

Published by the decision of the Scientific Council  
of Khachatur Abovian  
Armenian State Pedagogical University



Department of Philosophy and Logic  
named after Academician Georg Brutian



# W I S D O M

2(22), 2022



*WISDOM is covered in Clarivate Analytics' Emerging Sources  
Citation Index service*

YEREVAN – 2022

## PHILOSOPHICAL AND LEGAL FOUNDATIONS OF THE FORMATION OF THE LEGAL CONSCIOUSNESS OF AN INDIVIDUAL IN THE CONDITIONS OF TRAINING A LAWYER

### Abstract

The study's primary goal is to determine the philosophical and legal foundations of the formation of the legal consciousness of an individual in the conditions of training a lawyer. Modern society is changing, transforming into a European-style society, and rethinking the laws of life is necessary for every person. Awareness of the changes in society, the role, place and significance of legal norms determine the changes in a person's consciousness, and therefore the issue of legal consciousness of a person arises especially acutely. The study of the phenomenon of human legal consciousness has significant scientific and practical value since it will solve several issues related to the development of the state, the further formation of European society and the participation of citizens in law-making will contribute to solving problems related to legal education and provision. As a result of the study, the main aspects of the philosophical and legal foundations of the formation of the legal consciousness of an individual in the conditions of training a lawyer were identified.

*Keywords:* philosophy, philosophical foundations, legal consciousness, philosophy of law, training of a lawyer.

### Introduction

In our opinion, the implementation of a philosophical and legal analysis of the category of legal consciousness is advisable since it is from the position of philosophical and legal thinking that one can find out the effect of factors that influence the behaviour of subjects of law. This is necessary to develop a strategy for the legal development of a new model of Ukrainian society with a high level of legal culture and legal consciousness. Many scientists and philosophers studied the phenomenon of legal consciousness in different eras and periods. These studies cannot be considered entirely exhaustive because society is constantly transforming, especially at the

present stage, given that the issue of human legal awareness is becoming quite acute, arousing extraordinary interest.

In modern conditions of super-rapid development, when the world becomes difficult to predict, such a "loss of meaning" is felt especially acutely. Therefore, the problem of legal consciousness as their source and carrier acquires a new colour in this context. It becomes especially relevant in a transitional society, where the coercion system has created a particular type of citizen for decades, one who does not take risks and is accustomed to various social benefits. Democratic transformations and an increase in the degree of social risk cause acute social tension and the unwillingness of the majority of the popula-

tion to make new sacrifices for the sake of democracy. At the same time, to establish the latter in Ukrainian society, it is necessary to become a component of the moral traditions of society, a common ideal accepted and shared by the majority.

Legal awareness is a multifaceted concept and therefore requires close attention from scientists. Yes, it is defined as a complex of rational and psychological components that not only reflect the awareness of legal reality but also affect it, contributing to the individual's readiness for legal behaviour. At this stage of social development, the role of law and education is growing because society seeks to consolidate universally recognized European values, in particular, such as freedom, justice, and equality, the provision of which is impossible without analysis, understanding and observance of legal norms by each member of society. Pluralism, both political and ideological, contributes to the development of citizens' legal activity and allows the implementation of previous models of political and legal participation of citizens, which manifests itself in the form of legal nihilism and legal passivity.

In our opinion, legal consciousness serves as a source of legal behaviour and, above all, prepares a person to understand the necessary and meaningful behaviour, exercising control and management of human behaviour. Therefore, it is impossible to consider the phenomenon of a person's legal consciousness outside of social life because it is this that forms the legal consciousness of a person and society as a whole. Human legal awareness is not only aimed at regulating relations but also designed to help preserve the integrity of society. Thus, this phenomenon can be defined as a complex of legal feelings, emotions, ideas, views, assessments, attitudes, and ideas of a person about legal norms expressing his attitude, on the one hand, to current law, legal practice, rights, duties of citizens, and with the other - to the desired legal phenomena.

