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HISTORICAL AND CULTURAL-MENTAL ORIGINS OF LEGAL CONSCIOUSNESS OF THE UKRAINIAN PEOPLE

ORIGEN HISTÓRICO Y CULTURAL-MENTAL DE LA CONCIENCIA JURÍDICA DEL PUEBLO UCRANIANO

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Abstract

The article analyzes the historical, legal, cultural and mental origins of the legal consciousness of the Ukrainian people. Historical examples of law-making and law enforcement in Ukraine testified to the tendencies of formation of democratic legal consciousness of the Ukrainian people. The constants of this type of legal consciousness are the desire for freedom, rejection of injustice, the struggle for legal equality in the national community and so on. At the same time, the legal consciousness of Ukrainians is characterized by “moderate anarchism”, the orientation in public relations is more on customs and traditions than on the rules of law. The Lithuanian Statute, Magdeburg Law, Cossack (corporate) law, and the adoption of Pylyp Orlyk’s Constitution played an important role in the development of the institutional legal consciousness of the Ukrainian people.

Keywords: Legal consciousness of the Ukrainian people, Historical traditions, Law, Ukrainian culture.

Resumen

El artículo analiza los orígenes históricos, legales y cultural-mentales de la conciencia jurídica del pueblo ucraniano. Los ejemplos históricos de elaboración y aplicación de la ley en Ucrania atestiguan las tendencias de formación de la conciencia jurídica democrática del pueblo ucraniano. Las constantes de este tipo de conciencia jurídica son el deseo de libertad, el rechazo a la injusticia, la lucha por la igualdad jurídica en la comunidad nacional, etc. Al mismo tiempo, la conciencia jurídica de los ucranianos se caracteriza por un "anarquismo moderado", la orientación en las relaciones públicas se basa más en las costumbres y tradiciones que en las normas de derecho. El Estatuto de Lituania, la Ley de Magdeburgo, la ley cosaca (corporativa) y la adopción de la Constitución de Pylyp Orlyk desempeñaron un papel importante en el desarrollo de la conciencia jurídica institucional del pueblo ucraniano.

Palabras Clave: Conciencia jurídica del pueblo ucraniano, Tradiciones histórica, Derecho, Cultura ucraniana.

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1. INTRODUCTION

The modern legal consciousness of the Ukrainian people was formed during a long historical progress under the influence of a number of contradictory factors of spiritual, economic, political and legal, geopolitical nature. The Ukrainian people defended, first of all, their right to an independent state, unique culture, geopolitical subjectivity.

In the historical context, the legal consciousness of the Ukrainian society found expression in many processes, one of the most important of which is state formation. Obviously, the legal consciousness and legal mentality of the Ukrainian community was formed in the constant struggle for their statehood, culture, language, religion. Before Russia joined Ukraine to its territories, the legal consciousness of the Ukrainian society was formed to a greater extent under the influence of the European tradition in its Polish-Lithuanian version. At the same time, Ukraine, being on the border of the “western” and “eastern” cultural and historical worlds, could not be free from the influence of other peoples, namely Russians, Tatars, Turks. In this historical period the “border legal consciousness of Ukrainians” or “intercivilizational legal consciousness”, “marginal legal consciousness” is formed. The peculiarity of this type of legal consciousness is the syntheticity of views and ideas about law, justice, and freedom.

This type of legal consciousness is quite “mobile” and tolerant, which allowed and allows Ukrainians to understand and accept other worldview systems. It should be noted that the legal consciousness of the Russian people in the fifteenth-seventeenth centuries acquired signs of brightly expressed patriarchy and collectivism, in contrast to the individualism of Ukrainians. The legal consciousness of Russian society was determined by the greater dependence of man on the government and the community, confidence in the collective “truth” and constant appeal to it. The legal consciousness of Ukrainians at that time was more individualistic and less etatistic, because our people did not have their own state in the full sense¹. The democratic and pro-European nature of the legal consciousness of the Ukrainian people is confirmed by a number of legal documents, rule practices, which were represented by the political and intellectual elite in different historical periods.

