

Genesis of the Formation of the Concept of Personal Freedom of Citizens: Historical and Legal Aspects

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Abstract: *Consideration of the problem of ensuring personal freedom of citizens involves the study of many issues related, firstly, to the definition of the very concept of personal freedom of citizens from the perspective of philosophy and secondly, an analysis of the legal significance of this institution of the social structure of society. The problem seems to be quite global, and the large volume of research related to ensuring personal freedom of citizens, the state formulation of such issues, the constitutional consolidation of the basic tenets of a democratic state related to the definition of an individual citizen as well as his legal rights and interests as the main value of society are confirmation of this, including the right to personal freedom, the right to free choice of occupation.*

Defining the concept of personal freedom, personality, personal security and basic measures to ensure it, I would also like to touch on the philosophical aspect of the problem, since, as it seems to us, it would be wrong to leave this side of the issue untouched, since in many ways the development of problems of a legal level requires its own philosophical justification.

Keywords: *genesis, formation, concept, personal, freedom, citizens, historical, legal, aspects*

Introduction

Human rights are a complex and multifaceted phenomenon. In any area of human activity, we repeatedly come across this concept. The problem of human rights and fundamental freedoms is constantly being touched upon and heatedly discussed in the press, the press, at meetings and discussions at various levels. In fact, human rights determine the conditions and ways of human life, ensuring the safe existence and development of man. They are inseparable from the social activities of people and act as a measure in public relations. But, despite the relevance of the phenomenon being studied, the majority of the population do not have a clear idea of human rights, or of how to protect them. The study of human rights and their implementation must be approached comprehensively: from historical, humanistic, social and other positions. The list of fundamental rights developed and adopted by the world community is the result of a long historical process that has been plagued by many peoples and generations of people who, at a particular historical stage, contributed to the development and proclamation of inalienable and inalienable human rights. Historical experience shows that each generation needs to protect human rights again and again, that humanity is not yet familiar with a situation in which no effort is required to ensure and protect human rights and freedoms.

Human rights, their genesis, social roots and significance are one of the most pressing problems in the history of human civilization. This institution of law has developed over several millennia, from the time of Ancient Hellas to the present. Hundreds of generations of philosophers, politicians and lawyers have formed a huge stratum called human rights. Each stage in the history of mankind is marked by its achievements in the field of human rights.

The origin of the concept of human rights is usually associated with ancient Greek policies, where the ideas of democracy, freedom and equality were formulated for the first time. The achievements of Roman legal thought and the work of Roman lawyers have had and continue to have a tremendous impact not only on the development of law, but also on the development of world culture as a whole. Having entered the practice of medieval states through the reception, Roman law was the foundation for the Roman-German legal system.

The problem of the personality of freedom, the determination of its status have been an object of study of the science of philosophy for quite some time, and there are many definitions of the personality as a philosophical category, as well as characteristics associated with it that determine the main content of these concepts. We are primarily interested in that part of the qualitative characteristics that determine the position of the individual in society and which are the subject of state protection.

Explanatory Dictionary S.I. Ozhegov and N.Yu. Swede defines a person as a individual; a carrier of whatever properties, and with a philosophical dictionary, a person is defined as a human individual in the aspect of his social qualities, which are formed in the process of historically specific types of activity and human relations. As we see, we are talking of course about a person, as a subject of legal relations, as a carrier in connection with these legal relations of certain rights and obligations, and all this is determined, including the volume of rights granted, the type of social structure of the state, the form of government, its orientation. of the state involves the formation of various kinds of relationships, the subjects of it forming between themselves and the people, as a set of individual personalities of holders of subjective rights, which the state can provide. Unfortunately, in philosophy, this approach to the definition of personality, its rights, when it is directly related to the attitude of an individual individual to material wealth and means of production, predominates; this was especially clearly manifested during the Soviet period of development of our society.

