

Features of the Development of Justice

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Abstract: The article is ideologized in Russian doctrinal sense of justice does not allow even raise the question of the formation of the Russian legal culture itself. Dominates simplified interpretation of the legal system as a mechanistic connection of three elements-legal acts (legislation), legal activity and sense of justice. In this article, the author tries to open features of justice and organic development of the law.

Key words: Sense of justice • Rationality • Law • People

INTRODUCTION

Ideologized Russian doctrinal sense of justice does not allow even raise the question of the formation of the Russian legal culture itself. [1] Dominates simplified interpretation of the legal system as a mechanistic connection of three elements - legal acts (laws), legal activities and sense of justice. No question of the first two elements according to the national sense of justice and law only concerned the extent to which the ideas embodied in the law or legal structure of Western European law. [2] Legal awareness is defined as the sum of legal ideology (concepts, ideas, principles, etc.) and legal psychology. In this developed sense of justice is called, in which the rational component, the legal ideology dominates emotionally rational. [3] Therefore, the possibility of abrupt change recognized ideological attitudes. Thus, all elements of the legal culture of society become the sphere of social experimentation.

Ideological bias manifests itself in an inferiority complex "provincial", in the conviction that the problem of improvement of Russian law can only be solved by a clear borrowing someone else's experience. This kind of pro-Western "Rapture" and the desire to be "in everything and always" European would look ridiculous if it did not lead to serious consequences.

Two systems of Western law, Anglo-Saxon and Romano-Germanic - were the result of centuries of development and their Content of predefined style not abstract and universal ideas and specific historical conditions of existence of Western civilization Europe.

Legal culture of Japanese society is of particular interest not only because of its uniqueness, exceptional efficiency, but relatively obscure this issue for the Russian audience.

Crucial for the formation of the basic features of a modern legal system of Japan steel 60-80-ies of the XIX century. This so -called era of Meiji ("enlightened government"), which began with the bourgeois revolution of 1867-1868. Despite its limitations, the Revolution gave impetus to significant reforms in various spheres of public life.

Change in the legal awareness and legal culture of the Japanese population comes from the late 60s of the XIX century, when there is industrial growth, actively developing capitalist relations, established trade relations with other countries. Translated into Japanese, French and German codes, studied English law. Put and gradually performed the task of creating the legal system such as developed countries.

Formation of a new legal system took place in a bitter struggle between supporters of conservative and democratic governance.

In modern conditions, well-organized legal system in Japan is characterized by advanced legislation, courts, lawyers qualified personnel and high legal culture.

Will lawmakers thought to be a valid determinant of human behavior must be internalized, accepted them. Clarification will of the legislator in the process of law-making is achieved through the perception of both existing and emerging regulatory statutes, ie by their interpretation.

Important role in the legal system of justice Japan plays citizens, which is based on respect for the moral categories such as conscience, duty, dignity, honor. In this sense of duty, which is perceived as a duty to certain people or groups, manifested in the legal actions of the Japanese. At the same time in a contractual relationship, a sense of justice of the Japanese there are elements that are alien to the understanding of debt, allowing the opportunity to engage in no "extra" action in relation to people with whom they are not in personal contact.

In the sense of justice of the Japanese are still going strong as the idea that places "the common good" above personal interests, plays a role Confucian idea of hierarchical order, which is preserved in the mindset of the majority of society.

Japanese sense of justice is based on national traditions and customs. Their formation was influenced by Shinto, Buddhism and Confucianism. With Japanese Shinto associated formation of statehood based on the cult of the imperial dynasty and emotional unity of the nation. With the help of certain provisions of Buddhism occurred justification hierarchical social order. Confucianism served as the foundation of social ethics.

Developed under the influence of religious movements of justice characterized the Japanese concept of "wa" (spirit of harmony). In this concept inherent in Japanese culture connected to notions of hierarchy and harmony. The principle of "all" requires evade criticism (criticism is allowed only in a veiled form that criticized "lost his dignity") and implies a peaceful, amicable resolution of disputes arising in the field of management (R. David calls it "unlaw oriented thinking" Japanese). [3].