2. HISTORICAL AND LEGAL CONTEXT OF LEGAL CONSCIOUSNESS OF THE UKRAINIAN PEOPLE

A significant event that demonstrates progressive development of the institutional form of legal consciousness of Ukrainians is the adoption of the Constitution of Pylyp Orlyk. From the formal and legal point of view, the Constitution of Pylyp Orlyk is not an act that contains precisely formulated norms, but it demonstrates the process of formation in the public legal consciousness the perceptions of ideas about various norms of life. In many places in this document, the question of norms is only raised, and their definition is left to the hetman.

¹ Kalynovskyi, “The influence of mentality and historical traditions on the legal consciousness of Ukrainian society”, Naukovi zapysky Kharkivskoho viiskovoho universytetu. Sotsialna filozofia, psykholohiia 3 (2003): 64.

It can be stated that the legal consciousness of the foreman at that time did not always contain a democratic colour and was only partially manifested in clear legal provisions. Of course, this does not diminish the importance of Pylyp Orlyk's Constitution for the formation of state legal consciousness both in the Ukrainian elite and in the whole society.

As L. Melnyk notes in "Hetmanate of the First Quarter of the 18th Century", Pylyp Orlyk's Constitution contains fixed historical myths about the kinship of Cossacks, Swedes, and Tatars (allegedly descended from a common Sarmatian root), which justifies the Swedish protectorate and the Crimean Khanate's assistance in the alleged war of Pylyp Orlyk and his supporters against Russia². That is, to justify certain legal norms and political actions, historical material is used, which does not always correspond to reality, which led to the mythologizing of the legal consciousness of Ukrainians.

To study the institutional form of legal consciousness of the Ukrainian people, it is important that the Constitution of Pylyp Orlyk fixed the system of division of power into three branches. This prevented the concentration of significant powers in the hetman, in particular, according to paragraph nine, he was completely removed from the disposal of military treasure. The normalized system of government was the evidence of the growing level of legal consciousness of the Ukrainian elite, which relied on historical experience and the best examples of European philosophical and legal thought. In particular, the previous experience of the hetman's rule with a significant amount of authority was taken into account, which had led to significant abuses on his part.

Pylyp Orlyk's Constitution also mentions the "old right of liberties" of the Zaporizhzhya Army, which developed a kind of legal system. It should be noted that when the Lithuanian Statute, Magdeburg Law, and orders of the royal authorities were in force throughout Ukraine, the Cossack (corporate) law itself played an important role in the Sich. It was a set of legal customs that were formed in the field of Cossack social relations. The level of legal consciousness of the Cossacks is characterized by the fact that the law was unwritten, because the Cossacks believed that any written law restricts their freedom. The Cossack law fixed the state of relations that had already developed, it approved the military-administrative organization, the order of land use, classified the types of crimes and punishments. The legal consciousness of the Cossacks was imbued with ideas, freedom, equality, democracy (with military peculiarities), which was embodied in the state system of the Zaporozhian Sich. As M. Hrushevsky emphasized, even in the Polish-Lithuanian era, the Cossacks became the main subject of preservation and transformation of *veche* (Council) forms of democracy, development of democratic traditions of the Ukrainian people, protection of their customary rights and freedoms³. The existence of the Cossack state along with the feudal countries constantly pushed the peoples to fight for their rights, starting from the right to their own state to economic and cultural rights.

² Melnyk, *Hetmanate of the first quarter of the 18th century* (Kyiv: IZMN, 1997), 17.

³ Ermolaev, "M. Hrushevsky on the constituent power of the Ukrainian people", *Journal of the National Academy of Legal Sciences of Ukraine* 27 (2020): 16-28.

Thus, the authors of the Constitution of 1710 P. Orlyk, G. Hertsyk, A. Voynarovsky relied on the existing experience of law-making, trying to legitimize their rule as a continuation of certain traditions of the Cossack family.

