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About the history of Jewish norms and laws

The article investigates the history of establishment of norms and laws in ancient Jewish history. It also traces back the Sumerian tribes, who had dwelled on the lower parts of Mesopotamia and the Akkadians that generated the most talented community in the ancient east. The research tries to establish the history of Jewish normative rules and laws which had gone through long and winding road, makes the essential summaries and generalizations related to the changes of time, to a wider coverage of the Jewish Diaspora, compared with other nations, and to the multicolored geographical Jewish lands where Jewish normative rules and laws had some primacy. It concludes that the ceremonial commandments have fallen through the cracks and the transition of clerical notions has borne some distinctive patterns from that of legal and material laws.

Key words: History of Jewish normative rules and laws, history of Semites, Shumerian tribes

У статті досліджується історія становлення норм і законів стародавнього Єврейського суспільства. Воно бере початок в історії Шумерських племен, які були розміщені на Месопотамських низовинах, і жителі Аккади утворили найталановитішу громаду на Стародавньому Сході. Дослідження спрямовані на встановлення історії єврейських правил і законів, які пройшли довгий і непростий шлях. Підведено основні підсумки і зроблено узагальнення щодо змін в епохах, від великої сфери діяльності єврейської діаспори в порівнянні з іншими націями й до багатонаціональної

єврейської держави, де зародилися Єврейські нормативи та закони. Як висновок зазначено, що їхній церемоніальний заповіт провалився, перехід духовних понять послужував початком створення чітких нормативів, що відрізняються від законних і матеріальних прав.

Ключові слова: історія єврейських нормативних порядків і законів, історія семітів, Шумерське плем'я.

В статье исследуется история становления норм и законов древнего Еврейского общества. Оно берет начало в истории Шумерских племен, которые были размещены на Месопотамских низменностях, и жители Аккады образовали самую талантливую общину на Древнем Востоке. Исследования направлены на установление истории еврейских правил и законов, которые прошли долгий и непростой путь. Подведены основные итоги и сделаны обобщения относительно изменений в эпохах, от обширной сферы деятельности еврейской диаспоры по сравнению с другими нациями и до многонационального еврейского государства, где зародились Еврейские нормативы и законы. В заключение указано, что их церемониальный завет провалился, переход духовных понятий послужил началом созданию четких нормативов, отличающихся от законных и материальных прав.

Ключевые слова: история еврейских нормативных порядков и законов, история семитов, Шумерское племя.

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In the study course of the establishment history of norms and laws, we are compelled to leaf through an epoch of millions of years commencing from the Celts (one of the branches of the Indio-European languages tree that include Irish, Scottish Gaelic, Welsh, Breton, Manks, as well as a dead language of Kornoul, and Gaelic languages, which had been used anterior to the Roman languages and disappeared) and the Aryans (a group of Indio – European languages – speaking people who conquered Northern India displacing local people and the Dravidianans, the population of Southern India in the 2nd millennium BC). Indeed, this epoch led off with the Semites of ancient Babylonia (the Semites embodies a group of Semitic – speaking people particularly from Jewish and Arabic communities. The word “semite” comes from Latin, and in ancient Greek it means “Sēm” or “Shem” – the son of Noah) and then developed in Palestine.

Generally, history of written laws is associated with Greece, Rome, continental European countries, and as well as, with England. Each ensuing stage of evolutionary process paved the way for abundant changes and sustainable development, which consequently prompted public opinion about norms and

laws to be shaped, social aggregation of the concept to be developed, peace-making, at the same time, inadequate fractions of tribune and authoritarian systems related to the execution of these normative rules and laws to come to light. Precisely because of this reason, establishment of competent court and tribunal system was rather historical necessity. This indeed can be regarded as a good road map for an impeded view of evolutionary process of the norms and laws.

Early genesis and establishment of norms and laws unsurprisingly hold that human beings and their way of life have always been framed in a socio-organizational structure; otherwise, these notions might have been good for nothing, on condition that human beings had lived a life of isolation, as animals do. Therefore, leading a social way of life has deeply rooted in the establishment of the first customs and traditional rules, norms and laws.

