

Personal Dignity in the Ancient Philosophical-Legal Idea

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Abstract: The study shows that dignity considered from the perspective of philosophy and law is not identical to the empirical cause-and-effect link of events and dictates a human the law that is not consistent with his material interests and practicability. This tradition originates from the high antiquity. According to the thinkers of antiquity, dignity was to a large extent contingent upon the social stratification characterized by the differentiated understanding of dignity with respect to particular social groups. At the Late Antiquity dignity in fact establishes the autonomy of an individual put into a privileged position. The specific procedure of bringing to liability persisting in Russia and granting a special legal status to particular categories of citizens is considered by the researcher of the study as following the archaic traditions of the social stratification which does not promote to development of democracy in the country.

Key words: Dignity, honor, equality, personality, state, stratification, privilege, mentality

INTRODUCTION

The personal dignity is considered in the philosophy as recognition by a human and the society of the fact of possessing certain moral qualities and reputational parameters (Grafski, 2011).

On a point of law, dignity is the subject of protection on the part of the state and the potential capability of any person to defend its rights in any way that is not prohibited by law (Schachter, 1983).

Dignity is often opposed to the empirical cause-and-effect link of events and dictates a human the law that is not consistent with his material interests and practicability, asserting itself despite the apparently obvious and obligatory logic of facts (Bloustein, 1964). The cause of this paradox consists in the maximally wide scope of the phenomenon under investigation and determines searching for the new methodological approaches to arrangement of opinions as to understanding the phenomenon of dignity also within the chronological context.

MATERIALS AND METHODS

Achievement of the goal set is promoted by the use of the methods of analysis and synthesis (by specifying the definition of the personal dignity) as well as the historical-legal and comparative-legal methods (by comparing the approaches to interpretation of a personality during different chronological periods).

RESULTS AND DISCUSSION

The historically earlier ideas of dignity existed already in the primitive society as the co-residence and labor served as the ways of the human existence 'as an equal among the equal ones', the pre-requisites of formation of not only assessment of a person's behavior by the others but of the self-esteem as well. The primitive society represented a self-organizing system of the people's behavior and interaction. It was able to develop the system of values (mono-standards) ensuring fulfillment of the people's needs and interests according to the specific rules.

Personal dignity is always an integral category featuring the historical-specific nature. Its distinctive features are determined by the geographical position of the state and the sizes of the territory as well as by the socio-economic and cultural development. Significant effect is also exercised by the national mentality (Donnelly, 1982; Rowan *et al.*, 2015).

In the primitive society acting as the regulatory determinant of the social justice on the basis of mono-standards a personality was almost always associated with the tribe, nation. Insulting a single person was recognized as insulting the entire dynasty or a tribe possessing the effective resources and mechanisms of control of the human behavior.

Thereby a person was almost assimilated within the group it belonged to. These traditions were maintained by the power of the established order, the power of the habit

and mass extensive 'pressing' by the surrounding in respect of an individual. The equality of men was assumed as if 'of itself' which suggested the same respect of the equal rights and dignity of each person.

If in the law the precepts are formulated and implemented in the form of the universally binding and legally established norms then the demands of traditions originate and develop within the practice of the mass behavior during the process of the continuous and long-term interaction of people being the reflection of the historical life experience in the common and individual attitudes, beliefs, feelings and will.

Fulfillment of requirements of the mono-standards prevailing at those times could have been controlled by all members of the society without exception (of course, the concepts of legal capacity just as the separation of the subject and object of regulation that was typical to institutional standards were absent). The residual effects of such traditions can also be frequently observed in Russia in the modern life of the separate Caucasian and Asian ethnic groups.

Each historical period solved the perpetual issues of the human dignity on its own, re-thinking the truth that was previously believed to be absolute in a new manner. Within the elitology science by Platon (1994) dignity is to a great extent determined by the social stratification; however with due regard to the psychology of people whom he divided into the selected (aristos) and servants called a crowd or a mass. In his fundamental study "The Republic" Plato shows that a crowd cannot have dignity, thus, it has no value to those selected.

In the studies of the German researchers, it is noted the Plato distinguished the following kinds of dignity: natural dignity given by nature; dignity formed during the process of growing; dignity gained by means of education (Ricken, 1995).

The expensive understanding of the category 'dignity' was determined by the specific ethical-philosophical concepts within which dignity or its historical synonyms (for example, honor) were interpreted in a few different senses. In the earlier Greek philosophy, dignity was included in the sphere of moral, practical wisdom, prudence, goodness which in its turn incorporated all positive qualities of a human.

In his study of virtues presented in the famous treatises, "The Nicomachean Ethics", 'The Eudemean Ethics' and the 'Great Ethics' Aristotle stated that 'a virtue is a praiseworthy acquired quality of the soul' and each person shall with his labor and education strive for acquiring it. In his opinion, everything that we've got inherently is initially granted to us in the form of capabilities that are further implemented in the reality (Aristotle, 1998).

Aristotle (1998) called the policy to be the theory of the highest good, justice and virtue and the title 'Ethics' was given by his pupils who recorded the lectures of the great philosopher. By associating the human dignity with its goodness, he saw the main purpose and task of the policy in formation of good qualities in the citizens of famous dynasties and making them to be people who behave nobly.

In his opinion, the law-makers may affect the virtues of citizens by means of developing the good habits that will form the personal traits of an individual with time and make finding pleasure in commitment of good deeds.