The path of an innovative, European devel-

opment society determines the transformation of our state's upbringing, training and education system. Its goal is to form a conscious and educated young generation capable of professionally solving the pressing problems of modern life and effectively responding to the present challenges. A comprehensive and integrative study of the problems of the formation of the legal consciousness of an individual, taking into account the above, is a fundamental condition for the creation of legal foundations for the formation of a modern citizen, which will be based on the principles of humanism, justice, comprehensive protection of human rights and freedoms. This will provide a scientific basis for forming a system of the philosophy of law and a system of legislation in our state that meets the objective needs of the current stage of development of civil society.

Legal awareness as a complex philosophical and legal phenomenon is formed under the influence of several interrelated factors: social, spiritual, economic, legal, political, national, moral, cultural, etc. Taking them into account should form the basis for implementing a set of measures for the structural reform of the national education system.

The study's primary goal is to determine the philosophical and legal foundations of the formation of the legal consciousness of an individual in the conditions of training a lawyer.

### Methodology

The study determines the philosophical and legal foundations of the formation of the legal consciousness of an individual in the conditions of training a lawyer based on fundamental concepts of epistemology, ontology, phenomenology, hermeneutics and the concepts of philosophy and sociology of law. The methodological basis of the work is made up of modern achievements in the theory of knowledge. A complex of interrelated general scientific and primarily scientific methods was applied, particularly the dialectical method of cognition. The reliability and argu-

mentation of scientific results were carried out based on philosophical, general scientific and special-scientific methods, in particular, the interpretation-analytical method, with the help of which the following were carried out: hermeneutical and theoretical analysis, synthesis of philosophical, legal and pedagogical works, regulatory documents, textbooks with generalization theoretical and methodological foundations.

### Research Results and Discussions

The professional legal consciousness of lawyers is a form of legal consciousness acting as a system of legal views, knowledge, feelings, value orientations and other structural elements of the legal consciousness of people professionally engaged in legal activities that require special educational and practical activities.

Professional legal consciousness is characterized not only by formal knowledge of this or that action of the proposed norm, understanding of the purpose, tasks and application of the law, and accurate ideas about the conditions for the emergence of the norm. What is the specialization of legal knowledge?

Firstly, the knowledge of lawyers is characterized by detail and concreteness, i.e. That is, unlike the increase in legal awareness, they cannot be limited to general legal ideas. For them, penetration into the content of legal norms is necessary; clear ideas about the detection, when the onset of the norms comes into effect, about the legal consequences come in the presence of the conditions provided for by the norms (Susan, 2015).

In each specific area of a lawyer's practice, special attention is required to specific rights and legislation. Some areas of this activity generally require universal protected legal institutions of all rights, for example, implementation activities.

Secondly, the specialization of professional knowledge is manifested in their consistency. This is primarily due to the system nature of the law itself, with the fact that the rules of law are

not used (Riskin, 2012).

In our opinion, a high-quality and timely legal education of the human person acquires philosophical significance to form a proper legal culture. Such upbringing aims to provide a person with the necessary legal knowledge for active participation in the life of society, fostering respect for the laws and sustainable rejection of antisocial and illegal behaviour. It can be defined as a constantly operating and purposeful process of influencing a person's legal consciousness with the help of a set of education measures, prevention and state coercion. At the same time, legal knowledge, being the central element of the model of a person's legal consciousness and an essential element of legal education, is information of a legal nature about law, legal phenomena, and legal reality and is one of the conditions for her lawful behaviour.

One of the indicators of the level of organization of legal education and legal culture in society is the embodiment in the minds of its members of a philosophical and legal concept, the essence of which is that the commission of any offence entails not only penalization, but also requires satisfaction for a person who has become a victim of these actions... The legal culture of a person characterises the level of legal socialization of a member of society, the degree of assimilation and use of legal knowledge in state and social life, the Constitution and other laws. The legal culture of an individual means not only knowledge and understanding of the law but also legal judgments about it as a social value and, most importantly – busy work on its implementation in the field of strengthening the rule of law and the rule of law. In other words, the legal culture of an individual is a positive legal consciousness in action (Adams & Steadman, 2004; Bix, 2010; Carlsmith, 2008).

