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FREE WILL AS PRAXEOLOGICAL BASIS OF FORMING THE STATE OF SOCIAL AND DEMOCRATIC ORIENTATION

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Summary

The problem of free will in its philosophical and legal dimension is considered in the article. The philosophical and legal vector of understanding the issue of free will requires the stating and solution to the set of philosophical and methodological problems. The application of paradigmatic approach to assessing the various concepts of free will and clarification of the public mechanisms of implementation in modern state-forming and law-making processes by using the comparative method require from the researcher interpreting the principle under study from social and state point of view as a philosophical and legal phenomenon determined by the law-abiding essence of a citizen, the features of his social roles and, therefore, the dominant traditions and innovation interests.

Key words: man, citizen, civil society, state, law, free will, axiology, praxeology, philosophy of law.

Аннотация

В статье рассмотрена проблема свободы воли в ее философско-правовом измерении. Философско-правовой вектор осмысления проблемы свободы воли требует постановки и решения ряда философско-методологических задач, применения парадигмального подхода к оценке различных концепций свободы воли. Выяснение с использованием компаративистского метода общественных механизмов имплементации в современные государственные и правотворческие процессы требует от исследователя рассматривать исследуемый принцип с общественно-государственной точки зрения как философско-правовой феномен, детерминированный сущностью гражданина, особенностями его общественных ролей и, соответственно, доминирующими традициями и инновационными интересами.

Ключевые слова: человек, гражданин, гражданское общество, государство, право, свобода воли, аксиология, праксиология, философия права.

Formulation of the problem.

Based on axiological component of free will as a cornerstone of forming a democratic state and civil society in Ukraine it is possible to design free will of a man as the foundation of modern social and legal order, law-abiding behavior and so on. Actualization of the study of free will accumulates the deep sense of philosophical, legal, social, religious and other approaches to the disclosure of terms such as “state of social and democratic orientation”, “civil society”, “law-abiding citizen” and others. Within philosophical and legal discourse free will of a man is manifested in his strong-willed character, focuses on the free, and conscious choice of a person. Furthermore, free will implements the human axiomatics in state-forming and social and legal processes.

Analysis of recent researches and publications. A lot of scientists and

researchers in various fields of science, both national and international, indicated the significance of the problem under study. The human free will affects not only the state and society, but, increasingly, contains socio-axiological “globalization” of the world outlook, as expressed through the freedom of each individual. For example, among the first researchers who raised the problem of free will and its influence on the formation of the state and civil society were A. Aleksieiev, N. Berdiaiev, N. Hartman, M. Tymbaliuk, V. Vindelband, V. Ortynskiy, V. Nersesiants, V. Khvostov and others. Among philosophers who investigated and revealed the content of connection between free will and state and law-making processes were V. Blikhar, M. Trebin, M. Oleksjuk, S. Orlov and many others. However, there are still unexplored issues, stated in the subject of



the article. Therefore, **the main objective of the article** is to investigate the realization of the human free will as the praxeological basis of forming the state of social and democratic orientation.

The main material research. The freedom of a man has always been an integral part of his life. The significance and value of this concept cannot be overestimated, because the essence of human existence and the motivation for new challenges are lost without freedom, and so the essence of human life is negated. Recalling the history of the Ukrainian people, it is clear that it is "free will" which has played an important role in the formation of the Ukrainian nation and the creation of the fundamental principles of democracy, humanity, liberal views, love of neighbor.

At all times people fought for their freedom to become a united and integrated nucleus for the formation of civil society. Not the exception became the Ukrainian people, who by real, targeted actions, sometimes at the cost of their lives fought for the right to personal freedom. A man is essentially a creature quite single-minded, and if he sets a certain task, he will certainly come to it through all the sufferings and obstacles occurring on his way. The human desire, which is supported by strong-willed acts will always find its expression in public life.

Exploring the concept of "free will" it becomes clear that it directs the human being to new heights by self-determination of his "ego". In other words, free will of a man coordinates him from inside and motivates him for self-realization in the state and public relations. N. Berdiaiev wrote that "Freedom is the result of the activity of the spirit on the social environment of human relations" [1, p. 103].