In the further development the Ukrainian lands were under the jurisdiction of different states, which led to differences in the legal consciousness of the population, let's say, in the west and east of Ukraine. This is due to the following historical events: Left-Bank Ukraine joined the Russian Empire in 1654, Right-Bank Ukraine in 1794, and Galicia only in 1939, which resulted in different legal mentality. For centuries, Galicia belonged to a different state, to a different church than the rest of Ukraine, and lived under a different (mostly Polish and German) political, legal, and cultural influence. In this regard, M. Hrushevsky noted that if Galicia and Greater Ukraine had not care about rapprochement, but went their own way, in 20-30 years they would have formed different nationalities on a single ethnic basis, as Serbs and Croats - two parts of the Serb population that, due to political, cultural and religious circumstances, managed to disperse to complete secession. The above researcher emphasized that Ukrainians are descendants of different peoples and tribes, merged into one people and united by one language, and most importantly – by one popular or national consciousness⁴.

In the same context, the modern Ukrainian researcher P. Kravchenko notes, that a nation asserts its right to exist as an ethnic community when it reaches the appropriate level of self-awareness. National self-awareness, based on traditions, art, morals, customs, religion, expands to political and state self-determination, which is based on the theory of nation and nation-state. The wider the circle of individuals with a high culture of the best examples of national identity, the more natural the implementation of general moral principles⁵. In turn, the public legal consciousness becomes more resistant to negative influences and is gradually transformed into a qualitatively new level, which provides a deep awareness of both national rights and freedoms and individual life priorities. In fact, public legal consciousness is one of the forms of national self-consciousness with all its disadvantages and advantages.

To understand the genesis of the legal consciousness of the Ukrainian people, it should be borne in mind that in the stateless times of Ukraine's existence the population focused more on customary law and tried to abstract from official law, while not entering into fierce opposition with it. This situation was due to the fact that positive law usually was not Ukrainian in nature and was imposed by the colonizing states⁶.

⁴ Hrushevskyi, Who are Ukrainians and what do they want (Kyiv: T-vo "Znannia" Ukrainy, 1991), 17.

⁵ Kravchenko, Domestic cultural and historical experience in the system of modern state building: socio-philosophical aspects (Kyiv: HENEZA, 2001), 260-261.

⁶ Danilyan, Dzeban, Kalynovskyi y Klenina, "The influence of historical traditions on the formation of legal consciousness of the Ukrainian people", Revista Notas Históricas y Geográficas 26 (Enero-Junio 2021): 152.

Today, the richness and self-sufficiency of Ukrainian customary law culture is an important part of the spiritual heritage of Ukrainians, which allows to recreate the constants of legal consciousness of then Ukrainian society and understand the legal consciousness of modern Ukrainians: distrust of official law and adherence to customs and traditions, recognition of individual freedom and justice, property rights as the basis of individual existence, etc⁷.

At the same time, in the sphere of national self-consciousness we have to observe specific paradoxes of self-identification and self-differentiation of social subjects, on the basis of which illusions are formed which play a certain social role. Opposing individuals can be spiritually identified. In the national self-consciousness the opposite can be identical and this identity is affirmed by means of the corresponding philosophical considerations which are called to define self-estimation by people of the essence of their being. If such self-identification does not correspond to the real possibilities of the individual in solving a general positive historical problem, then it turns out to be wrong, no matter with what ideological considerations it is justified. Conversely, the ability of individuals to rise above their differences and contradictions in order to solve national problems is an expression of their moral nobility and wisdom. The organization of practical life of individuals on the basis of national principles is a manifestation of a certain culture of their self-consciousness. But this culture can turn into its own opposite if it is based on dogmas that contradict the requirements of social spiritual progress. The real culture of national self-consciousness is based not on dogmatic attitudes, but on the truth of national interpersonal and social ties of individuals and on their real life⁸.

