УДК 340.1
DOI: 10.37635/jnalsu.28(4).2021.15-28

Анатолій Павлович Заєць

Національна академія правових наук України
Харків, Україна

Кафедра загальнотеоретичного правознавства та публічного права
Національний університет «Києво-Могилянська академія»
Київ, Україна

Зоя Олександрівна Погорєлова

Кафедра теорії та історії держави і права
Ужгородський національний університет
Ужгород, Україна

СТАНОВЛЕННЯ ІДЕЇ ПРИРОДНОГО ПРАВА В СТАРОДАВНІЙ ГРЕЦІЇ І СТАРОДАВНЬОМУ РИМІ

Анотація. *У статті аналізується становлення ідеї природного права, що має важливе теоретичне й прикладне значення, оскільки дає можливість краще збагнути сутність права, його зв'язок з егалітаристськими та гуманістичними ученнями. Дослідження ґрунтується на сучасних філософських світоглядних підходах, використовуються такі загальнонаукові методи дослідження як аксіологічний, антропологічний, феноменологічний, порівняльно-історичний, порівняльно-правовий, системно-структурний, герменевтичний, функціональний, інституційний, а також формально-юридичний метод. Досліджено роботи представників Мілетської школи, заснованої Фалесом у першій половині VI століття до н.е., аналіз якими людської свідомості, людської здатності до творчості, перетворення світу, формулювання ідей і їхнього втілення привели до ідеї універсального Логосу, всесвітнього божественного Розуму, Закону Природи. Розкрито внесок у розвиток ідеї природного права софістів, які обґрунтовували відмінності між природним і людським законом, обстоювали ідею рівності усіх людей, закликали не дискримінувати громадян, залежно від їхнього походження, заперечували рабство. Висвітлено роль в обґрунтуванні ідеї природного права представників школи стоїцизму на основі усвідомлення принципової відмінності між природою людини і природою, обґрунтуванні існування незмінного закону природи (lex naturale) у формі здорового глузду, рівності усіх людей, визнання рабства таким, що суперечить людській природі, потреби визнання законом прав людини для збереження людської гідності. Досліджено вплив ідей філософів Стародавньої Греції на розвиток римського права, роль у цьому впливі Сципіонового гурту та суть тогочасного раціонального розуміння природного права як істинного закону, а саме – здорового глузду, який у відповідності з природою стосується всіх людей, є незмінним і вічним*

Ключові слова: *давньогрецька філософія права, давньоримська філософія права, природний закон, природне право, природно-правова теорія, права людини, сутність держави*

Anatolii P. Zaiets
National Academy of Legal Sciences of Ukraine
Kharkiv, Ukraine
Theoretical Jurisprudence and Public Law Department
National University of Kyiv-Mohyla Academy
Kyiv, Ukraine

Zoya O. Pohoryelova
Department of Theory and History of State and Law
Uzhhorod National University
Uzhhorod, Ukraine

FORMATION OF THE IDEA OF NATURAL LAW IN ANCIENT GREECE AND ANCIENT ROME

Abstract. *The article analyzes the formation of the idea of natural law, which has an important theoretical and applied significance, as it makes it possible to better understand the essence of law, its connection with egalitarian and humanistic teachings. The research is based on modern philosophical worldview approaches, such general scientific research methods as axiological, anthropological, phenomenological, comparative-historical, comparative-legal, system-structural, hermeneutical, functional, institutional, as well as formal-legal method are used. The article examines the works of representatives of the Milesian school founded by Thales in the first half of the 6th century BC, whose analysis of human consciousness, human ability to create, transform the world, formulate ideas and implement them led to the idea of a universal Logos, a universal divine Mind, and the Law of Nature. The article reveals the contribution of sophists to the development of the idea of the natural law who justified the differences between natural and human law, defended the idea of equality of all people, called for not discriminating against citizens, depending on their origin, and denied slavery. The role of representatives of the stoicism school in substantiating the idea of natural law based on awareness of the fundamental difference between human nature and nature, justifying the existence of the unchangeable law of nature (lex naturale) in the form of common sense, equality of all people, recognition of slavery contrary to human nature, the need for recognition of human rights by law to preserve human dignity is highlighted. The article examines the influence of the ideas of the philosophers of Ancient Greece on the development of Roman law, the role of the Scipio group in this influence, and the essence of the then rational understanding of natural law as a true law, namely, common sense, which, in accordance with nature, concerns all people, is unchangeable and eternal*

