

## History of Formation of the Legal State and its Social and Legal Problems

Ulug'bek Mamadaliev

Higher Attestation Commission of the Republic of Uzbekistan Head Service News

### Abstract

*In this article, on the basis of legal-philosophical views, the formation of a legal state is analyzed. And also, the emergence and development trends, the essence of legal goals and objectives, the need to improve the state bodies of the khakimiyat, the mechanisms for ensuring the rights and freedoms of citizens are scientifically substantiated, the main elements of civil society and legal ones are revealed, in which democratic, humanitarian and peaceful relatively to human fair, equal and completely free relations.*

**Keywords:** *State, essence of the state, welfare state, rule of law, differences in the understanding of the rule of law in social sciences, basis, property, relations, justice, equality, society civil society, social institution, social power, ideology.*

---

### Introduction

Before the state came into being, there was a primitive society. In such a society, there was no state, no law, no classes, no private property. There are scientific and philosophical views that people worked together for a living and acted freely, equally. People together defended each other's freedoms and interests. The relationship between them was governed by customs and traditions.

The most important issues of life were resolved at the general meetings of the older generation. During this time, tribal chiefs and military leaders directed the day-to-day affairs of the church. They had no material advantage over others. They are selected or replaced as needed. Mutual wars between tribes united several family communities. The society of those times was called tribal society. The main forms of economic activity were hunting and gathering plants.

Adverse changes in the environment, the extinction of plant and animal species consumed by primitive people, did not affect the development of primitive society. According to IA Isaev, "Production changed the lives of people in primitive society. New management functions emerged and new types of labor activities were formed. As production became more complex, a category of people emerged who acted as consultants and officials. The development of the productive forces and the division of social labor (agriculture, animal husbandry, trade) led to the division of society into classes, the gradual emergence of rich and poor groups. Thus began the decline of primitive society. The emergence of classes, the intensification of exploitation, and the formation of private property were the basis for the emergence of the coercive apparatus. Only the state could act as such a means of coercion.

It arose as a result of the internal development of primitive society, the emergence and antagonism of classes, and the property inequality of its members. However, the decline of primitive society and the emergence of states on earth took place in different forms"(3; 1-448p).

The main productive force and influential class of the first states to appear in the East were the peasants. The first states were in the form of city-states, which emerged without any social explosion, and later became Asian-style developing states.

### **The main part**

The first states appeared in ancient China, India, Iran and Mesopotamia in the IV-VII millennia BC simultaneously and independently of each other. They were inhabited by new social classes, such as peasants, artisans, priests, and rulers. In these countries, the division of property and labor among the people was clear and territorial. Over time, city-states have become administrative, economic, and religious centers that perform administrative functions.

Some philosophers point to three main forms of state formation, such as Athens, Rome, and Germany. In particular, the Athenian state of slavery is a classic form of statehood, based on class antagonisms, the result of the development of internal and external interference and the formation of a non-violent generation.

The Roman state was also based on the collapse of the tribal system, the emergence of private property, and the division of society into opposing classes. According to BV Nikolsky, "The peculiarity of the ancient Roman state was that it came into being as a result of a struggle between plebeians and patricians. The plebeians were free people, not of Roman descent. They owned land in the conquered territories, paid taxes, and served in the army. Patricians were nobles and rulers of the Roman dynasty. The plebeians began to fight against the patricians in order to gain access to and use state lands. This struggle accelerated the formation of the Roman slave state" (4; 2-488).

The German state is another form of statehood. In the 5th century BC, the Roman Empire was formed as a result of the conquest by the Germanic tribes. The Germanic tribes living in the tribal society could not control the territory of the Roman Empire after the conquest because it needed a coercive apparatus to govern it.

The existence of the state today depends not on the class struggle but on the needs and interests of society as a whole. It implies a rational and generally peaceful cooperation between different and opposing forces. However, this does not mean that the present states have completely lost their class nature. In the new conditions, the class nature of the state became of secondary importance, and its general social significance came to the fore. States are now focusing their efforts on ensuring social harmony and managing public affairs. Ensuring the protection of law and order and the rights and freedoms of citizens plays an important role in solving the task of building a state governed by the rule of law. The state fulfills its economic, political and ideological functions through law. Adopts legal norms and ensures their implementation through the state mechanism.