Another important feature which differentiates human community from animal kingdom is social intelligence and mental capacity possessed by human beings, which in its own turn concludes that evolution of these norms and laws banks on the adaptation process of human being's socially developed intelligence

to physical environment and its unceasing struggle to defeat it. The necessity of their shaping and growing in touch with social adaptation allow us to draw the following rational conclusions:

a) only human being's social nature is considered as a fundamental fact for the history of norms and laws;

b) human beings' social reasoning and their struggle to acclimatize to and defeat their surroundings has served as initial and physical prerequisites for normative principles, rules and laws to come into existence; thus;

c) laws and norms are considered as a by-product of reasoning;

d) and historically, due to changeable feature of human intelligence norms and laws have always gone through development and evolutionary phases;

e) historical roots of norms and laws are the by-products of a myriad of centuries of physical and mental development process of human beings.

Much has been done and extensive researches have been carried out into the history of ancient Jewish law by both soviet and foreign scholars, yet a great many issues thereof are open to dispute [1]. The culture of Jarmo, Hassuna, Magzalia and Halaf originated in Mesopotamia, the "land between the rivers" (the Tigris and Euphrates Rivers) from which primeval concepts of laws of the Ancient Near East had taken their roots [2, p. 18–19].

Mesopotamia was located in the center of Middle East [3, p. 93]. Kirkuk, Mosul, Basra and other areas had a reputation for being developed settlements and were often stormed by other tribes, prompting those nations to become more centralized and develop their own language and script culture, works of literature, etc. ("Epic of Gilgamesh"). By 3500 century BC, the population settling on the lower parts of this area had been scattered in small cities. Later, there was a sudden increase in the number of the Sumerians, the indigenous people of the region [4, p. 8], and then two Iraqi cities – Eridu and Uruk, under which the Sumerians had been unified, entered into a swift development phase. Artefacts portraying fighters and slaves collected from archeological excavations in an ancient Sumerian city of Ur witnessed to the existence of primeval norms and later on laws, although they were not in writing. Azerbaijani scholar Yusif Yusifov asserted that "ethnic, religious identity, and language of the Sumerians has not been identified" [3, p. 52–55], and with good reason – it is true. "The first cuneiform scripts might have appeared here and then dissolved by the Akkadian-Semitic languages" [3, p. 58]. That is why the historical fact of Akkadian-Semitic languages reappearance makes it difficult to draw the exact demarcation line for the rise Jewish norms and laws.

Historically, the Semites have been a part of the Great Caucasian race. A group of the Semites had enjoyed prosperity of the highest level in this area.

Today those areas are associated with the Hebrew legend that had prevailed through the banks of the Tigris and Euphrates Rivers and deals with the emergence of primitive man. "Legal documents contain solid information about domestic situation in Mesopotamia, its legal system, familial affairs, and property forms" [4, p. 71]. "Different approaches have been adopted towards the history of establishment of law and legal concepts, genesis and development tendencies of laws in the Sumerians, Semites, Akkadian tribes and other states of the Ancient Near East" [5, p. 77–78]. "The history of the land between the rivers was studied in accordance to the data supplied by classic historians, who were producing their works in Greek and Latin. They could not speak the language that was used by oriental nations, so translators were coming to their aid in gathering information. In most instances, those accrued materials appeared to be fallacious, bearing fabled features. In comparison with the Romans, the Greeks had established relations with ancient oriental nations, as well as with Mesopotamia much earlier" [3, p. 78].

Birth of the Semitic tribes, whose leading pursuit was cattle-bearing, goes back to the 3rd millennium BC on the Syrian Desert of Mesopotamia. The Hurrites had been living in the north of the Akkadians, which had been composed of the Amoreys (the Western Semites), the Kutiums and Lullabies had settled in northeastern Mesopotamia, while the Assyrians, who had existed until some 7th century BC, had been dwelling in the eastern part.