Keywords: *ancient Greek philosophy of law, ancient Roman philosophy of law, lex naturale, natural law, natural law theory, human rights, the essence of the state*

INTRODUCTION

The origin of philosophy as a science is associated with ancient Greece. As Bertrand Russell noted, although Egypt and Babylon "had some knowledge that the Greeks later adopted from them", however, no other country "developed science or philosophy" [1, p. 31]. It was philosophy that gave an impetus to the development of political and legal science. Perhaps the most significant result of political and legal science was the emergence of the idea of natural law. This idea radically changed the understanding of the essence of law, contributed to the formation of the doctrine of natural law and natural human rights, and the progressive reform of European legal systems based on human-centrism in the future. An outstanding contribution to the emergence and formation of the idea of natural law in Ancient Greece, which was later perceived by ancient Rome, belongs to a whole galaxy of philosophers of the pre-Socratic period, namely Thales [2, p. 268-269; 3; 4, p. 15-19], Anaximander [2, p. 270-273; 3, p. 11-14; 4, p. 19-24], Anaximenes [2, p. 273-274; 3, p. 15-20; 4, p. 24-25], Xenophanes [2, p. 292-293; 4, p. 46-49], Heraclitus [4, p. 26-31; 5, p. 5-18], Anaxagoras [2, p. 308-315; 3, p. 61-73; 4, p. 69-76]), sophist philosophers (Protagoras [2, p. 316-318; 4, p. 157-160], Gorgias [2, p. 318-319; 4, p. 160], Antiphon [2, p. 320-321; 4, p. 163-165; 6], Hippias [4, p. 162-163; 7, p. 281-417], Lycophron [8, p. 12-80]), Democritus [9], Socrates [10], Plato [7; 11; 12], Aristotle [7; 13], Stoic philosophers: Zeno [2, p. 296-299; 4, p. 54-57], Chrysippus [3, p. 299-306], Panaetius of Rhodes [3, p. 284]), Polybius [14], Seneca [15], and Cicero [16].

The paper attempts to show the complex and contradictory process of the emergence of the idea of natural law, as it was not perceived equally by all philosophers. In addition, this idea was formed and paved the way not only in the conditions of the birth of science as such and the formation of the philosophical foundations of the process of cognition of social phenomena, but also in difficult socio-economic conditions, bearing the imprint of the concrete historical nature of the era under consideration, as well as the features in the

then Greek and Roman States of the forms of government through which these states passed. It is also worth considering the living conditions and influence of the environment on the historical figures who represented this idea. The idea of natural law, in particular, sharply contrasted with the existence of slavery, periods of authoritarianism and despotic rule, the class nature of society and differences in the status of many segments of the population. Nevertheless, its significance as a civilizational asset, the highest achievement of philosophical and legal thought at that time, went far beyond ancient Rome and Ancient Greece.

The development of the idea of natural law by the philosophers of Ancient Greece and Ancient Rome created the basis for the further formation in the Middle Ages and in modern times of an integral doctrine of natural law by prominent philosophers H. Grotius [17], J. Locke [18, p. 327-351], Ch. Montesquieu [18, p. 387-443], J.J. Rousseau [18, p. 363-385], S. Pufendorf [18, p. 353-359] and many other thinkers. Among the Ukrainian pre-revolutionary researchers of natural law issues, it is worth mentioning M. Drahomanov [18, p. 901-902], B. Kistyakivsky [18, p. 839-895], S. Dnistrianskyi [19], M. Palienko [20], among the pre-revolutionary and post-revolutionary Russian scientists – P. Novgorodtsev [21; 22], F. Taranovsky [23, p. 78-93], V. Chetvernin [24], among Russian contemporaries – V. Nersesyants [25], among the newest Ukrainian scientists – M. Kozyubra [26, p. 12-42], O. Kostenko [26, p. 115-138], S. Maksymov [26, p. 43-65], K. Krasovsky [27], and among foreign researchers – works of such authors as B. Bix [28], R. Dworkin [29; 30], D. Llojd [31], K. Popper [32], L. Fuller [33] and many others.