N. Hartman in his work "Ethics" reveals the concept of "free will" and writes that "A personal being differs radically from all other beings in that it does not necessarily have to fulfill the definition accepted by him from the side of principles of values acting for him, but maintains their attitude to be for or against them" [4, p. 352]. This is unique dignity, which is designated as free will. It does not coincide with the freedom which the existence of values leaves for a personality essence; such freedom is the self-value for the personal subject and not

the self-value which would exist in him as a bearer [4, p. 352].

For this reason, the human freedom contains in its structure the moment of choice, along with free will, which covers two indispensable elements, such as sensuality and rationalism. But when it comes to making a choice, one needs to understand not the manifestation of the will, but only the conditional action of the free.

Today, we can confidently say that the formation of the first states would not be possible if there was not free will as the root cause. For example, in the Greek states, free will was understood through the prism of "a right", which made it possible to say that the human being was free or not free. It should be emphasized that free will in the first states (city-states) was understood not as a philosophical or religious category, but had only legal significance. At that time "free man" represented the citizen of a city-state who had his rights and obligations living in the land of his ancestors. A free man was considered the man who lived in the land of the city-state which established reasonable and right laws (rules). The opposite concept of "free man" is not only "slave" but also "invader", "not Greek", "Barbarian". Otherwise, a free man is one acting without coercion or influence on him. In ancient Greek philosophy the human free will was compared with the good and value given at birth. It was often associated with divine origin and the beginning of human nature.

Most philosophers of ancient times represented free will as a thoughtful and supported by knowledge moral act, which bears the virtue along with such concepts as "good" and "valour". No one can act badly if he acts with good will, because his act bears the good and getting better. Some philosophers understood free will as the good for the sake of a higher "idea", because the good sanctifies the order, which operates in the world of causality. To act freely (respecting free will) means to focus on the ideal of the good by equating one's own desires with public rules and according to the principles of justice. Other thinkers identified free will in the context of human own moral choice. They determined that the moral rules and foundations are a kind of knowledge and skill, stimulating the deployment of the human free will in order to make a better

choice of an act within the ethical choice. For example, Stoicism develops and pushes our thought to the point that free will is some insight into the human life. In the course of his life a man reveals all the depth and significance of his purpose on the earth, in other words, he cognizes his natural essence.

Having analyzed and investigated the process of developing the concept of "free will" it becomes clear that at various times it acquired new meanings but has always developed under the influence of social and legal institutions. The state has always been the place where the human right to his own free will was made possible, but despite that the state does not recognize the fully-fledged free will, but only to the extent where the freedom of one individual does not restrict the freedom of the other, thereby reinforcing the principles of equality, legality and democracy. Today, it is the human right that determines his own freedom, either in the state or in a particular social group, society, and especially in modern civil society where rights and freedoms are permanent.

In order to understand the meaning of human rights and freedoms, it is necessary to understand the meaning of the concept of "right". The term "right" is considered as a system of mandatory rules of conduct that are established and protected by the state, express the common and individual interests of the population and are the state regulator of general and social relations [7, p. 8].

It should be emphasized that it is the state and civil society which apply the appropriate legal means as insurance with the purpose of identifying the borders of the external human freedom. Such freedom allows the process of finding real forms and ways of restrictions not only by written (legal) laws that directly point out "act so and not otherwise", and provide a real basis of coexistence of different groups of individuals in conjunction with their civil rights and responsibilities, but also by other rules of law. It must be said that in constant globalization and social development it is necessary for each of us to realize the idea of our own free will in the course of joint coexistence of "other's freedom". Only in this case one can get a social relationship between himself and others. Having got the idea of his own freedom a man is able to realize



all his importance and significance in comparison with the freedom of others.

In the pursuit of the illusory idea of utopian plan of building the civil society the right of the individual to free choice is suppressed, since the methods and ways of achieving such an idea is inherently nothing but a way of subordination of a larger group of people under the general rules of a smaller group.

Speaking of the civil society, we must say that it is the ideal of social life of every single person and it expresses his strong-willed and valuable character, as it represents equality, protection of rights, freedoms and interests of a man and a citizen. However, it should be noted that to achieve such ideal of "civil society" is rather difficult, and taking into account complex social, political and economic difficulties at the geopolitical arena, it becomes clear that such idea is utopian and has no real reason to exist. Today, the concept of "civil society" should be identified more with the process, which aims at its gradual formation and development, comprising the principles of freedom, humanity, justice, legality and so on. In other words, the concept of "civil society" is the ideal which everyone should have as a guide for getting better, decent, independent and free life.