3. HISTORICAL-CULTURAL AND MENTAL DIMENSIONS OF LEGAL CONSCIOUSNESS OF THE UKRAINIAN PEOPLE

Norms of culture, in essence, is the field of meaning within which the formation and development of a certain type of social, national legal consciousness takes place. We should note here, that each culture is a certain system of norms that constitute an axiological matrix for the development of a particular nation, Ukrainian in particular. Normativeness is imperative, obligatory in relation to the life orientations of an individual. Culture determines the style of behaviour, the basis of assessments, the rules of communication with other people and so on. The imperative of the requirements of culture is quite obvious, it is manifested in social (legal) psychology through evaluative judgments about certain events and phenomena. It exists in the form of public approval or disapproval of actions and statements, in the prevailing aesthetic tastes, in legal or political systems, in religion, i.e. in the whole set of mental features of the national identity of the people⁹.

⁷ Kalynovskyi, “Legal consciousness of Ukrainian society: cultural and historical background”, Bulletin of the National Law Academy of Ukraine named after Yaroslav Mudryi. Series: Philosophy, Philosophy of law, Political science, Sociology 7 (2011): 97.

⁸ Kravchenko, Domestic cultural and historical experience in the system of modern state building: socio-philosophical aspects (Kyiv: HENEZA, 2001), 262.

⁹ Pasko, I., Pasko, Ya., Civil society and the national idea: (Ukraine against the background of European processes. Comparative essays) (Donetsk: TSHO NAN Ukrainy, UKTsent, 1999), 62.

A person cannot ignore these requirements in the same way that he or she does not choose the time and conditions of his/her life, that is, the context in which he or she exists. A person “finds” certain conditions and a way of life as a given. He or she must coordinate his/her actions with existing cultural traditions. This could be abandoned (especially in traditional societies) only at the cost of extraordinary losses and willpower. National self-consciousness is the upper milestone of the formation of the ethnos, playing an active role in uniting the Ukrainian people, mobilizing them to protect their political and economic interests, and aimed at reviving national culture. At the same time, national self-consciousness is decisive in the interaction of Ukrainians with other peoples, because it organically connects the understanding of their national identity and ideas about other ethnic groups. The national self-consciousness of Ukrainians contains a fairly high level of tolerance, which is manifested in pragmatic communicative interactions with representatives of other nations and cultures. At the same time, it should be noted that as much as the imperative nature of cultural values is obvious, so is their non-necessity. The significance of any moral, legal, aesthetic or political idea does not yet make it inevitable for man. The antinomy of culture is manifested in the fact that it is a normative form of human existence and a declarative norm, the need for which has yet to be proven by the historical needs of human life. In this regard, national self-awareness embodies, of course, the value of meaning, giving the lifestyle outlines, organizing them and making a conscious goal of such ordering (what we call national self-identification). But national self-awareness is also antinomic and can be devalued when it tries to assert its rights and its exceptional importance. The value of self-awareness does not make it an organic human need. Only life, which is driven by a person’s desire to exist, creates an immanent necessity and moral obligation to realize the content of self-consciousness. It is here, at the point of intersection of “rights of life” and potential “rights of self-consciousness”, that constructive solutions to the antinomies of national identification are possible. The peculiarity of the Ukrainian national culture is its heterogeneity and polycivilization, which is connected with the historical development of different regions of our state. Obviously, the regional cultural, linguistic and historical features of the Ukrainian people determine certain differences in the legal consciousness and worldview of the citizens of Ukraine. Extrapolating these conclusions to the modern history of our state, experts note that the historical and ethnic division of the Ukrainian nation has led to an endless conflict between the so-called regional interpretations of the main issues of democratic reforms in Ukraine¹⁰.