In the studies by Aristotle (1998), we may for the first time find the differentiated understanding of dignity for separate social groups. By considering dignity and honor as the greatest of the outer goods, he noted that "great people require most of honor and glory adequately to their merits" (Ethics, IV), thereby stating some correlation between dignity and the wealth status.

By maintaining the specified position, Aristotle (1998) produced reasons according to which 'honor is acknowledged to belong to people of the noble origin, governors and gods as they are higher than the others due to whatsoever virtues they are respected for; though to be fair only a good person deserves to be respected and those who combine the wealth status and good personal qualities are even more respected".

By characterizing the principle of justice that he considered to be the 'state good' (Aristotle, 1998), Aristotle uses the method of classification of the social levels with respect to dignity emphasizing that "the measure of dignity is not seen in the same things: the citizens of democracy see in freedom, those of oligarchy in wealth, aristocracy in virtue".

Thus, as understood by Aristotle, dignity is an integral concept constituted of such components as rational arguments, fair play, inner positive qualities including orderliness, well-doing and moderatism. He asserted that virtues are the socially-prescribed and approved qualities of the soul that are not granted by nature but educated through the aimed action and exercise.

In the consciousness of citizens of the Ancient Greece, the state represented such organization of the public relations where sanctions of a law-maker were anticipated much less than public censure. Huge if not the determining impact was still exerted by the public opinion that not only expressed the interests of its members but also fulfilled the law-making function developing the own regulators of public relations that have been further on transformed into laws.

At that important mission was carried out by the legal communication representing the 'practical implementation of the skills and forms of fair individual and group relations provided with certain guarantees' (Grafski, 2011).

The dignity concept was developing in parallel with the ideas of honor related to the local belonging to a particular social level distinguished through inner nobility and corporate codes of honor peculiar to the selected ones only.

As noted by Drobnicki (1977), "in this regard to term of honor becomes subordinated to the category of a higher rank personal dignity, "self-value" of a human as such".

He emphasized that spokesmen of attitudes of mind of the declassed intellectuals of Hellas (cynics) and more precisely stoics with their idea of a cosmopolis and grading of duties by concentric circles, "proclaim maintaining the personal dignity to be the primary obligation of a human" (Drobnicki, 1977).

Acting as the regulator of behavior, dignity does not allow a person committing actions that are "beneath its dignity". Being driven by its dignity, a person orientates towards a specific standard the behavior of a person of such level shall comply with.

In the studies by Plato, Aristotle as well as in the works of most ancient thinkers the legal aspects of the category being considered and the properties of the human being determined by it were almost not addressed. Dignity was to a greater extent analyzed from the perspective of the subjective content of the phenomenon under investigation as the reflexive attitude of a person to the self-evaluation of the own qualities.

Gradually, the social inequality, private property interests, competition between individuals and unequal status of people in the society promoted to development of understanding dignity in the objective sense, the dependence of it on the social status of a person. In the Roman Civil Law, already one can see distinguishing the legal norms from the initially integral syncracy of the common-traditional regulation of the primitive society as the result of which dignity (*dignitas*) was to a great extent determined by the caste-ridden privileges and was associated with the specific status groups.

The more prestigious position a citizen held the higher dignity he could seek. A Roman citizen enjoys some or other rights not by nature but depending on what rights the state grants (or denies) to him.

Thus, the right of dignity was considered within the Roman Law as one of the privileges that could have been lost at the discretion of the state. This suggested different liability of different persons for the same deeds, i.e., in

fact, legalized the selective justice. The slaves were classified by the Roman Law as a thing (*servus est res*), therefore, they could not seek the right of dignity though from the moral perspective they certainly possessed it.

Dignity in the Romans does not provide for any established behavior patterns but offers only the common ground for the existing rules of conduct and the criterion for application of the rules and paradigms under different circumstances (Pozharova, 2014).

Enjoying some or another right of dignity a person may raise before himself and the society the question of why he shall adhere to the established standards and to what extent they are justifiable. Dignity kind of fixes the increased during the Late Antiquity autonomy of a personality that was put into a privileged position for some or other reasons.

Summary: Therefore, while representing the contradictory nature of historical conditions, the concept of dignity itself appears to be formed from inner contradictions. Nevertheless, during the Late Antiquity the right of some or another 'scope' of dignity defined according to the principle of social stratification was gradually formalized and acquired the legal parameters. As a matter of law, human dignity is transformed into a privilege and begins to represent belonging of its carrier to one of the social levels. Depending on the diversity, all people are the potential owners of specific dignity; however, much depends on how a person uses the opportunities granted.

CONCLUSION

It is assumed that possessing the sense the self-respect does not allow treating other people decoratively (to act "beneath one's dignity"). An act of indecency and immorality to a greater or lesser degree detracts the merits, so within this context the evaluation thereof is mediated by virtue.

Gradually, the specific grading of dignity is formed that is determined by the dependence of respect by the surrounding on the social status (the higher the status of a person in the society is the more his moral qualities are appreciated).

In the modern Russia, the legislation provides for a specific procedure of bringing to the criminal and administrative liability and granting a special legal status to particular categories of citizens (deputies, judges, attorneys, members of the election commission, etc.). It appears there is the unjustified (from the perspective of equality) adherence to the archaic traditions of the social stratification that does not promote to development of democracy in the country.

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