At many stages of historical development, the idea of natural law opposed the historical school of law [34], legal positivism, normativism and its extreme expressions – Marxist-Leninist understanding of law and proletarian law [25; 33; 35], focusing on the value and humanistic aspects of human relations, human dignity, thereby helping to resist the arbitrariness of the state [36]. This idea helped fight authoritarian regimes, inspired the protection of human rights, returned moral values to the sphere of state power, formed a belief in the ability to limit state power to human rights and put it under the control of society, and was eventually crowned with the recognition of universal natural human rights and their consolidation in the Universal Declaration of Human Rights of 1948 [37], which opened a new era in the possibilities of protecting human rights. After the Second World War, in almost all the constitutions of democratic states, the concept of natural law and natural human rights was reflected in one form or another, becoming the protection of human rights and serving as a real lever for limiting the arbitrariness of state power.

At the present stage of development of legal science, despite fundamental changes in the understanding of natural law, comparing with the period of antiquity, the origins of the idea of natural law, its various aspects continue to attract the attention of philosophers, historians, sociologists, lawyers. Among the research topics of foreign researchers of the last few years in this field, it is worth mentioning the study of the primary sources of natural law [38-40], the concept of law in the context of a better understanding of the phenomenon of law [41; 42], the role of the rule of law as a measure of political legitimacy in Greek city-states [43], the study of the relationship of natural law with ethics and ethical ideals [44], the relationship with state political regimes, the study of historical personalities-carriers of these ideas [45].

Such attention to the study of the primary foundations of the idea of natural law, everything connected with it, is not accidental at all, since the results of the study of the historical conditions of the emergence of the idea of natural law, the study of the relationship between law and natural law in the conditions of Ancient Greece and Ancient Rome and the corresponding conclusions help to better understand the deep essence of modern law, natural human rights, their relationship with forms of government, political regime, more deeply understand the differences and common in the main doctrines of legal understanding. And this, for its part, also contributes to a better understanding of the tasks facing modern science and legal practice, leads to the formation of modern ideas about the purpose of law and the limits of its interference in the public and private spheres.

The purpose of the research is to analyse the origins of natural law ideas in the works of ancient Greek and Roman philosophers, in particular the works of representatives of Natural Philosophy (Philosophy of nature) of the Milesian school, Socrates, Plato, Aristotle, representatives of the school of stoicism, Cicero, revealing and evaluating the ideological foundations of the idea of natural law, tracing the naturalistic, cosmological, theological and rational worldview and its influence on the knowledge of legal phenomena.

The practical value of this work lies in the fact that through the disclosure of the process of the origin of the idea of natural law and the personal contribution of ancient Greek and ancient Roman philosophers to this achievement, it provides an opportunity to better understand the doctrine of natural law, which underlies the modern concept of human rights.

1. MATERIALS AND METHODS

The proposed research is based on modern philosophical worldview approaches to understanding law and its role in modern society, correlation with the state based on the use of ontology, epistemology, axiology, praxeology, anthropology, dialectics (including logic), ethics (morality) as the core of the methodology of law in their interdependence and interrelation. This made it possible to trace, explain and correctly assess the ideological foundations of the idea of natural law, which grew up on a naturalistic, cosmological, theological, and rational worldview. This also made it possible to assess the advantages and disadvantages of such a philosophical and theoretical understanding and knowledge of law by ancient Greek and Roman philosophers. Rational worldview allowed ancient Greek and Roman scientists to go beyond the existing orders in understanding a just society and explain the nature of man, the relationship of people on civilizational and humanistic principles. Rationalism, as a method of cognition of legal phenomena, has become a powerful methodological tool for evaluating a number of other ideological ideas that have influenced, taking into account the principles of methodological pluralism, the development of law, in particular utilitarianism, positivism, normativism, existentialism and many others.

