance or use of arms.

In accordance with these considerations, we would like to show once again that the above mentioned chronology (even if it is conditional) cannot be considered completely effective.

It should be taken into consideration that at present not everyone agrees on the chronology of the history of human development in terms of the formation, development and activity of the state and law. Formational chronology is a Marxist concept that found itself inconsistent with scientific truths back in the days of Marxism-Leninism. Though the given chronology is not completely ruled out it is not fully accepted.

Based on the abovementioned, we propose the following chronology of the emergence of legal science:

- 1) The ancient world;
- 2) The Middle Ages;
- 3) The Renaissance and the Reformation;
- 4) The period of bourgeois revolutions (permanent revolutions);
- 5) New period (period of free competition);
- 6) The recent period (monopolistic capitalism, imperialism, socialism, the two opposing systems, the liberation of the colonies, the crisis period of "real socialism").

The presented chronology is taken from the historical science and the given stages of historical development, along with the process of socio-political and cultural evolution of mankind, also include periods of scientific progress. This chronology cannot be evaluated as a complete and definitive classification. As already mentioned, the stages of scientific development of mankind are conditional, and therefore, according to one of the considerations put forward in the legal literature, "it is difficult to prove the legitimacy of the stages of development even in the science of history" [6, p. 4].

The legal science is not utopia. It reflects the legal realities of different periods of historical development with real factors, presents the years of progress and decline in the develop-

ment of legal science, as well as the originality of individual historical stages on the basis of real facts.

The chronology presented by us is not based on a single principle. The first 3 (three) parts of the chronology (Ancient World, the Middle Ages, the Renaissance and Reformation period) embody the classical division of world history. Namely in the classical period, as in all other fields of science, (of course, in the spheres of science that existed at that time), the first elements of legal science were evolved, gradually formed and developed and thus prepared the perfect foundations for later periods.

A single principle in the construction of chronology demonstrates the historical affirmations of formation, development and maturity periods of science. The development of science and the improvement of its provisions, as well as scientific progress and its achievements always keep science to be high priority. In this respect, the humanities do not stand behind the natural sciences and the exact sciences [7, p. 67]. Can this be applied to legal science? In our opinion, this provision is also typical for the legal science.

If the principle of unity was followed, the period of development of legal science should be followed by the period of development of legal science in the New Era and Recent Epoch. However, in the chronology presented by us, they are replaced by the period of bourgeois revolutions (permanent revolutions). Such a logical imperfection itself stems from the needs of the teaching process of legal science itself and its various branches. Unlike the condition of legal science in ancient and medieval times, the legal science was enriched with universal values namely during bourgeois revolutions, surrounded by new principles in accordance with the needs of the time, and law began to manifest itself as a science that reflected the realities of law and the realities of social life without scientific scholastic ideas.

The Ancient World Stage of the historical development of legal science covers a large period from the middle of the first millennium BC to the fifth century AD. Taking from the ancient Eastern civilizations, Ancient Greece and Rome made unprecedented contributions to the legal science in the world. As a classic period

of world legal culture, it can be considered the beginning of its enrichment. Ancient Roman legal science served as a benchmark for legal science in almost all European countries in its later development. Thanks to the adoption of Roman legal science, a perfect legal system was formed in many Western countries.

The Middle Ages period of development of legal science can be divided into 2 (two) stages of development:

- A) Early Middle Ages (6th-9th centuries);
- B) Middle Ages (10th-15th centuries).

The period of development of legal science in the early Middle Ages is the stage of emergence and formation of feudal relations. The Middle Ages were marked by the development of feudalism and its gradual decline. The contradictions that arose within feudal social relations that took place in the 15th century and their growing richness finally laid the groundwork for the emergence of capitalist relations towards the beginning of the 17th century. At this stage, the legal science, relying on the theory of natural law, has given impetus to the emergence of new scientific provisions of jurists, the law, beyond a narrow framework, has become the right of everyone.