In order to improve their lives, everyone should be able to exercise his rights to freedom, honour, dignity and protection of his legal interests. According to I. Berlyn, "I am free when I am my own master and when there are no obstacles to my will, whatever they might be – resistance or the power of nature, their or my own passions, or opposition of the will of others to me. I can always, at least in principle, reshape and adjust the nature at my will by technical means" [2, p. 57].

In a democratic state the law data must be protected by relevant competent organs, which can be divided into law-enforcement and human rights authorities. The quality of their work and the professional approach to solving the problems of human rights and freedoms protection will be directly dependent on an adequate level of legislation in the state and the recognition of its legitimacy. When everyone defends his legitimate rights and freedoms, he thereby strengthens the society from inside and stimulates the development of a strategic approach to the protection of those rights on the part of

state authorities. The human freedom in a democratic and legal state should be at its core, as its loss entails the loss of the main existing human rights institutions.

Today the human rights and freedoms in Ukraine are enshrined in the Constitution. It contains the provisions stating that a man, his dignity and inviolability are of the highest social value. The constitutional rights and freedoms of a man and a citizen depend on the level of social institutions – economics, politics, culture and law. For example, according to prof. V. Blikhar "Free will of a man in the course of his committing a socially dangerous act, alleged by law, determines his ability to be sane, otherwise, it determines his ability to exercise his antisocial actions and valuable orientation within intent or negligence" [1, p. 149].

In addition to legal acts regulating the human rights and freedoms in the state, we can distinguish a separate socially significant, religious and codified act of good will, which is called the Bible in the Christian dogma. It should be emphasized that in terms of the Bible a man, his life and health are determined the highest values of humanity. It also affirms the need to ensure the equality of all people. It is safe to say that it is the Bible which was one of the first sources defining the human rights and freedoms in the state, since the influence of religion on the state itself was quite significant at that time.

Everyone using the rights and freedoms must follow certain rules in order not to cause harm. The Constitution also includes the constitutional duties, which must be followed without exception by all citizens of Ukraine. The classification of constitutional rights and freedoms is not built randomly, but taking into account the presence of different activity areas in society, as well as the relations between the state and citizens in the law enforcement activity of the state in order to protect the health, individual freedom and safety, honor and dignity of a man. The European values will always be important for Ukraine as a democratic state, because they recognize the natural rights of a man as the main ones.

According to R. Mukhaiev "[...] the state is a sovereign organization of power. The sovereignty of the state power is expressed by its supremacy and independence from any other forces within the country or in relations with other countries" [6, p. 9–10].

Today there is every reason to consider Ukraine a democratic, sovereign, legal and social state. First of all we would like to note the high level of legal consciousness of the Ukrainian people, which has played a significant role in the early formation of the Ukrainian statehood. Recalling recent events in modern Ukraine, namely two revolutions that led to the consolidation of the Ukrainian nation, the understanding of the fact that the Ukrainian people are united and indivisible suggests that such people might have the bright future.

It is necessary to emphasize that each country has its own way to the legal statehood, its construction and its forms of legal organization of the state. This is due to many factors, including the nature of the social and historical development of each country, the national and spiritual traditions, the experience of public life, the achieved level of political and legal culture and geopolitical circumstances [7, p. 330].

The democratic and legal state creates conditions for the realization by a man of his own abilities, interests and aspirations, so if the human actions do not restrict the rights of others and do not contradict the interests of the society and the state, they are not subject to control on the part of the latter [5, p. 14].

To build a democratic, legal and social state with perfect mechanism of influence on the human lawful behavior, which would be achieved through the law enforcement activity and compliance with the law, is possible only with the help of a man himself, who would not provoke, but rather help the law enforcement agencies to ensure law and order as well as law abidance.

Conclusions. Today Ukraine is in the process of forming the civil society, presenting itself as a state of social and democratic orientation. A hint of it is at least the protection of the rights and freedoms of a man and a citizen, the effective reformation of human rights and law enforcement agencies and others. In that case, free will of a man that would become the core of the incentive and motivational acts of citizens, both in daily and professional activities, is actualized. It is free will that enables the conscious and free from impacts choice in decision-making, including the behavioral component. Finally, the fundamental equivalent of state and law-making



processes of any state is still free will of a man, as his natural right and, what is more important, as the value of the human nature.

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