Comparing the peculiarities of the legal consciousness of the inhabitants of western and eastern Ukraine, we emphasize that the people of Naddniprianshchyna are mainly people of Eastern European culture and consciousness. Although they differ from the Russians, they have a lot in common with the latter: the common historical destiny, wars, tragedies, victories, religion and culture, as 10-12 and 7-8 generations of Ukrainians, respectively, in the Left Bank and Right Bank Ukraine were formed together with the Russians as a part of the Russian state. The modern generation of mature Galicians, whose grandparents’ lives and even the youth of their parents took

¹⁰ Petrov, R., Serdyuk, O., “Ukraine: The quest for democratization between Europe and Russia. International actors, democratization and the rule of law: anchoring democracy?” Abingdon, Oxon; London: Routledge. Taylor and Francis Group 8 (2008): 189-223.

place in the Polish and Austro-Hungarian states, although they lived in the USSR, their worldview was genetically formed and equated to Western European (Austro-German and Polish) culture, legal customs and traditions. Galicians underwent centuries of assimilation and even developed typically Western European, albeit with Ukrainian specifics, cultural, religious, legal and household traditions.

The legal consciousness of Ukrainians has been and is being influenced by religious traditions (in Western Ukraine more significantly), as well as class morality, which was introduced in the Soviet Union and had a more significant influence in Eastern Ukraine. At the same time, universal morality throughout Ukraine has been preserved due to deeply rooted folk traditions, which are the basis of natural and legal thinking at the household level.

Highlighting the ethnomental and legal characteristics of the population of Western and Eastern Ukraine, it should be noted the individualism of Galicians, in contrast to the collectivism of the inhabitants of Naddniprianshchyna, which were formed respectively in the Polish and Soviet political and legal field with dominance of rural or urban life in these regions. Academician S. Rudnytskyi explained this individualism of his compatriots quite interestingly. He believed that the forest character of Western Ukraine significantly influenced its internal history, as the forest complicated contacts, divided the population into groups, and in general such conditions contributed to political, legal and economic particularism¹¹.

Instead, the population of Naddniprianshchyna Ukraine and especially the Ukrainian intelligentsia, which was overwhelmingly peasant and therefore preferred social liberation to national liberation, has historically developed anarchism, radicalism and populism, the belief in a “good wise master” who will restore order and liberate the people.

The legal consciousness of the Ukrainian elite deserves special attention to be paid both in historical retrospect and at the present stage. Of course, it is necessary to consider several levels of legal consciousness: individual (thoughts and actions of Ukrainian leaders at different times), group (level of legal consciousness of individual elite groups) and general elitist as characteristic features of legal consciousness of the whole elite in a particular period of the development of the Ukrainian state.

Summarizing the achievements of various experts, we note that the weakness of the Ukrainian elite was the lack of long experience of state building and lack of consistency in defending national interests. Elite groups in Ukraine very often could not reach a consensus solution, as the personal interests and needs of certain leaders, unfortunately, became paramount to the interests of the nation. The level of legal consciousness and patriotism of elite groups usually remained lower than that of ordinary citizens (for example, the conclusion of the Lublin Union with Poland).

¹¹ Donchenko, O., Romanenko, Yu., Archetypes of social life and politics: (Deep regulations of psychopolitical everyday life): monograph (Kyiv: Lybid, 2001), 104.

That is, at some historical stages of Ukraine's development, the interests of the elite and the people did not coincide. The elite did not always politically justifiably sign important legal documents on behalf of the whole of Ukraine, which led to the reduction (or destruction) of Ukraine's sovereignty. At the same time, the idea of an independent state, of the right of the Ukrainian people to a dignified existence, never disappeared from the legal consciousness of the Ukrainian elite.

In many respects, the peculiarities of the legal consciousness of different social groups in our country are due to the characteristic features of the Ukrainian ethnic group as such. Prominent Ukrainian philosopher D. Chyzhevsky believed that Ukrainians are prone to boundless enthusiasm, exaltation, but after the first failure they despair of the possibility of ultimate success and just the same way quickly pass into a state of complete rupture and complete discouragement to further work. According to this scientist, this character trait is the result of sensual rather than rational way of thinking of Ukrainians, oscillations of sensual life between opposite extremes, which hinders the maintenance of internal order and stability, slows down the process of systematization of thinking and activity. Finally, the catastrophes suffered by the Ukrainian people in its historical development have formed in the Ukrainian character such a fairly common feature as introversion. This feature follows from the rather tragic history of Ukraine, which other states have constantly tried to capture. It has always been dangerous to show your sincere soul, to declare your rights openly.