Modern philosophers and jurists are legal the state is considered a democratic state, its motto is the high level of development of human civilization. The term "rule of law" refers to the close relationship between the state and the rule of law. Because it is in a state governed by the rule of law that the rule of law is fully guaranteed. In the words of the President of the Republic of Uzbekistan Shavkat Mirziyoyev, "The rule of law means that the documents issued by public authorities and administration, the actions of officials must be in accordance with the Constitution and the law. That is why we need to create an environment in which all levels of personnel, whether ministers, governors or ordinary citizens, must know the Constitution and laws, organize their implementation and, above all, strictly adhere to these rules" (7; 4- 3119.).

The main element of the political system is the state. Its nature, form, and mode of action are one of the factors that determine the nature of the political system. The term "state" is used in the political

literature in two senses. In the broadest sense, a state is an association of people living in a particular area and represented in the highest authorities.

The concept of the state has been reflected in legal and philosophical views since the XII century. Of course, the existence of the state has been known to people since ancient times, and it is expressed by various terms (police, empire, kingdom, principality, etc.). In Plato's *The State*, the emergence of the state is associated with the development of the social division of labor and the emergence of different groups of the population (artisans and peasants, warriors and rulers (philosophers)).

According to theology, the formation of the state is a manifestation of the divine will. This is evidenced by the belief in the divine origin of the head of state in the ancient East, Egypt. According to patriarchal theory, state power is seen as the power of the head of the family, which unites those in a tribal alliance. This concept was first proposed by Confucius.

According to French philosophers (T. Gobbs, J. Locke, J. J. Russo), the state is the product of a "social contract" signed by someone and at some point. Hegel argues that the state is the embodiment of reason and the divine idea in reality. In the early twentieth century, French sociologists and ethnographers M. Moss and K. Levi-Strauss, on the basis of structural analysis, identified the total factors influencing the development of society. Based on their observations on a number of backward tribes in Africa, they proved that the process of state formation in the region was completely different. Emphasizing that these tribes had neither private property nor classes, they concluded that the formation of the state in the backward tribes was due to radical changes in production.

Historical experience shows that the state was formed in Western Europe through the emergence of private property, while in Africa it was formed in the process of change. In the East, the state came into being as a result of the development of the social division of labor, natural conditions and other factors. According to Polish scientist Jerzy Josef Wätrn, "this process was carried out in the following modifications:

1. The classical way - social, class changes in the nature of society, without any external influences, the intensification of internal contradictions (the formation of the ancient Greek state).
2. The invasion of the people, who, along with the foundations of the existing statehood, have already formed an organized state;
3. The real threat of an attack that accelerates the formation of the state at a time when internal conditions are ripe (the threat of the Byzantine invasion was preceded by the emergence of the Russian state of Kyiv);
4. The connection of the idea of statehood with the experience of various other countries (the influence of Rome on the Western European region is a vivid example of this). The development of this idea of statehood had a great influence on the growth of its role in the management of society"(6; 3-464p.).

There are two main stages of state development: the traditional state and the constitutional state. The traditional state is formed spontaneously, on the basis of traditions. Its most common form is monarchy. A constitutional state is the result of people's conscious efforts to create a mechanism and system of governing society.

The essence of the state includes its content, purpose, and existence, and determines to whom state power belongs. Although the state in certain historical periods represented the interests of the ruling class or class and ensured the domination of the minority over the majority, in the present context its essence has changed. The state is becoming an effective mechanism for resolving social conflicts not by force and repression, but by compromise.

The existence of the state today depends not on the class struggle but on the needs and interests of society as a whole. It implies a rational and generally peaceful cooperation between different and opposing forces. However, this does not mean that the present states have completely lost their class nature. In the new conditions, the class nature of the state became of secondary importance, and its general social significance came to the fore. States are now focusing their efforts on ensuring social harmony and managing public affairs. Ensuring the protection of law and order and the rights and freedoms of citizens plays an important role in solving the task of building a state governed by the rule of law. The state fulfills its economic, political and ideological functions through law. Adopts legal norms and ensures their implementation through the state mechanism.