The authors rethink the existing ideas about the triune understanding of dialectics as a universal method of philosophical consciousness, the theory of development and the method of cognition of the world. Meanwhile, dialectics in the work is considered as one of the general scientific methods of cognition, which helped to consider the studied issues of the formation of the idea of natural law from the point of view of its objectivity, comprehensiveness, concreteness, consistency and historicism. The paper also uses such general scientific research methods as axiological, anthropological, phenomenological, comparative-historical, comparative-legal, system-structural, hermeneutical, functional, institutional, as well as formal-legal method. A special role was assigned to the axiological method, the application in the process of research of the formation of the idea of natural law of the modern vision of the value aspect of law, since values, namely freedom, justice, equality, dignity, honour of a person, their life, health determine the deep essence of the concept of law, form an idea of the social purpose and hierarchy of goals of law and the role of the state in ensuring them, serve as a criterion for the acceptability of certain means of implementing legal norms and methods of legal regulation.

At the same time, it was also important to apply the anthropological method, which leads to the consideration of all legal phenomena through the prism of the individual, his needs, values and interests (hence the famous Protagoras' statement that man is the measure of all things, the criterion for all actions and deeds). Anthropology is the core of the rationalization of law. Therefore, it was important to evaluate the views of ancient Greek and Roman scientists from the point of view of the modern understanding of human centeredness, human rights and, above all, natural human rights as conditions of human existence and interaction for the sake of preserving one's existence and as conditions for survival, human dignity, equality (in particular gender), justice. The anthropological method also serves to confirm the need for legal regulation itself to normalize human relations, to assess the legitimacy of power, since the absence of enslavement relations, democratic power, and its responsibility to citizens for its activities correspond to human nature. Conversely, human nature is contradicted by the lack of law and legal nihilism, the ethical-instrumental vision of law and its identification with the state and state power and the police state, the lack of guarantees of human rights, the illegal retention of power, as well as the overregulation of public relations, ignoring the biological needs and interests of people, the low level or lack of social standards, social stratification and its consolidation in legislation.

The significance of the phenomenological method, which served as an additional means of substantiating the idea of natural law, is particularly important from the point of view of recognizing the super-individual, self-sufficient, transcendental phenomenological existence of the phenomenon of equality, justice, and the unified nature of people underlying the idea of natural law. Comparative-historical and comparative-legal methods were used to assess the idea of natural law, the views of scientists from the point of view of modern understanding and purpose of law, human rights, the purpose of the state and its role in ensuring human life, its interests. The system-structural method was used taking into account the understanding of law as an integral phenomenon that has a complex structure, each element of which is in interaction with other elements. The hermeneutical method and its tools made it possible to reveal the essence of the idea of natural law, consider them taking into account specific historical conditions, and interpret legal concepts from the point of view of their correspondence to the point of view of their authors. Functional, institutional, and formal legal methods contributed to a more accurate analysis of the institutions and institutions available in Ancient Greece, as well as the phenomena of legal reality.

2. RESULTS AND DISCUSSION

2.1. Milesian School, Philosophy of Nature

Ancient Greek philosophy as a science originates from the Natural Philosophy (Philosophy of nature) of the Milesian school, founded in the first half of the 6th century BC. Its representatives Thales, Anaximander, Anaximenes, and later Heraclitus, Anaxagoras, sophists, Democritus justified the cosmological model of the universe, its development according to its own laws, necessity (Fate) and its close connection with logos (law), knowledge through the mind, the "naturalness" of the human being, the inseparability of its knowledge from the knowledge of nature, the changeability of man according to the changeability of nature, and justice – as an expression of equal retribution according to talion principle

Thales was the first to talk about nature; like the earliest philosophers, he adhered to the material principle (he considered water to be such a principle), recognized the unity of the cosmos, the immortality of the soul [46, p. 5-9]. Anaximander, a disciple of Thales, considered the principle and element of existence to be the One Infinite, which is in constant motion. From the boundless nature, all things arise and are destroyed not because of the isolation of opposites and the qualitative change of the elements, but because of eternal movement. He also believed that man comes from the animal world [46, p. 11-14]. The unity and boundlessness of nature, the changeability of the world was also recognized by Anaximenes, a disciple of Anaximander [46, p. 15-20]. The analysis of human consciousness, human ability to create, transform the world, formulate ideas and implement them led the Greek philosophers of the pre-Socratic period to the idea of a universal Logos, a universal divine Mind, and the Law of Nature.