A great number of tribes and tribal units prevailed through Mesopotamia and their entangled socio-cultural relationships cause great hindrance to research and study exactly how the socio-economic norms and the concepts of law had been emerged, how and by what means and principles those laws had been implemented.

In some 5000 BC, together with the Sumerian tribes, who had dwelled on the lower parts of Mesopotamia, the Akkadians generated the most talented community unit that had never been seen in the history of mankind. Afterwards, hand in hand with the Sumerians, the Semites unified the nations on the bases of their tribal customs and built their own legal system.

With its prosperous economy and agriculture, fertile land, Babylonia exerted influence on the development of the Hebrew as well. As it was in Assyria, this historical phase set the stage for cuneiform writing system on clay plates. In terms of date and structure, cuneiform scripts were more complicated and older than Egyptian hieroglyphs which were drawn onto cumbersome rocks. For its peculiar features, cuneiform brought about the establishment of both syllabic writing system and written laws.

Tribesmen's opposition to land reforms enacted by Urukagina (approximately, the 2370s BC), the king of

Lagash, signifies that the concepts of rule, although previously they had been associated merely with customs) were gradually blossoming. In order not to pay the certain amount levied by the king, the people of Lagash were enslaved. Primeval norms regarding seizure and lease of land served as a prerequisite for the establishment of laws in ancient states and provided fertile ground to consolidate and proceed with existing lawmaking process in line with property rights and duties, familial and matrimonial affairs, criminal and criminal procedural laws in neighboring oriental states [6, p. 12–18].

Today, the origin and language of the Sumerians and as well as the exact date of establishment for the norms, rules and legal system are still open to disputes; some refers the Sumerians to the Middle East, and henceforth the launch of normative rules are also considered to be traced within this framework, while others claim that they had come from the Central Asia. Yet, in 2nd millennium BC the Sumerian language was considered dead. Enmetena's (flourished 2400 BC, was a son of En-anna-tum I, and he reestablished Lagash as a power in Sumer perhaps 2360–2340 BC) triumph over his sworn enemies in the 3rd millennium BC testifies to his superior powers and rights, while the masses were still lawless (but who can judge that there still did not exist some normative customs and rules?). This situation caused serious discrepancies within the government and led to frequent shifts in power; on that account, in 2318–2312 BC the Sumerian king, Lugaland introduced some social reforms, which were the only and most ancient documents in "socio-economic sphere handed down to us" [7, p. 92–93]. Sargon (2316–2261), founding father of the Akkadian Empire, initiated akkadian military laws and this step contributed significantly to the development of marine trade between India and Eastern Arabia. Against the backdrop of a spade of uprisings sparked off under the rule of Sargon, his sons – Rimush, Manishtushu and grandchild Naram-Sin; several reforms were implemented and Naram-Sin deified himself as the "chief god of Akkad" [7, p. 94–95]. "Successful domestic and foreign policy pursued by Sargon gave rise to the rise of tyrannical administrative rules" [3, p. 90].

Ur Nammu came into power and became the "king of all Sumer and Akkad in 2012–2003 BC in the south

of Mesopotamia" [3, p. 96–97]. His reign was a kind of tyranny. King was the chief judge and the head of government machinery. It was the duty of the king to declare war and peace. Ur Nammu founded centralized government, delegated public officials to various positions and developed transportation system. His son, Shulga (2093–2046 BC) deified himself. For glorifying the king, memorials were erected and sacrifices were made. More importantly, he passed the bill on advanced judicial system; e.g., principles by which awards for returning the slave who fled his master granted and compensation for inflicted damages and injuries claimed were defined. The laws of Shulga were considerably different form that of Hammurabi and far cry from the principle of retaliation (an eye for an eye, a tooth for a tooth), i.e. monetary compensation was specified for inflicted damages. Therefore, ancient Jewish people acknowledged the laws of Shulga as the most primeval legal instruments for tracing back the history of norms and legal rules. For example, the declarative rules as, "may no powerful men hurt widows and orphans!" [3, p. 96–97] – became the constituent part of the legal system. Those reforms specified a number of principles regarding facilitation of taxes and living conditions of people: polygamy was abolished in rural communities; judicial system was established. In Lagash citizenship rights were reinstated and preliminary measures for the implementation of civil laws were taken.