The process of personality formation is a purposeful influence on an individual in order to assimilate the rules of behaviour necessary for integration into society. Thus, it is quite complicated because family, school and society (repre-

sented by the state, government bodies and civil society institutions) participate in it. This process is complex, lengthy and requires interaction between its subjects.

There are many approaches to defining family and family relationships. This testifies to the complexity of these philosophical and legal categories. First of all, this is due to “the complex nature of the family as a social formation, the consequence of which is the presence of various methodological approaches to its study.” Indeed, in social, legal and philosophical doctrines, there is a significant number of these concepts, often differing in their essence and content (Kryshchanovych, Golub, Kozakov, Pakhomova, Polovtsev, 2021).

It should be noted that one of the goals of the process of forming the legal consciousness of the individual is socialization, that is, the adaptation of the individual to the conditions of the functioning of society. In this context, socialization should in no way be equated with the concepts of “training” and “education”. In a broad sense, education is the process of acquiring knowledge, and education is the process of mastering the norms of legal behaviour in society. Socialization is the implementation of an individual into the mechanism of functioning of society with the help of traits, knowledge and skills formed during these processes, thanks to which a person becomes a full-fledged member of it.

Legal consciousness reflects legal reality. In this regard, through the analysis of legal consciousness, its development and specifics, it becomes possible to understand how law functions in society, how society as a whole and individual citizens perceive the law, relate to it, recognize or do not recognize the values enshrined in it. Norms, principles, ideas, etc. Considering this, consideration of various problems of legal consciousness, many of which are still controversial, is of paramount importance in the system of philosophical and legal knowledge (Cushman, 2011; Duff, 2010).

The content of legal consciousness is deter-

mined by the conditions for the formation of thinking about social reality as legal and the perception of the phenomenon of law in society as such. This process is primarily influenced by legal ideas, including awareness of the law, sense of law, legal ideal and legal reality. The system of legal concepts produced by a given society significantly impacts the content of legal consciousness. These include concepts that characterize the structural properties of law (law, duty, legal norm, legal requirement, legal status, etc.), functional properties of law, legal assessment, legal regulation, lawmaking, legal education, etc., reflecting the value properties of law (freedom, justice, equality, public good, legality, responsibility, etc.). Legal consciousness is a complex systemic formation containing various elements that form its structure, the consideration of which is essential in connection with the changes that have befallen modern legal reality. The breakdown of the established stereotypes in philosophical and legal science and the radical reform of the legislative framework became the factors that changed precisely the idea of the elements of legal consciousness. The number of elements of legal consciousness and their interrelation are interpreted by different authors ambiguously. This question is debatable to this day.

In our opinion, legal consciousness has a multicomponent character because it reflects a set of qualities inherent in the processes and phenomena of the legal branch of society. It integrates directly into its specific legal knowledge, value and ideological principles, emotional and volitional legal attitudes, legal traditions and norms, institutional forms, etc., necessary to achieve legal goals. The following elements can be distinguished in their structure: rational-ideological, emotional-psychological, and attitudinal-behavioural. The rational-ideological element of legal consciousness represents the knowledge and ideas prevailing in society about various aspects of the legal life of society; the legal system and its specific universities; mechanisms of state and management; making legal decisions and their

implementation. In other words, the rational-ideological legal consciousness stereotypes legal consciousness in all its forms and manifestations.