Logos (Greek: λόγος) – comes from the word λέγειν (Greek) – to speak, originally meant a word or language, later the very idea that is expressed in the language. In the epic of Homer, it meant μύθος (myth) or επος (epic), and later, through the efforts of philosophers, first Xenophanes, who believed that the eternal God, who does not have a human or animal form, directs with the help of Reason, turns into a "reasonable word", "discretion" [2, p. 292-293]. The content of the Logos becomes the essence of all things, the structure of the world, its laws. Heraclitus continued his research on the laws of the development of the world, who formulates this law of nature (logos) as follows: "1. This logos holds always but humans always prove unable to ever understand it, both before hearing it and when they have first heard it. For though all things come to be in accordance with this logos, humans are like the inexperienced when they experience such words and deeds as I set out, distinguishing each in accordance with its nature and saying how it is. But other people fail to notice what they do when awake, just as they forget what they do while asleep. 2. For this reason it is necessary to follow what is common. But although the logos is common, most people live as if they had their own private understanding" [5, p. 2]. Purely materialistic is Heraclitus ' understanding of the cosmos: "This world, which is the same for all, no one of gods or men has made. But it always was and will be: an ever-living fire, with measures of it kindling, and measures going out", "Listening not to me but to the logos, it is wise to agree that all things are one") [5, p. 3]. This law of nature is characterized by a measure ("The sun will not overstep measures, otherwise, the Erinyes, Justice's helpers, will find it out" [5, p. 5]. It is interesting to compare this with the expression in Parmenides' poem "On Nature": You will know now... The sky from where it has gone, all that surrounds it, – how immutable, it by force of Ananka, holds the boundaries of the luminaries..." [46, p. 52]).

Important for further understanding of the idea of natural law is Heraclitus' assessment of the human mind and thinking, his recognition of the human ability to know. If the mind "is the one that controls everything with the help of everything" [5, p. 2], the thinking that is inherent in all – "great dignity, and wisdom consists in saying the true and listening to nature, acting according to it" [5, p. 6], and therefore "[in] God everything is wonderful, and everything is good, and just, but people consider one thing unfair, the other just" [46, p. 5].

So, initially, Greek philosophers mostly did not see the difference between natural laws and the laws of the social environment, extending the effect of natural laws on society itself. This period, as defined by K. Popper can be called the stage of biological naturalism, which, in turn, is the first stage of the transition of society in views on the relationship between natural and normative laws from naive or magical monism to critical dualism [32, p. 84]. According to biological naturalism, there are certain eternal unchangeable laws of nature, from which moral and state laws are derived. Biological naturalism has served to justify diametrically opposed ethical views, both for egalitarianism (a society with equal opportunities) and for a society dominated by the right of the strong. In the form of ius naturale, biological naturalism is still quite popular among jurists [47]. To a large extent, the signs of biological naturalism are absorbed by the anthropological approach in law, which considers man in the unity of biological, moral, religious and other components and synthesizes a scientific and value vision of the human phenomenon.

Anaxagoras, who was called "Mind" for his wisdom, was the first to recognise reason and matter rather than fate (necessity) as the cause of the world order. According to Aristotle, Anaxagoras should be understood

in such a way that everything arises from the existing, but from the existing in possibility, but in reality it does not exist, that is, that he, if he developed this idea, would form a new teaching, recognizing as principles the one (since it is simple and not mixed) and another, which can be called indefinite before taking certain forms [46, p. 67]. As a nature explorer, Anaxagoras was thrown into prison, from where he was not easily released by Pericles.

Democritus' materialist teaching was based on Protagoras' rational doctrine of perception. Admitting the relativity of sensory perception “a person should cognise based on the rule that he is far from reality”), he proved the possibility of knowing absolute reality, which has space and geometric shapes (through “true knowledge”). Democritus denied the role of the supernatural, the divine, believing that everything has its own reasons, develops due to necessity [9, p. 213]. It is knowledge that turns randomness into necessity (knowledge by thought gives reliability in the judgment of truth [9, p. 226]. Thus, for example, the ancients came to the conclusion that there is a God, “while in fact there is no other god besides them who would have an immortal nature” only because idols of “gigantic size” approached people, “foreshadowing the future for people with their appearance and sounds” [9, p. 323], moreover, the human race itself is almost the only one, among the animals known to us, “most involved in the divine principle.... due to the divinity of its nature and essence...the property of the most divine – to think and reason” [9, p. 355].