It seems to us that a person and his rights and freedoms should not always be considered from the perspective of the political structure of the state, although we do not exclude such an option, but take an individual person as a bearer of subjective rights in a pure form, as it should ideally be, we recall naturally -the legal approach, as mentioned above, since the rule of law implies the equality of all its citizens before the law, as equal in volume, rights and freedoms granted and protected by the state itself.

Of course, considering a person as a bearer of certain rights, we proceed from the fact that we should not talk about some abstract concept, subject, but about a specific person who has every right to use the rights granted, since any crime encroaching on a certain area of protected social relations, first of all, it damages a specific person, violating his subjective right, including personal freedom, the right to independently determine his occupation, or his location And for some or other benefit guaranteed by the state, in the second place the whole system of social relations aimed at the protection of all citizens of the state security in general and the individual citizen individually.

The study of the problems of ensuring personal freedom of citizens, their security in modern society is one of the most studied and promising areas in many branches of law: criminal, criminal procedure, forensics, general theory of law, etc. .. In our opinion, it will be justified and correct consideration of the main components of the concept of personal freedom, security through a study of the genesis of the concepts of personality, freedom, law. It should be noted that when considering the problems of ensuring personal freedom of citizens, their safety, we primarily mean issues related to freedom of the individual in terms of his right to choose his location, choice of occupation, etc., since the philosophical aspect, as our studies of this problem have shown, which is lower, personal freedom is understood in a much broader sense, including legal, since the Constitution provides for a sufficient list of rights (the right to life, religion, work, etc.) in complex and constituting the legal (constitutional) the concept of individual rights and freedoms.

This reservation is made with the aim of designating the whole nature of the work in the context of our concept of personal freedom and security in modern Kazakhstan and the world. That is, we say that in this case, when revealing the philosophical, historical and legal definition of a person, his freedom and security, we proceed from the relations of the general and the particular.

Main part

Through the study of the problems associated with the formation of social relations inherent in one form or another of the state system, the determination of ideological aspects that affect the type of social relations, as well as through a clear understanding of the hierarchy of built relationships between such institutions as law, state, and personality, we can distinguish from a general, global the system of individual rights, as a structural element of society, the state, its right to personal security, freedom. The main thing for us in the framework of the study, and perhaps the most difficult, will be the determination of the place of the individual, individual citizen in the system of state structure, as well as the determination of the mechanisms of protection of the person established by the Constitution of legal rights and interests within the current state (Kazakhstan), including personal freedom and security.

The state through various branches of government, various instruments for regulating social relations and processes, in an active form affects many areas of public relations. Within the framework of these relations, the volume and nature of individual freedom, the possibility of exercising one's personal rights and freedoms are determined by the objective laws of society development. The state in its activities is bound by these laws; it cannot

act contrary to them. A measure of legal regulation is sought in public relations themselves, it is established objectively. In particular, the state, by its regulations, formulates the content of the rights and freedoms of citizens, determines the limits of their implementation and establishes, with a view to the freedom of all members of society, certain prohibitions and obligations. Such legal provisions cannot be considered restrictions on the freedom of the individual, her rights and freedoms. True freedom of the individual is unthinkable without combining the interests of the individual with the interests of the collective, society, and the state. The true harmonization of social, group and personal interests is objectively expressed in a combination of real rights and freedoms of citizens with their duties and responsibilities to society, in the inextricable unity of the rights, freedoms and duties of an individual.

In connection with the foregoing, our study will be devoted to the problems of the emergence and development of institutions of the individual and his subjective rights in general, with subsequent identification of problems associated with the violation of the norms of the Constitution of the Republic of Kazakhstan, criminal, criminal procedure, administrative and other branches of law leading to human trafficking, sexual and other exploitation, illegal arrests and detentions, etc., that is, acts encroaching on a person's personal freedom, his freedom, i.e. a person's condition not related to the restriction of his right to choose a location, determine occupation, etc.

In the modern world, when there is a reappraisal of many basic concepts and social relations, the importance of issues related to the definition of the role of the individual, individual, as a structural element of the structure of society, as well as the possibility of this person realizing it, within the framework of established norms and rules, is growing. Behavior as a participant in public relations, their rights and freedoms.