Since the dawn of civilization accompanies the Japanese concept of "wa" translated into most languages it is translated as harmony. There is an opinion that the commitment to the Japanese Islands is associated with the formation of foundations (canons) of the national religion of Shinto Japanese at the end of IV - V centuries as the beginning of a kind of religion, which goes back to primitive cultures of nature and ancestors, as a first step towards the formation and registration of the Japanese aesthetic outlook in a kind of integrity. Shinto worships beauty of nature, emphasizing its uniqueness. [4]

Harmony, or wa, whatever its source deep in Japanese culture permeates and affects all aspects of Japanese life.

Wa - one of the fundamental concepts of Japanese philosophy and aesthetics. Knowledge of the character of the peace, harmony, programming, calm. Another meaning - Japanese. This character is part of the ancient name of the country of Yamato, which can be read hieroglyphics as "great peace" or "great harmony".

Japanese understanding of harmony is very similar to the Chinese. The famous Chinese philosophical treatise Leung Yu says: "If a person is superior to natural breeding, he is like a country bumpkin. If breeding is superior, it is like a natural scientist scribe. After breeding and naturalness cancel each other it would be a noble husband. "Therefore, the Japanese gave wa, or harmony so important. This is reflected even in Japan's first Constitution or the Constitution of 17 articles written by prominent statesman of ancient Japan Setomu Prince Taishi (604), where it was written: "Honor wa poise and do not act in defiance. This rule applies not only to human relationships but also on relationship with nature, the gods, the laws of art.

It should be noted that in the understanding of how the aesthetic ideal of harmony between East and West, there are fundamental differences, "Symbol statics West - the paradox of Zeno of Elea nonexistence of motion rapidly flying arrow is fixed in each infinitesimal time.

The focus of the classical philosophy of the peoples of the ancient East is a process of continuous development of the world and its variability and the eastern worldview is unthinkable without the notion of a constant change, in which it concluded permanence. This continuous change in the world, according to the Japanese and the balance is harmony.

Deep reverence for the harmony and the need to have played a key role in the development and use of the Japanese language in daily Japanese etiquette in all the many craft and art of Japanese culture. [5]

Expanding the scope of lawmaking and accompanied by another trend, namely the tendency to detail the existing legal regulation of social relations more concrete and comprehensive regulation of them. According to AS Pigolkin deepening legal regulation - is the main backbone for the modern legislation. [6]

Japanese philosophy, ethics and etiquette are based on the fundamental principle, which is that the harmony precedes everything else. Japanese concept of wa used very often, but it happens often ambiguous in terms of Western logic and common sense sometimes.

For many centuries based on the Shinto religion as understanding wa harmony nestled deep in the Japanese life in all spheres of their culture. And today, this understanding has a great influence on modern Japan is like a giant economic power.

Harmonious relationship between government and business between the unions and the administration are the distinctive characteristics of the Japanese system of relationships in society. The same traditions and rules of harmony prevail in the management of companies are the backbone of the desire for consensus and group approaches to solving problems in the conduct of business.

Western businessmen who frequently come into contact with Japanese colleagues, note that even in business maintaining wa still primary over and rationality (feasibility). According to the Japanese, the partners have to wait until until wa requirements for the transaction will not be met.

A thorough understanding of the role of harmony in Japanese life can give, for example, Japan's approach to business negotiations and management, It wa can answer the question why the Japanese spend so much time and money to establish cooperative relationships with suppliers and buyers.

Businessmen, foreigners who want to install and establish good and trusting relationship with Japanese companies can do this only if they use every opportunity to show their understanding and appreciation of Islands in Japanese corporate culture and in Japanese society as a whole. By doing this, they can significantly increase their chances of success in the relationship and cooperation with the Japanese.

One of the most important and necessary for the achievement of the spheres - the language. It is very much appreciated way of speaking, which implies a neat selection of words and phrases that are required to express their thoughts, tone of voice and so on. The Japanese are very sensitive to such things, as opposed to the average European. Westerners often do not hesitate to use the word, annoying Japanese words that suggest inflexible attitude, aggressive manner or tactlessness.