In contrast to natural phenomena, that is, what exists “in truth”, “by nature”, in Democritus society, the polis, the system of government and laws are the result of natural development. The law is “a bad invention”, because “what contradicts the truth is unfair” and therefore “a sage should not obey the laws, but live freely” [9, p. 371]. These social phenomena have emerged in the process of evolution and therefore can and should be improved in accordance with the requirements of justice, the interests of the state, the needs of people, etc. [46, p. 93-110]. Democritus founded a secular system of morality and ethics, which before him was completely religious. What is unfair is what is contrary to nature. All moral requirements are motivated not by external religious influences, but by internal motives of a person (Democritus first introduced the concept of conscience – “people have on their conscience the bad deeds they have committed” [9, p. 358], “the ability to be ashamed is the greatest virtue” [9, p. 368]). According to Democritus, all people are equal by nature, although it is impossible not to note his negative attitude towards women, their role in society, and the peculiarities of relationships with men, characteristic of Greece at that time [9, p. 369-370]. The Democrat condemned the wealth acquired by “bad ways”, supported the democratic structure of the state as opposed to the monarchy, because even “poverty in a democratic state should be preferred to what is called a happy life in the monarchy, as freedom is better than slavery”. However, Democritus believed that “it is not proper for a ruler to be responsible to anyone other than himself” [46, p. 93-110], although, on the other hand, “it must be arranged so that if he has not committed any injustice, and even severely punished those who have done it, he will not be subjected to their power in the future; it is necessary that the law or other establishment should stand in defence of him who does the work of justice” [9, p. 362].

In the middle of the fifth century BC, in Ancient Greece, there was a tendency to study the humanities and study the essence of man and distinguish it from nature, which was greatly facilitated by the views of sophists. Protagoras' famous: “man is the measure of all things, what is and what is not” became a reflection of the search for the principles of human relations, human nature, and criteria of justice. The contribution to the development of the ideas of natural law also belongs to other sophists, among whom it is worth mentioning Gorgias of Leontini, Antiphon, Hippias of Elis, Lycophron. Sophists argued for the distinction between natural and human law, which may be contrary to nature. Thus, Antiphon argued: “By nature, we are all arranged in the same way in everything – both Barbarians and Hellenes...we all breathe air through our noses and eat with our hands” [9, p. 63]. Hippias believed that it is not necessary to distinguish between citizens of different polises and discriminate them according to their origin, arguing that all relatives and fellow citizens “by nature and not by law: because such a family is similar in nature, the law – a tyrant over people, forces many things that are contrary to nature” [7, p. 337]. In this respect, Hippias should be considered one of the exponents of the idea of egalitarianism.

2.2. Socrates' Idea of Man as a Moral Being and Plato's Biological Naturalism

The teachings of Socrates (469-399 BC), one of the most famous philosophers of Ancient Greece, have not come down to us in the form of his works and have been preserved only in the works of Xenophon, Plato and Aristotle. Starting as a sophist, Socrates considered man as a moral being and studied not nature, but exclusively ethical issues from humanistic and anthropological positions: the reason-based morality of human behavior, the existence of objective truth, the absoluteness of the difference between good and evil, the meaning of human conscience, human virtues (justice, courage, prudence, beauty, etc.). By singling out such

forms of state as monarchy, tyranny, aristocracy, plutocracy, and democracy, Socrates preferred the aristocracy, which was favorably appreciated by Plato. Democracy was criticized by him because of the need to choose not by lot, but only according to the abilities and knowledge of a person [10].

Since the end of the 5th century, as noted by G.H. Sebain and Thomas L. Thorson, two ideas of the opposite between nature and convention are being developed:

1) nature as a law of justice and law, organically inherent in people and the surrounding world, so the order is reasonable and beneficial, moralistic or at least religious, which could allow criticism of abuse;

2) nature is independent of morality, manifests itself as self-affirmation or selfishness, the desire for pleasure or power (it could be developed as the Nietzsche doctrine of self-expression either in varieties of utilitarianism or in forms of anti-social orientation) [48, p. 59].