The legal consciousness of the Ukrainian people has the following psychological basis: first of all it is necessary to single out self-esteem, respect for the dignity of others, tendency to certain traditionally established external forms, so-called "legal things" (etiquette, love of cleanliness and order, beauty of life)¹². Such features bring Ukrainians closer to Western European culture - partly to the Germans, with their solidity, business acumen, love of comfort, order, purity; partly to the Romanesque culture - the desire for form, elegance, the desire to bring beauty to everything, to illuminate every sphere of life with it, in general, to a bright and joyful outlook on life. At the same time, the legal consciousness of the Ukrainian people has acquired signs of legal nihilism, skepticism about the legislation, which was often imposed by the invading state and did not meet the interests of our people, because it (legislation) was either Polish, Austro-Hungarian or Russian, only not Ukrainian. Therefore, the legal consciousness of Ukrainians was more "focused" on traditions, customs, as a means of preserving their national and cultural identity, than on positive law. Today in Ukraine is the formation of a political nation that needs new worldviews, a clear definition of the national idea and its promotion, building the rule of law and civil society, which will contribute to qualitative changes in public legal consciousness¹³. Thus, based on the above and in accordance with the modern realities of state development of Ukraine, the basis of the formation of a political nation and the formation of national legal consciousness (through legal education) should be based on the following values.

¹² Kalynovskyi, Yu., The essence of ethnopolitics (Kharkiv: Kharkivskiyi viiskoviyi universytet, 1998), 17.

¹³ Stepyko, M., "Ukrainian political nation: problems of formation", Political management 1 (2004): 19-21.

First, it is necessary to shift the emphasis from the struggle “against” and “for” to the creation “in the name” - the state, nation, man on the basis of harmony, tolerance, protection of national interests.

Second, nation-building should be based on the idea of polyethnic, social, political harmony on the basis of a common goal - the spiritual uplift and material well-being of man in an economically and socially strong, spiritually rich, legal state.

Third, the state in this system of values is now thought not as a goal in itself, but as a tool to achieve the goal, as a means of self-affirmation of the nation.

Fourth, Ukraine must be the highest value for all its citizens as their common homeland within its existing borders.

Fifth, the legal equality of the citizens of Ukraine, their spiritual and cultural integrity and identity must be ensured, which is an important factor in the consolidation of the nation.

Sixth, both national self-respect, patriotic activities as a way of self-expression, and cultural and psychological receptivity to the progressive achievements of other nations should be cultivated.

Seventh, the citizens of Ukraine must be aware of their future development as a result of cooperation in a civil democratic society.

Eighth, the national idea should be stripped of its ideological colouration.

Ninth, civic and social values should be raised to the level of national¹⁴.

Thus, public legal awareness will develop in a democratic way if human rights are really ensured in Ukraine, but at the same time it is no less important for our state as a polyethnic country to properly guarantee collective rights - the right of the people, the right of the nation, the rights of ethnonational communities. The national idea should become the core of the unification of the Ukrainian people. Yu. Vilchynskyi interprets the national idea as a political and cultural program, which should be understood not only as a comprehensive awareness of one’s own national identity, but also a conscious effort in all areas of life - politics, economy, science, philosophy, art - to identify, organize and develop their own forces¹⁵. He believes that the national idea is vividly represented in the works of D. Dontsov, Y. Lypa, V. Lypynskyi, M. Mikhnovskyi, L. Ukrainka, I. Franko, T. Shevchenko, and others.