Until now, the solution of these problems has been seen by many learned philosophers, lawyers, and economists as a key aspect of addressing the security of individuals and the state. Of course, most researchers agree that global security is possible only through the provision of effective mechanisms for a person to exercise his legal rights and freedoms, which is naturally possible under the conditions of comprehensive security of the individual, his confidence in the integrity and reliability of the basic provisions of the Constitution regarding rights and freedoms, as well as their reinforcement by all the power of state power.

It seems that the solution of the above problems, as well as the development of the concept of personal freedom of citizens of their security, are possible primarily through the definition, study of the concepts of "freedom", "personal freedom", "security", etc., and secondly through historical analysis the formation of these institutions, you third need to study the existing systems for ensuring personal freedom of citizens, including at the international level, and subsequently the formation of a system of views, ideas about what personal freedom and security consists of personality.

What should be understood by the word freedom, in all its senses? Some scientists, publicists, philosophers, defining the concept of freedom, largely emphasized the personal aspect. So A.I. Herzen noted "Freedom of the face is the greatest thing: the real will of the people can grow on it and only on it. In himself, a person must respect his freedom and honor it no less than in his neighbor, as in the whole nation [1].

We see that the freedom of an individual is Herzen A.I. linked to the state of democracy in society, i.e. the derivatives here are not the person's internal state, but external conditions, circumstances, and the person either accepts these conditions or not.

We noted above that the content of a person's legal status in specific historical periods of social development, in a given era, philosophical and the type of social relations and the level of socio-historical progress determine legal views on the formation of concepts for resolving issues of relations between the state and a person. For example, in a society accepted to be called ancient or ancient, an individual person, an individual, was seen as an inseparable part of the whole. A person, if he was a free citizen, was endowed with public rights and obligations to participate in the management of general affairs.

Aristotle, determining the content of freedom, its meaning said that excessive freedom is harmful first of all to the person himself: "To be in some dependence on others and not be able to do whatever you want is a good thing: after all, giving everyone the opportunity to do he cannot protect his desire from the evil that is inherent in every person" [2].

Among the early legal documents in which an attempt was made to weaken the absolute power of the state, in the person of the monarch and feudal lords, as well as the prerequisites were created for the creation and development of the foundations of civil society, is the Magna Carta adopted in 1215 in England, which is essentially, with some reservations, in our opinion, the prototype of the modern constitutions of many states of the democratic system, since it fixed the provisions according to which it was prescribed, for example, not to be appointed Uday and sheriffs people did not know the law or do not want to comply with them [3].

It can be said with relative certainty that the problem of individual freedom, its security, as well as the promotion of the ideas of a civilized, to some extent "rule of law" state received a powerful research base from the

16th to the 19th century AD. This period is characterized by a significant number of scientific, journalistic, etc. the kind of work around which attempts have often been made to justify the concept of a free man.

Hobbes in his work "Leviathan" (17th century) noted: "Freedom, according to the exact meaning of the word, means the absence of external obstacles that can deprive a person of the ability to do what he would like, but cannot interfere with the use of the power left for a person according what is dictated by his judgment and reason"[4]. A rather original judgment regarding the fact that T. Hobbes again largely indicates, in our opinion, a direct connection between the amount of freedoms granted and the desire to use this freedom, i.e. the formation of these desires under the influence of external factors. If the environment involves the formation of some kind of chaos in desires and actions, then a certain factor inhibiting these desires is required, which apparently should be the state, and not the nature of man and his inner world, as indicated by T. Hobbes.