On the basis of these two ideas, the formation of two basic concepts of human rights began, which had a key impact on the perception and understanding of human rights and on human destinies. On the basis of the first idea, the idea of natural human rights was formed. The second idea served as the basis for positivism, the formal rule of law, and the justification of the right of force. During the entire subsequent period of the existence of civilization, there is a rivalry, opposition, and in some periods – a fierce struggle of these two ideas based on different approaches to understanding the origin of law, its sources, connection with the individual, relationship with the state and role in regulating public relations. With the change of cosmological views, knowledge about what is proper changes. Justice is made dependent on the actions of specific individuals and knowledge of the forms of social life and professional, rather than generic, differentiation of society. Political discourse arises as a conversation of equal people about equality [48, p. 10]. The natural law teaching of this period has an individualistic, atomistic and mechanistic character. According to Professor Palienko, a person in such a natural-legal philosophy "is considered in itself as an abstract individual, an isolated person, without any influence of the environment and historical conditions" [20, p. 32]. This is how the state was imagined – a mechanical union of individuals, and the individual and their mind, natural properties and rights were considered the basis of the state.

The teachings of Plato (427-347 BC) on man, society, law, politics and the state, which he substantiated in his works, deserve special consideration. In his view of these phenomena, he generally tends towards a religious worldview based on the idea of order and harmony. Observing the terrible destruction caused by the Peloponnesian War of Athens against Sparta and the subsequent power of Thirty Tyrants, Plato became disillusioned with the existing state system, believing that the fluidity and cyclicity inherent in society, like all nature, inevitably leads from birth to decay and decline in order to be reborn in a new round of development. Plato distinguished five successive state structures [11, 543a-594e]: aristocracy (the rule of the best), timocracy or timarchy (based on ambition), oligarchy (the power of the rich), democracy (the power of all), tyranny, each of which corresponded to five different structures of the human soul [11, 545a-546]. The aristocracy leads to timocracy by virtue of discord in the power elite, which arises due to the degeneration of the aristocratic family and the emergence of successors who will no longer have natural inclinations and after appointment will neglect their duties, in which a tendency to rivalry and rage will reign. In a timocracy, charity is less respected, profit and wealth are more valued, and therefore people begin to admire the rich and appoint them to public positions. There are qualifications. The oligarchy is increasingly based on power or intimidation. There are practically two states: the poor and the rich. In such a state, many criminals appear, and the state itself becomes weak and cannot defend itself from external attacks, because the oligarchs are afraid to put weapons in the hands of the poor, so that they are not turned against themselves. The greed, selfishness, and shamelessness of the oligarchs in enrichment, the weakness of the spoiled and lazy oligarchic youth, on the one hand, and the hatred of the poor for those who own their property, on the other, are preparing for the defeat of the oligarchic state. The victory of the poor leads to the elimination of oligarchs, the equalization of all in civil rights and the state of freedom, that is, "the ability to do what one wants", which Plato defines as an essential feature of democracy. And just as the insatiable desire for wealth destroys the oligarchy, so the "insatiable" desire for freedom in a democracy, according to Plato, prepares the need for tyranny. How does this aspiration manifest itself? According to Plato, from the art of music began the general wisdom and lawlessness, followed by freedom, which gave rise to fearlessness and shamelessness, followed by "unwillingness to obey the rulers", unwillingness to obey father and mother, elders and their admonitions [11, 545a-546]. Parents get used to liking their children and being afraid of their sons, immigrants are equalized with natives, schoolchildren do not respect their teachers, but extreme freedom is in equalizing the rights of free and slaves, women and men, which ends with the fact that they "stop considering even laws – written or unwritten" [11, 562a-563d]. Therefore, "excessive freedom, obviously for both the individual and the state, turns into nothing more than extreme slavery" [11, 564a], hence the conclusion that "complete freedom and independence from any government is much worse than moderate submission to other people", and that complete freedom from any

government is much worse than moderate power restricted by other institutions [12, 698b].