The emotional and psychological component of legal consciousness is made up of sensations and experiences that social subjects have in connection with their participation in legal relations and are formed based on legal knowledge and ideas about the norms of law, legal rights and obligations, as well as legality, lawmaking and law enforcement activities and related to perception and assessment of legal phenomena. These feelings and experiences include, for example, confidence in the fairness of legal norms and regulations and impatience with their violation. Emotional feelings and psychological experiences are integral to legal consciousness and behaviour. Accompanying almost any manifestation of the legal activity of the subject and directing it towards the achievement of vital goals, emotions and feelings are one of the main elements of the mechanism for regulating legal relations. A developed legal consciousness presupposes the formation of stable stereotypes among its carriers in the field of emotions, feelings and experiences. The emotional and psychological element of legal consciousness also includes irrational factors in the consciousness and behaviour of people, complex, not always amenable to a simple causal explanation and conditioning the motives of human actions. Such factors are manifested in the form of legal myths, which are nothing more than people's belief in this or that "bright", "wonderful" legal future (Flanagan & Hannikainen, 2020; Hart, 1994; Knobe & Nichols, 2017).

In the philosophical and legal literature, ordinary legal consciousness is also divided into several forms:

- legal feelings associated with the sphere of personal, subjective psychological experiences, memories, and premonitions about situations and events that a person has encountered or may face;
- legal skills: the ability and ability of a person

to perform external actions and behaviour necessary for legal communication (selection of a specific contract, the conclusion of a deal, exchange of benefits, receipt of a fee, compensation for damage, etc.) as approved stereotypical techniques.

The phenomenon of consciousness has been and remains one of the most challenging topics in science and philosophy. In essence, consciousness is the central theme of philosophical and religious thought since it is here that the question of the death or immortality of a person is raised. Comprehension of the nature of consciousness allows us to solve all the fundamental questions of human existence, to find the meaning and purpose of the existence of man and humankind. The founders of Marxism understood this well, having reduced the central question of philosophy to two of its aspects: the relationship between consciousness and being and the knowability of the world. Having understood what is primary - consciousness or being, whether we know the world or not, a person acquires absolute truth. However, the problem is precise. The absolute truth, apparently, is not available to us; a person will never be able to understand the origins and meaning of the universe entirely. Marx and Engels decided for themselves this question in favour of the primacy of being and the knowability of the world. However, one cannot overlook the obvious: their chosen position is just a hypothesis, although a set of particular facts confirms it. The position of the idealists is no weaker: although it may contradict ordinary consciousness, it ultimately also rests on speculative ideas and value attitudes.

Statements about the primary or secondary nature of consciousness and being, about the knowability or unknowability of the world, are equally valid and false. They are equal in their unsubstantiation. It is impossible to reliably establish the primary or secondary nature of consciousness and being and to assert with certainty the knowability of the world. In this respect, materialism and idealism are equally metaphysical

constructions since they are based not on factual data but on speculative fiction, theoretical assumptions, and value preferences. The final point of all discussions about the primacy of consciousness and being and the knowability of the world inevitably comes down to the question of the existence of God. Just as it is impossible to prove the existence of God with the help of reason, so it is impossible to solve the fundamental question of philosophy. Thus, the question of the nature of consciousness is akin to the question of the existence of God: it cannot be resolved scientifically. Turning to hypotheses and faith is inevitable. Throughout its history, humankind has tried to solve the mystery of consciousness and, with it - the mystery of the existence of God. For a long time, the problem of consciousness was considered the theme of the immortality or mortality of the human soul. As science develops, consciousness becomes the subject of attention, and natural and social sciences study it. At the same time, consciousness's nature remains a mystery today, just like many millennia ago. The essence of consciousness is inaccessible to us, and we can only establish its manifestations.

The behaviour of people (mass and individual) makes it possible to reasonably accurately establish the content of consciousness and its main logical moves. Thirdly, consciousness manifests itself in material and spiritual culture. The morphology of culture is a system of signs created by consciousness. The most important among such systems is language, with the help of which thought and consciousness find their external expression. It should be emphasized that the forms of manifestation of consciousness are not its very essence; through forms, we can establish the fact of consciousness and its content but in no way its nature. Consciousness, thought is something completely immaterial and therefore not amenable to experimental observation and establishment (Krasivskyy, Maziy, Krasivsky, Kotygorenko, & Zhukova, 2021; Mashchery, 2017; Nadelhoffer & Nahmias, 2007).