Modern philosophers and jurists are legal the state is considered a democratic state, its motto is the high level of development of human civilization. The term "rule of law" refers to the close relationship between the state and the rule of law. Because it is in a state governed by the rule of law that the rule of law is fully guaranteed. In the words of the President of the Republic of Uzbekistan Shavkat Mirziyoyev, "The rule of law means that the documents issued by public authorities and administration, the actions of officials must be in accordance with the Constitution and the law. That is why we need to create an environment in which all levels of personnel, whether ministers, governors or ordinary citizens, must know the Constitution and laws, organize their implementation and, above all, strictly adhere to these rules" (7; 4- 3119.).

In today's world, the principle of separation of powers means ensuring that all pillars of power are equal. Each column of power performs the functions strictly defined by law and does not allow the other column to go beyond its powers, violating human rights. In his time, Aristotle said that "the law should rule over all" (7; 5-544), while Cicero said that "everyone should obey the law" (7; 6-448).

In a state governed by the rule of law, the examination of the legal content of laws is carried out by the constitutional court. That is, the main task of the Constitutional Court is to determine the constitutionality of laws and other legal acts.

One of the main features of the rule of law is that human rights and freedoms are the highest value and their guarantee. As stated in Article 1 of the Universal Declaration of Human Rights, "All human beings are born free and equal in dignity and rights" (8: 7-32). According to Article 3, "everyone has the right to life, liberty and security of person" (8; 8-32p.).

Another symbol of the rule of law is the division of power into legislative, executive and judicial branches. The three branches of government are independent in carrying out their activities.

"In civil society, different social groups, cultural, national, religious, territorial and other associations represent the interests of different people. Civil society is a legal society that guarantees the freedom of the individual, his rights, dignity, as well as the mutual responsibility of the individual and the state" (8; pp. 9-230).

## Conclusion

The state is a product of the development of society and a form of its existence. The separation of civil society from the state means that there is an area of public life that is not state-owned and controlled.

There is no ideological monopoly in civil society. It allows for a variety of opinions and views. According to political scientist M. Kyrgyzbaev, “If the theoretical views of historians and political scientists of modern democracies on civil society are brought into one system, then the concept of civil society and the object of its study is:

- First of all, it is a human unit formed voluntarily in the economic, social and spiritual spheres of public life, which includes the primary non-governmental systems;
- secondly, society is a complex of economic, social, family, national, spiritual, moral, religious, industrial, personal and non-state relations;
- Thirdly, free individuals, voluntary organizations and citizens are a society protected by law from pressure, interference or stereotyping by various bodies, and they have a permanent opportunity to express themselves”(9; pp. 10-52-53).

Civil society defines the scope of various political activities of organizations, institutions and associations. It promotes progressive and humane ideas, uses democratic methods of governing the state. Such a society is a society that is legal, democratic, humane and peaceful, where there is no room for violence against the individual, but where justice, equality and complete freedom reign.

## REFERENCES

1. Қаранг: Исаев И.А., Филиппова Т.П. История государства и права зарубежных стран. Учебник для бакалавров Учебники МГЮА для бакалавров Проспект 2022. - 448с.
2. Никольский Б.В. Система и текст XII таблиц: Исследование по истории римского права. М. 2021. - 488 с.
3. Вятр Ежи. Социология политических отношений. Перевод с польского. Под редакцией и с предисловием Ф.М.Бурлацкого. - М.: Прогресс, 1979. - 464 с.
4. <https://president.uz/uz/lists/view/3119>.
5. Аристотель. Этика. Политика. Риторика. Афоризмы Серия: Библиотека избранных сочинений М. Эксмо 2019. – 544 с.
6. Цицерон М.Т. О природе богов: трактаты. Серия: Азбука-классика. СПб. Азбука 2018. - 448 с.
7. Всеобщая декларация прав человека. Декларация прав и свобод человека и гражданина. М. ТОО Иван. 1993. - 32 с.
8. Всеобщая декларация прав человека. Декларация прав и свобод человека и гражданина. М. ТОО Иван. 1993. - 32 с.
9. Сиражудинова С.В. Гражданское общество на постсоветском пространстве: концепты, модели, парадигмы Южнороссийское обозрение. Выпуск 90. Выпуск 90 М.: Ростов-на-Дону Социально-гуманитарные знания 2016.-230с.
10. Қирғизбоев М. Фуқаролик жамияти: генезиси, шаклланиши ва ривожланиши.-Тошкент:-Шарқ, 2010. - 52-53б.