A new stage in the development of legal science usually begins in 1870 (since the establishment of the Paris Commune) and is considered the most productive stage in its development. This stage lasted until the end of the 19th century. The development of legal science in the new period is considered to be the most productive stage because it was at that time, that the fundamental provisions, general and special principles of legal science, (especially criminal and criminal-procedural legal science) which are still relevant today, were implemented.

It should be noted that these principles were theoretical provisions developed by French enlighteners during the revolutionary events that took place in France in the 18th century. Thus, Voltaire (real name François-Marie Arue, 1694-1778), Jean-Jacques Rousseau (1712-1778), Charles Louis Montesquieu (1689-1755) and other French thinker's revolutionary challenges developed for the Great French Revolution had a deep legal content. The point is that these theoretical provisions have become

important principles of the constitutions and national legislation of individual European countries in the following years. Some of them are:

- ✓ "it is allowed to do anything not prohibited by law";
- ✓ "it is not allowed to do what is prohibited by law";
- ✓ "only one punishment can be imposed for one crime" and so on.

Over time, especially in the early 19th and 20th centuries, the course of history has accelerated significantly, and accordingly, the legal science has gained great intensity in its development. The legal literature shows that the development of legal thought was so intensive at the beginning of the twentieth century (this is the beginning of the recent epoch) that "rapid renewal took place in the arsenal of new provisions of legal science. Due to this, the development of legal science influenced on socio-economic and political life, and as a result of innovations in jurisprudence, state-legal theory became one of the vital needs" [8, p. 24].

The above stages of historical development, reflecting the chronology of the historical development of legal science, are mainly based on the history of Eastern Western countries, not Eastern countries. Because the basis of the presented chronology is the historical materials of the Western countries. Therefore, it is impossible to include, at least literally, the historical data of the Eastern countries in even separate parts of this period. However, even in this case, the presented chronology of legal science retains its value, especially its methodological value, in the process of comparative analysis.

It should be noted that, as in other areas, in the development of legal science, the West began to move rapidly and leave the East behind, starting from the Renaissance and the Reformation (14th-16th centuries). The word East mentioned here, means first of all, the periods of development of Muslim (Islamic) legal science in historical stages. The changes made by the West in the field of legal science and political construction also led to its expansion, colonization and the emergence of imperialism. However, this did not mean that the legal science stopped developing. The powerful and stable scientific advances that emerged in the West

and influenced the legal ideas of other countries of the world were advancing intensively. On the contrary, the ideological influence of the East on the West and its spiritual culture and values, that is, the traditions of influence of the East, was gradually weakening. The situation led to the fact that after the bourgeois revolutions, the legal science of some Eastern states began to develop under the influence of the ideas put forward in the West at that time.

Thus, summarizing the brief analysis of the historical stages of development of legal science, we can conclude that the chronology that applies to all states and their legal science is possible only on the basis of formal-chronological sequence. However, this is not enough to characterize the relevant period as a whole.

The development of legal science (regardless of the stages of historical development) is associated with the development of political and legal thought, ideas and theories, teachings, various concepts and doctrines. Only the ideology of the relevant period in this process does not pass unaffected by law. It is important to consider the categories of legal science in terms of characterizing the development features of concepts and doctrines.

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**ИСТОРИЧЕСКИЕ ЭТАПЫ
СТАНОВЛЕНИЯ И РАЗВИТИЯ
ЮРИДИЧЕСКОЙ НАУКИ**

В статье указывается на длительный исторический процесс юридической науки. Для изучения этого процесса необходимо проанализировать исторические этапы развития юридической науки. Разделение развития юридической науки на исторические этапы обычно связано с историческим развитием человечества. Как мы знаем из всеобщей истории, это связано с разделением человечества на общественно-экономические формации.

В то же время автор считает необходимым отметить, что деление развития науки, в том числе юридической, на исторические этапы всегда было условным и это связано со специфическими требованиями каждого исторического периода развития общества и государства.

Ключевые слова: Азербайджан, право, история, развитие, наука.