¹⁴ Krysachenko, V., Stepko, M., Vlasiuk, O., Ukrainian political nation: genesis, state, prospects (Kyiv: Natsionalnyi instytut stratehichnykh doslidzhen, 2004), 254-255.

¹⁵ Vilchynskyi, Yu., “The concept and genesis of the Ukrainian national idea”, Modern society 2 (1993): 63-66.

Representatives of the school of ethno-state studies (O. Antonyuk, I. Varzar, V. Gorbatenko, Y. Rymarenko and others) offer their vision of the meaning of the concept “Ukrainian national idea”, for which the national idea (ideology) is a set of ideas, a system of views on unification of the nation around a common goal aimed at gaining statehood and its further development¹⁶.

From our point of view, we can agree with the position of domestic researcher O. Lyashenko, who believes that the Ukrainian national idea should become a political project of the future nation, a meaningful factor in national development. Therefore, the national idea should be considered the idea of the nation as a community with the following characteristics:

- 1) polyethnic, consolidated by the institution of citizenship, belonging to Ukraine as a common homeland;
- 2) conscious of its political goal - to build an independent, economically strong and social, democratic, legal state;
- 3) united by the common historical destiny, language, cultural traditions, tolerance of the indigenous, Ukrainian ethnic group in relation to numerous ethnic groups¹⁷.

Thus, the legal consciousness of the people of Ukraine as a social phenomenon must have a clear axiological basis in the form of the following basic constants: patriotism; sense of national dignity; responsibility for the destiny of the Motherland; awareness of the fact that the full realization of individual rights and freedoms is possible only in the national environment; respect for the rights and freedoms of other peoples; recognition of the self-worth of Ukrainian culture and language.

At the same time, we note that the national idea, on the one hand, reflects the nation’s right to self-determination, and on the other - determines the place of the nation in the universal community, strengthens the nation’s ties with civilization, provides universal human values. This definition of the national idea is democratic in nature and is usually used in developed countries that have passed the stage of statehood. The national idea must also take into account the mental characteristics and peculiarities of the people of Ukraine. Experts note that Ukrainians have formed an adaptive type of temperate population, and therefore certain physiological disorders (discomfort, and over time - irreversible changes in metabolism) can (and do) occur only when relocating and permanent residence in other climatic zones in the North, in tropical regions, etc. There are no such environmental fluctuations within Ukraine; a certain exception can be made only by specific populations of mountainous regions, first of all the Carpathians. It is a slightly different matter with the innate features of thinking, behaviour and activity, i.e. a kind of hereditary archetypes of ethnicity or ethnic mentality.

¹⁶ Rymarenko, Yu., *Fundamentals of ethnostate studies* (Kyiv: Lybid, 1997), 166.

¹⁷ Krysachenko, V., Stepyko, M., Vlasiuk, O., *Ukrainian political nation: genesis, state, prospects* (Kyiv: Natsionalnyi instytut stratehichnykh doslidzhen, 2004), 253.

The whole Ukrainian people really have a certain set of mental ethnic traits: romanticism, dreaminess, self-absorption, the desire for freedom, devotion to family, and so on. But in different anthropological (ethnic) groups, their manifestation and relationship may not coincide. For example, the western (Volyn) community is characterized by the predominance of such traits as patience, tolerance, dreaminess, etc., while the south-western population (Galicia) is more characterized by bright individualism, perseverance, and a tendency to leadership. The same way it is also possible to compare the complete difference between the mentality of Hutsuls and the inhabitants of Dnieper-Taurian steppes: the first have typical of mountain dwellers openness and, at the same time, self-absorption, the habit of relying on their own strength, the latter have stubbornness and persistence, grouping together, desire to realize what was planned¹⁸.