The ancient Sumerian-Akkad state was structured on the ground of kinship and tribal normative rules and relations. Unlike ancient Egypt, slaves accounted for merely a small part of the entire population; slaves were mainly hostages taken as plunder of war. These slaves were different from that of royal. "Ensi" was the title designated to the governor of the most developed cities as Ur, Lagash, Umma, Uruk and Kish. Ensi was regarded as the chief priest. The Council of Elder Statesmen and the Council of People were responsible to elect the government (elected body), counsel about administrative affairs of great importance (consultation), administer nation-wide supervision over its activity (the rule of the people), and to execute judicial and administrative affairs on community property (Administrative and Civil Law) [6, p. 20].

It is assumed that in 2175 and 2172 BC, the reign of the Sumerian-Akkadian power came to an end. The Kutiums were constantly attacking the communities living on the land between the rivers, and therefore they gained hatred of populace; for all that, the Kutiums did not change the "ruling system implemented in the land between the rivers" [3, p. 92–93].

Before commencing to investigate the theoretical facets of the Jewish legislation, which have a key position in the establishment history of norms and laws, the study of development stages of law (hierarchy of rules – norms-laws-legal system) concepts constitutes a matter of great significance. The main

¹ Collegiate Comment: The Old Testament includes: Moses Pentateuch, the historical and prophetic books of Scripture. It can be attributed to historical book of Joshua, Judges, 1–4 Samuel, 1–2 Chronicles, Ezra and Nehemiah. Among the books of the Prophets are allocated Isaiah, Jeremiah, Ezekiel and Daniel as "great" or "senior". Section of Scripture is extremely diverse both in content and form. It includes a moralistic philosophical treatises (Job, Ecclesiastes), love-erotic poem ("The Song of Songs"), a collection of devotional hymns – Psalms (Psalms) etc. The Old Testament begins with the first book of the Pentateuch – ... Genesis. History of the Old Testament covers the period from the IX to the II. BC. e. Among the sources of the Old Testament called the earlier books: Yahvist, Elohist, Priestly Code. The original language of almost all the books of the Old Testament - the Hebrew. In the last two centuries BC. e. was translated into Greek, at the end of IV – beginning of V in. BC. e. – By Latin.

sources, linguistic and historic evaluation of the “Old Testament” [Look]¹ allow us to conclude that legislation, as described in surviving part of the Torah (“Pentateuch” or the Five Books [8]), had been introduced by holy Moisey neither on the desert, nor in the Moabs [9] until the Jewish marched into Palestine. And this occurred in 586 BC, when Nebuchadnezzar [10] conquered Jerusalem and took the Jews hostage. To be more precise, a part of the Torah, that deals with legislation, does not belong to the first stage of the Jewish history, but to later stages [12, p. 413]. These theories hold that the initial Jewish concepts of law had not released until the Jewish entered ancient Jerusalem, and only small parts of those concepts had been put into writing and publicized before independence. Only after the conquest, the major body of these laws, namely the Priestly Code was compiled in a written form [12, p. 413]. This amazing history had evolved from the Sumerians’ need to prevent military and foreign intervention; thus after the conquest of Babylonia, it is hard to define exactly in what stages these laws were developed into the Jewish laws [12, p. 413]. Apparently, the establishment history of Jewish normative rules and laws had gone through long and winding road which in its own turn allows us to make the following generalizations.

After the conquest of Babylonia, an array of Babylonian laws has been accustomed to the Jewish concepts and legalized.

Second, a wider coverage of the Jewish Diaspora, compared with other nations, of course, can be considered as a secondary element contributing to this process. In other words, multicolored geographical lands where the Jews settle have led to the prevalence of Jewish normative rules and laws in other countries and other Jewish communities across the world.

Last, but not the least, it ought to be highlighted that ceremonial command-ments have fallen through the cracks and the transition of clerical notions has borne some distinctive patterns from that of legal and material laws.