Most problems in this area due to the fact that Western languages ??often sound to the Japanese "straightforward " and " dramatically ". While the Japanese are accustomed to speak on "soft, obscure " language. In the West, often use phrases such as "you

have to understand", "I know", "we know, for example, that.. " "I give you the floor that... " and so on. - They all sound for the Japanese aggressive and annoying, especially when they said sternly, confident voice. [4]

The uniqueness of that person, which occupies a higher position in a given social group, has a good deed and protects downstream, prompting the latter to the response of gratitude. Responding to Your care and protection of the individual must fulfill its obligations "gimu" and " weights ". [4]

" Gimu " - it is the duty and obligation of the highest order (devotion to the emperor, the state and the nation, obligations with respect to its work, duty to parents and ancestors), which cannot be fully implemented, as it would not seek. Liabilities "gimu" not limited by time and preset. Every Japanese must perform their entire life. Unlike "gimu " obligations " weights " can be filled in the required form and amount and limited in time. By "weights" are obligations to individuals from which the individual receives a blessing, "he" (except for the emperor and the parents in respect of which there are obligations "gimu "), as well as the duty to himself (the need to protect his name and his dignity guard), which provides individual conscientious attitude to their duties [4].

Based on the analysis of the legal system in Japan can be stated that the mechanism of government is built in accordance with the general principles of law:

- Legitimacy (hotisyugi)
- Democratic (minsyusyugi)
- Obeying the law (ho - nor Yeru gesey)
- Separation of powers of the central and local administration (quietly bunkensyugi).

The very process of governance in Japan is characterized by the use of the right to administrative discretion and the widespread use of executive management.

The secret of economic success and political and legal stability of the Japanese state is possible in that the national value orientations have evolved towards a harmonious combination of traditional oriental particularism (socio- group orientation, collectivism, "family " methods of company management) and Western universalism (individualism, "organizational" management principles, rationalism) and not a substitute for the latter.

It turns out that breaking categorical, you can grasp the nature of the Japanese thinking and develop the ability to speak without offending the interlocutor and without insincerity.

Specificity of reasonableness in the sense of justice is that it evolves with the public relations and represents various public positions psychological and ideological views, views, views on the value of the institutional nature of law, as well as how society perceives and uses the right in public relations. [7]

F.A. Hayek, expressing his understanding of the evolution of social norms and institutions, expressed interesting in this respect the judgment: " Cultural evolution is not a product of the mind, consciously projecting institutions and is the result of a process in which culture and mind develop in constant interaction and intertwining. It seems to be now starting to realize. Probably there is no more reason to say that the thinking man created his own culture than to assert that culture has created his mind. "

If you understand the process of law-making should also proceed from the methodological and theoretical positions. This one contains a landmark that will not allow to fall into extreme approaches, expressing a desire to see as a source of law, any one (objective or subjective, material or ideal) beginning and thus unify and oversimplify the structure of the mechanism of its formation.

Reasonableness must also be provided on the stage of law-making in scientific expertise, including expertise in conducting the Public Chamber of the federal and regional levels[8].

In today's society the legal consciousness becomes essential means of regulation of social relations through which control structures can and should assess the state of the legal reality, actually count the ways of its improvement and adjustments for solid legal strategy for further legal reform and, therefore, to strengthen and improve life in Russian society. Changes in social relations necessitate a gradual transformation in the sense of justice.

CONCLUSION

Sense of harmony measures for centuries formed for the Japanese people, it has developed special aesthetic self-discipline and a high degree of personal responsibility, which does not allow anyone to approach the case (whether behavior in everyday life relationships with family, create works of art or utilitarian objects production of material) bad, unaesthetic, but rather encourages the Japanese to remember the beauty and strive to open it in the outside world.

Thus, we can conclude that the Japanese sense of justice is of particular uniqueness and specificity, where harmony, or wa, whatever its source, deeply permeates Japanese culture and has an impact on all aspects of Japanese life.

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