An important role in the formation of institutions of a free society and a free person in it was played by the Virginia Declaration of Rights adopted in the USA in 1776, which proclaimed the universal equality of people and that by nature they are equally free and independent and have certain inherent rights, which they, neither their descendants can lose. The authors of this declaration, Thomas Payne and Thomas Jefferson, used and developed the ideas of the philosophers of ancient Greece on natural law. These ideas were further developed in the Declaration of Independence of 1776. "We proceed from the self-evident truth that all people are created equal and endowed by the creator with certain inalienable rights, which include life, freedom, the pursuit of happiness. To ensure these rights, people are establishing states that draw on their legal authority in the consent of the governed." Subsequently, in 1789, the first 10 amendments to the Constitution were adopted, which amounted to the Bill of Rights, ratified in 1791.

It seems that it is these documents and the ideas embodied in them that played a significant role in the formation of both the US state itself and its democratic institutions, a civil society in which everyone is aware of their rights and measures to protect them. These ideas were the impetus for the American Civil War, for the abolition of slavery. In addition, it is precisely these ideas that are highly respected in modern America.

The idea of individual freedom, put forward by the enlighteners, was also developed in Kant's works and was associated with the legal equality of people, their free society: "Law is a set of conditions under which the arbitrariness of one (person) is compatible with the arbitrariness of the other from the point of view of the universal law of freedom". According to Kant, this freedom is independent of external circumstances; it is a natural, inborn right of a person [5]. We want to note that one of the main points in the formation of the Concept of personal freedom, security that we propose, as an integrated system of views, ideas about the role of a person, citizen, state, their interconnection will be based, including the concept of natural rights, through their implementation in the legal field.

Conclusion

We noted above that we are considering the natural-legal approach in the formation of the concept of ensuring personal freedom of citizens, as one of the main components. Without going deeply into controversy regarding the impact of natural, inalienable rights on state policy in the exercise of these rights, I would like to say that perhaps all learned philosophers, lawyers of the past and the present recognize this influence, of course, at a different level, sometimes against the personal desire of individual authors. What is the essence of the natural-legal approach? He received the greatest development in the works of authors, most of which worked during the period of the so-called "enlightened absolutism", the heyday of the monarchies, on the basis of the unconditional suppression of dissent, civil rights and freedoms. It is precisely these circumstances and the fact that absolutism, as was enlightened above, is thought to have become the reason that it was during this period that a whole galaxy of brilliant scientific philosophers and lawyers appeared who, realizing it (absolutism), injustice, the presence of inequality in society, widespread violation of civil rights and freedoms, including the right to personal freedom and security, have devoted their efforts to changing this state of affairs, creating the prerequisites for the formation of future democracies.

It should also be noted a significant contribution to the development of the theory of the formation of the idea of personal freedom of citizens, such philosophers, scientists as Jean-Jacques Rousseau, Hugo Horace, John Locke, Charles Montesquieu. The concept of natural, inalienable rights that they have formed has played a significant role in the political processes of the 18th century. This is the Great French Revolution, one of the results of which was the adoption of one of the most significant legal documents, the relevance of which today is not disputed by anyone today - the Declaration of Human Rights and Citizen of 1789. The value of this document is determined, in our opinion, primarily by the proclamation of the equality of all members of society, the natural nature of rights and freedoms, and their inalienability, and it was very important that it was announced that the goal of any political union, naturally means the state, is to ensure natural and inalienable human rights - freedom, property, security and resistance to oppression, the presumption of innocence, freedom of conscience, free expression of opinion, freedom of the press, guarantees of personal and other rights human citizen [6].

Analyzing the essence of the contradictions among the various approaches to ensuring the rights and freedoms of citizens, we observe today some disagreement in the role of the state in ensuring these rights and freedoms., i.e. the natural-legal version of the concept of rights and freedoms is opposed by a positivist approach. Without going into details of this scientific debate, which currently has a somewhat purely philosophical and even rhetorical meaning, we note that basically all states that classify themselves as democratic and legal use quite successfully apply both approaches in the formation of legislative acts and first of all, of the Constitution., and also pay attention to the fact that all modern states adhere to the generally unified international standard of human rights, which, as it is, is paradoxical It does not seem to be the result of ideological struggle of the bourgeois and the socialist doctrines of human rights 60 and 70 years of the 20th century.

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