Researchers point out that, the Jewish who have always led a patriarchal way of life, regarded monks as an exponent of law, and their words have always been worshipped as an emanation from God. As a rule, all administrative affairs were assigned to monks, and what they uttered were agreed without any exceptions, for the Semites perceived laws as cherished notions emerged from God’s Holy Spirit. On that account, the Jewish concepts of norms-laws-legal system and state law have never deviated from religious ground, as it has been manifested in the Holy Bible.

The Five Books (in Hebrew – הַתּוֹרָה הַחַמֵּשׁ – in the Torah “Chameesha” or in ancient Hebrew “Choomshey” – שְׁמֵהָ), is considered as the Code written down

by Moses, and the first Five Books, Genesis, Exodus, Leviticus, Numbers and Deuteronomy constitute the basics of the Hebrew and Christian Bibles, and are called the Tanah or the first part of the Torah. In ancient Greek the “Five Books” (πεντάτευχος) is composed of two words: “five” – “πεντε” and “τευχος” – book volume.

Another issue also arouses interest. So, there is a considerable disparity of age between the hierarchic establishment of norms and laws and their release in a written code form. It is true that tendency and tradition observed throughout the history of the Ancient Near East have been shaped in this manner, yet mythological, anthropomorphic and spiritual facets have always served as a prerequisite. Upholding the supremacy of class, spirit, and tribe have more preponderated over the establishment of written laws.

REFERENCES:

1. Diakonov, M. “The Rise of the Despotic State in Ancient Mesopotamia” in *Ancient Mesopotamia: A Socio-Economic History*, Moscow, 1969; Diakonov M. : “Semito-khamitskie yazyki: opyt klassifikatsii (Semito-Hamitic languages: an essay in classification)”, Moscow, 1965 (the same in English: *Semito-Hamitic Languages: an Essay in Classification*, Moscow, M. 1965).
2. Yusif Yusifov: *History of Ancient East*, in Azerbaijani, A textbook for Higher School Students, “Şərq-Qərb”, Baku, 2007. – P. 533.
3. История Древнего Востока / под. ред. В.И. Кузищина. – М. : Высшая школа. – С. 456.
4. Mark Kishlansky, Patrick Geary, Patrica O'Brein: “Civilization in the West”, Volume 1 to 1715, Harper Collins Publishers, 1991. – P. 528.
5. Henry Sumner Maine: “Ancient Law, its connection with the early history of society and its relation to modern ideas”, pp. 6–8, 78–80; S. Langdon: “The Sumerian Law Code Compared with the Code of Hammurabi”, *The Journal of the Royal Asiatic Society of Great Britain and Ireland*, No. 4, Oct., 1920, pp. 489–515;
6. Черниловский З. Всеобщая история государства и права / З. Черниловский ; под ред. К.И. Батыра. – С. 357. – С. 12–18.
7. Древние цивилизации / под общ. ред. Г.М. Бонгард-Левина. – М. : Мысль, 1989. – 479 с. – С. 92–93.
8. Пятикнижие (ир. הַתּוֹרָה הַחַמֵּשׁ – хамиша хумшей Тора или ивр. חֻמָּשׁ – хумаш) [Электронный ресурс]. – Режим доступа : <https://ru.wikipedia.org/wiki/Пятикнижие>.
9. [Электронный ресурс]. – Режим доступа : <https://ru.wikipedia.org/wiki/Моавитяне/>
10. Опарин А.А. В царстве пигмеев и каннибалов. Археологическое исследование книг Ездры и Неемии. Часть I. Археологическое исследование книг Ездры и Неемии. Глава 1. Пророчество царя Навуходноносора [Электронный ресурс]. – Режим доступа : <http://nauka.bible.com.ua/kann/kann1-01.htm>.
11. Фрэзер Дж.Дж. Фольклор в Ветхом Завете / Дж.Дж. Фрэзер ; пер. с англ. – 2-е изд. – М. : Издательство политической литературы, 1990. – 542 с. – С. 413.