We learn much more about consciousness

when we translate it into the plane of the psyche or information. In both cases, we are talking about the ability of consciousness to reflect on the surrounding world, to generalize and increase knowledge about it. Consciousness in the form of mental and intellectual activity creates a model of reality, more or less adequately reflecting it. Here cognition appears as one of the modes of consciousness, and knowledge is identified with consciousness. This understanding of consciousness has good reason since consciousness is primarily the ability to think to perform logical operations that reflect reality. Being appears for a person only in his consciousness; through consciousness, comprehension of being simultaneously means comprehension and consciousness, formulated by Hegel (the identity of being and thinking). Being represented in consciousness is a human being, although it objectively exists. In this sense, consciousness can be considered a condition of proper human existence. In the materialist interpretation, human existence is a fact of the universe, where consciousness can be considered its element. Since consciousness constantly expands a person's idea of being, human being themselves expands. Hegel's idea of the identity of being and thinking, although based on speculative fiction about the unity of the world, is a fully working hypothesis about the ability of consciousness to reflect the world around us objectively. Thus, consciousness appears to us, as a rule, in the form of a body of knowledge about the universe, i.e. predominantly in the content aspect, the very ability to think, i.e. the nature (cause) of consciousness is inaccessible to us.

The interpretation of legal consciousness, given in the context of the theory of reflection, often suffers from one-sidedness and vulgarity. Figuratively speaking, the sense of justice is compared with a huge mirror, reflecting the political and legal reality. If we follow this analogy, legal consciousness and political and legal reality appear in the form of two planes, weakly connected with each other (after all, there is a very indirect connection between the reflection in the

mirror and its original). Meanwhile, the simple and obvious truth is forgotten here: the bearer of legal consciousness and the subject of political and legal activity is a person who is one; he is not divided into political and legal reality and consciousness. In goal-setting activities, people possessing consciousness and will create their human world, including the state and law. The political and legal reality is both a process and a result of social practice. In the history of the philosophy of law, the state and law are often presented in the form of some kind of impersonal force that has its own interest, its own inertia of development and is opposed to society and individuals. This view is fully justified; in this sense, legal consciousness can be fully represented as a reflection of the political and legal reality that exists in some autonomy from society. At the same time, the state and law are a realized model that has formed in the public legal consciousness and, in this capacity, serves as an ideal framework for political and legal reality. In this case, the state and law reflect legal consciousness, and its primary political and legal reality is its materialized hypostasis (Struchiner, Almeida, & Hanikainen, 2020).

Since legal consciousness (like any other form of social consciousness) is ideal in nature, it is impossible to establish the fact of its existence empirically. Legal consciousness appears to us only in the form of its objective manifestations: lawmaking, law enforcement, law enforcement activities of the state, in the sources and forms of the implementation of law, behaviour and psychology of people, in symbols of material and ideal nature (coat of arms, flag, anthem, religious buildings and objects, myths, legends, religious texts), political and legal knowledge, etc. The practical activity of the state and law is apparent confirmation of the existence of public legal consciousness. Although legal consciousness has an exemplary character, it is an objective or ideal reality. The objectivity of this ideal reality is confirmed by the fact of the existence of the state and law as empirical phenomena. Legal con-

sciousness as a kind of “pure consciousness” is fiction with no meaning. Legal consciousness as an ideal reality is possible either as a reflection of political and legal practice or as a way of its existence. An attempt to imagine legal consciousness outside the phenomena of state and law is devoid of any heuristic potential. Thus, the objectivity of legal consciousness is confirmed by two things: firstly, legal consciousness is an ideal reality in the sense that it objectively reflects political and legal practice on the whole; secondly, legal consciousness is a way of ideal existence of the state and law.

