

THE CONCEPT OF JUSTICE IN LAW

Visotskaya D.A.
Scientific adviser – O.P. Eglis

Siberian Federal University

Keywords: state, sample, fair, justice, supporters, development.

In recent years justice has become trendy and a widely used word. The representatives of different political parties argue their positions about the structure of the state, based on justice. For example, in modern Russia there is a political party called “A Just Russia” the program of which is quite different from that of in modern Turkey.

Justice is the main principle of various political demands which are often introduced by political figures with opposite views.

This theoretical and political practice has existed since ancient times. Moreover, it has received an adequate scientific assessment. For example, Aristotle argued that the measure of justice is on the side of the defenders of a certain political system.¹

In the early 19th century John Austin considering the idea of justice concluded that it is a relative concept, say, some sample, which involves some norm. In this case justice is correspondent to the sample. Injustice is the discrepancy of certain actions of a specified norm which is considered as unfair in this situation.²

The idea of justice as a relative concept has not generally been accepted by some experts yet. For example, V.S. Nersesyants and his supporters defend the point of view that a fair organization of the state is based on the political and legal equality of all its citizens.³ However, there are many opponents of this idea.⁴ They believe that the just order in the society is founded on inequalities of all kinds.⁵ From this point of view, there are different categories of persons in a state who are legally unequal in status, for example, soldiers, pensioners, minors, convicted offenders. Another thing is that within each of these categories there is certain legal equality. To be honest, it is not complete, since any of these categories are subgroups of people with unequal status. Thus, military men are divided into different military ranks, convicted criminals are classified in accordance with the regime of their sentences.

Let's step back to the above-mentioned John Austin's ideas, developed by his supporters and later formulated by Nersesyants V.S. and his colleagues. In the second half of the 20th century the concept of justice formulated by John Austin was recognized by Hans Kelsen though now we can not consider it to be absolutely correct.⁶

Another thing that we can not agree with is the conclusion which Hans Kelsen came to concerning the problem of jurisprudence in connection with the definition of justice as a

¹ Б.И. Коваль. Личность и мир.(Справедливость и закон). Выпуск №11 М., 2002 с. 8

² С.А. Дробышевский. История политических и правовых учений М., 2007 с. 189

³ Философия права. Нерсесянц В.С. М.,1997 с. 53

⁴ С.А. Дробышевский. История политических и правовых учений М., 2007 с. 346

⁵ С.А. Дробышевский. Политическая организация общества и права как явление социальной эволюции 1995 с.96

⁶ Чистое учение о праве Ганса Кельзена. М., 1987 с. 83

relative concept. He said that lawyers can consider ideas of justice in their work, but should avoid the evaluation of “right” or “wrong”.⁷

One more reason for our disagreement with Hans Kelsen is like that: fairness is a social norm⁸ which is formed for a particular purpose common for people who make it. That is why for the best achievement of the aim the norms of justice must have the content corresponding to this requirement.

It is obvious, that the aim of all people united in the state is self-preservation and the progress of the community. Therefore, certain content of justice should be established by the state.

The progress of different countries, however, requires both equality and inequality. This fact must be taken into account while formulating the concept of fairness. In particular, the idea of the necessity to work for all citizens must be recognized by every state. In this case there will be cooperation, mutual understanding and peaceful life. Every country has to have an individual approach based on its culture, mentality and historical development to make justice.

Taking everything into account it must be said that the task of the legal science is not only how to choose from the existing concepts of justice, but also to generate new ones to meet demands of the modern time and do not contradict the self-preservation and progressive development.

⁷ С.А. Дробышевский. История политических и правовых учений М., 2007 с. 576

⁸ С.А. Дробышевский. Актуальные вопросы истории и теории государства и права 2009 с.12