Analyzing the basic qualities of the traditional Ukrainian mentality, it is necessary to present their classification proposed by O. Rudakevich, dividing the typical mental guidelines of Ukrainians into “natural and primordial” and “acquired in conditions of political enslavement”. The first include extreme individualism (or egocentrism), the superiority of the senses over the intellect and will, and certain components of the peasant psychological guidelines. These qualities of the Ukrainian mentality were manifested in the predominance of personal interests over national and state, unwillingness to obey public authorities, suspicion of their strengthening, propensity for small forms of organization, anarchism (communityism), criticism, internecine struggle, political factionalism, diseases of otamanship, rebellion, manifestations of equalization, predominance of emotions over reason and will in solving political problems, insufficient development of willpower and purposefulness, indiscipline, disorganization, blunted sense of civic duty.

The second group of mental attitudes caused by the centuries of enslavement of Ukraine includes psychological mimicry, formalism, complexes of “inferiority” and “wrong”. In the political and legal culture, these mental qualities manifested themselves in a superficial, formal perception of political and legal values and norms, disbelief in the strength of their own people and placing too big hopes for selfless help from other states, slavish service to foreign rulers, humiliated national dignity, careerism at the cost of betrayal of national interests, pro-Russian and other foreign orientations. This group of psychological factors should also include the mental fragmentation of society, caused by the long violent rupture of the Ukrainian people, its territories between different states and purposeful assimilation¹⁹.

In turn, Ukrainian researchers V. Chigrinov and I. Polishchuk emphasize that the Ukrainian develops a relentless desire for justice, which is a solid guarantee of future national revival. Attempts to eventually restore justice in the field of interethnic relations are the initial stage of the formation of national consciousness, without which the formation of state consciousness seems simply impossible. Considering the mental qualities of traditional Ukrainians, we can not ignore the experts’ widespread opinion about the special sense of humour of Ukrainians, which is the

¹⁸ Krysachenko, V., Stepyko, M., Vlasiuk, O., Ukrainian political nation: genesis, state, prospects (Kyiv: Natsionalnyi instytut stratehichnykh doslidzhen, 2004), 91.

¹⁹ Rudakevych, O., “Mentality and political culture of the Ukrainian nation”, *Rozbudova derzhavy* 10 (1995): 30.

evidence of the general optimism of our people. There are many statements of the most outstanding writers, politicians, scientists, which emphasize the visual sharpness, smartness, cheerfulness, kindness of Ukrainian humour. Perhaps humour is one of the main “cures” against the continuous, permanent stress of enslavement life. Escapism, introversion, existential individualism, and community-centrism to some extent also belong to a number of means of adaptation of ordinary Ukrainians to the conditions of their subordinate (mostly colonial) existence. From the point of view of the above-mentioned scholars, those researchers are right when they claim that without such a sense of humour, the oppressed Ukrainian public has hardly been able to preserve itself under constant pressure from the metropolitan authorities. Probably the somewhat paradoxical optimism of Ukrainians must play not the least role in successfully overcoming the current difficulties²⁰.

4. CONCLUSIONS.

The legal consciousness of the Ukrainian people was formed under the influence of historical events, which had both positive and negative consequences for the spiritual and cultural unity of the national community. The disintegration of Ukrainian lands in certain historical periods contributed to the formation of peculiar characteristics of legal consciousness in different regions of our state. In general, despite the obstacles, a holistic, albeit mosaic, culture and mentality has been formed on the territory of Ukraine, which have become the basis for the development of modern legal consciousness.

It should be noted that the positive characteristics in the cultural, historical and mental basis for the further development of legal consciousness of Ukrainian society are: integrity of consciousness, spontaneous harmony, high beauty of life, deep innate logic of thought, high cultural values, humanism and fine ethical sense, desire for justice. At the same time, the negative constants of legal consciousness of Ukrainian society include low level of political and legal education, inconsistency in defending their rights, weakness of national-state instinct, lack of unity in the Ukrainian elite on the forms and methods of building an independent state.

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²⁰ Chyhrinov, V., Polishchuk, I., State-building tradition of Ukraine: political and cultural dimension (Kharkiv: Kharkivskiy instytut biznesu i menedzhmentu, 2006), 165.

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