It is possible to draw the line between legal consciousness and political and legal reality only with a great deal of convention. If we consider legal consciousness as a reflection of a given reality, then such a border seems to take place, but if legal consciousness is understood as the way of its existence, then the border almost disappears. We repeat that the state and law consist of two inseparable parts - the ideal (legal consciousness) and the material; only their combination, their unity, gives life to the state and law. At the same time, we can discuss a certain autonomy of each part. The activity of legal awareness presupposes at least two aspects. First, the activity of legal consciousness can be understood in an idealistic spirit as the creative force of an ideal source. So, in Plato’s philosophy, the world of ideas gives life to the world of things, and the idea of the state precedes the phenomenon of the state. Philosophers in the dialogue “State” are therefore in power because they see the world of ideas, which means they can realize them in reality. In this case, the ideal beginning, through philosophers, actively influences the political and legal reality, changing it according to its own patterns. We find a similar situation in the metaphysics of Aristotle, in which form has an active principle, matter - a passive one. He gives the example of a copper ball, where copper is a passive matter, and the shape of the ball is an active principle. The question of the state is solved similarly: the active principle is the form (idea) of

the state, and the passive principle is matter in the form of people and other material objects. When form and matter, the idea of the state and its physical substratum are combined, a real state arises (Sytsma & Livengood, 2015).

Secondly, the activity of legal awareness can be viewed as the ability of people to influence the state and law. The political and legal reality is an objective thing that develops due to the influence of numerous factors. All norms, values and institutions associated with the formation and functioning of state and law, although they pass through the consciousness and will of people, act as an objective reality as opposed to society. Society and its social groups can have their idea of the current political and legal reality, they can desire its changes and strive for them, but from this, the reality itself remains the same and continues to live according to its laws. No matter how it evaluates itself and the existing state and law, public legal consciousness is a fact of reality, which has its force of inertia and is not prone to rapid changes. At the same time, legal consciousness, possessing a certain autonomy, is capable of acting as an active transforming force.

Thus, the content of professional legal awareness of lawyers is characterized by several features (Nikoryak & Dneprov, 2019):

- implies a respectful attitude to the law, the law, to the practice of its application;
- is practical, i.e. lawyers not only know the basic principles and rules of law but also use them in their activities;
- there is a conviction in need for strict observance of the letter of the law;
- readiness to take active lawful actions to protect the rights and freedoms of citizens;
- interconnected with public and individual legal consciousness;
- has a significant impact on various spheres of life;
- From the level of knowledge of legal reality, other qualitative characteristics are different from the legal consciousness of citizens.

## Conclusion

Legal consciousness is a multifaceted concept, defined, in particular, as a set of rational factors that not only reflect the awareness of legal reality but also affect it, forming the readiness of an individual for legal behaviour, have always attracted special attention from thinkers, philosophers, legal scholars and other prominent personalities in the history of the development of society.

The development of knowledge and general theory in the field of a philosophical and legal vision of the formation of the legal consciousness of an individual in the context of the transformation of the educational process consists in expanding and deepening the arisen conceptual schemes for describing problems, establishing their relationships with other conceptual schemes, identifying, describing and fixing the results of studying general and individual characteristics

Legal consciousness is not just a reflection in the individual consciousness of the content and nature of laws already in force; in the sense of justice - an active temperament most adequately manifests itself precisely when the subject of law criticizes and corrects the laws in force in the spirit of ideal justice. A person must learn to respect someone else's and defend his right, assert justice's primacy over regret, law and order over simple order and civic honesty over other worthy virtues.

Summing up, it should be noted that the results of the study of the philosophical, legal and psychological dimensions of the phenomenon of legal consciousness should be carried out in the following forms: interpretation (official and unofficial), the results of which support, reproduce or change contradictory or hegemonic structures of legal norms; studying the signs of legal consciousness by observing the behaviour of different segments of the population, their stories about their personal experience of communicating with law enforcement agencies (court,

police, customs, tax authorities, etc.); joining social movements in support of the rule of law or the rule of law.

As a result of the study, the main aspects of the philosophical and legal foundations of the formation of the legal consciousness of an individual in the conditions of training a lawyer were identified. Further research requires the question of determining the practical problems of the legal consciousness of an individual in the context of the transformation of the educational training of a lawyer, taking into account the basic norms of the philosophy of law.

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