As can be seen, freedom is interpreted by Plato very arbitrarily. In a Democratic state, as Plato understood it, “there is no need to participate in governance”, “it is not necessary to obey”, “if any law prohibits you from governing or judging, you can still govern and judge”, and a person is “given respect for his attachment to the crowd”. This is a system that “does not have proper management” [11, 557e-558a]. The democratic system in its pure form, with all its shortcomings, like all other types of state structure, cannot exist for a long time without degenerating and experiencing decline. Therefore, the only way out for Plato is to create an ideal state. The model of Plato's ideal state, a stable state that has stopped, is described, in particular, in the works “Republic” [11, p. 79-420], “Laws” [12, p. 71-459] and “Politician” [12, p. 3-70], is an attempt to reverse the negative course of events and offer the foundations of an ideal state, devoid of existing shortcomings in the real state, including those inherent in the democratic system.

Plato's ideal state is a state in which everyone would have to live according to the laws of nature, where the body would be given a certain natural structure, one part of the body would rule over another, and accordingly, in the soul this would generate justice [12, 698b]. An ideal state has four main virtues: 1) wisdom, 2) courage, 3) prudence, and 4) justice [11, 427e-439]. In an ideal state, women should be common, like children, their upbringing should be common, military and peaceful activities should be common, and philosophers should rule such states, because “until philosophers reign in states, or the present kings and rulers philosophize nobly and thoroughly and it does not merge together, the state will not be free from evils and the ideal structure of the state will not see the sunlight” [11, 473d-473e].

Plato is not a supporter of excessive democracy and therefore an ideal state cannot be built solely on the foundation of such democracy, because “to achieve freedom and friendship combined with reasonableness, one must be due to both types of state structure from which all other types were born, namely, monarchical and democratic [12, 693d]. The ideal of a ruler for Plato is clearly traced in the question to the legislator in what state he needs to give the state so that he can arrange it himself. The legislator replies: “Give me a state with a tyrannical structure. Let the tyrant be young, memorable, capable of learning, courageous, and naturally generous; let the soul of this tyrant also have the qualities that accompany each of the parts of charity, as we said earlier. Only then will his other properties be useful” [12, 709d]. This position of Plato becomes clear in the totality of his assessments of the main state-legal phenomena. Plato argues, in particular, that a state must have rulers and subalterns, the noble ones must rule the non-noble, slaves must obey their rulers (slaves should be punished fairly and not pampered like free people with exhortations, they should not joke with slaves – neither women nor men), the strong must rule over the weak [12, 689e-690b, 777c]. As can be seen, Plato is a supporter of socio-political aristocracy, a closed caste society, and social inequality. However, nature corresponds not to the nonviolent power of the law, but to voluntary submission to it, and the rulers must also obey the law [12, 690b-c]. The latter assertion is one of the fundamental statements that formed the basis of the concepts of the rule of law, however, in a certain formal form.

Plato's idea of the natural is based on the concept of biological naturalism, which recognizes the existence of the laws of nature, which should also underlie the laws of the state. Plato talks a lot about the natural and its significance for the state and society. The legislator must raise his voice, “come to the aid of law and art itself and show that they are both creations of nature or not below nature, at least because they are products of reason” [12, 890d]. Relationships between people are of natural character. However, as it was rightly pointed out by K. Popper, with the help of biological naturalism, Plato defends not an egalitarian, humanistic version of it, as the sophists, Hippias of Elis, Euripides, Elkidam or Lycophron did, arguing that the human natural law is the equality of all and that no one is a slave by nature, but sanctifies his elite version, namely, that by nature there is a biological and moral inequality of man [32, p. 86]. Plato took a step back in his perception of the ideas that formed the basis for understanding natural law, namely, the idea of human nature, the principles of human relations, comparing them with sophists.

Trying to construct a model of an ideal state, Plato passes through the prism of such a state all the key ethical concepts: freedom, justice, happiness, truth, harmony, beauty, virtue, the highest good, the categories of true and eternal. How should a person live to achieve happiness? The answer lies in the understanding of measure: anyone who wants to be happy must have a sense of measure, which is mainly God, and follow the law that God holds the beginning, middle, and end of all things, according to nature. Justice takes revenge on those who deviate from the divine law, and those who deviate from this law destroy themselves, their home and their state [12, 716a-b].

This understanding of measure in Protagoras, Plato and other philosophers should be considered the cornerstone in the formation of rules of due, rules of human behavior, although with different assessments of this measure. From the ethical requirements regarding the attitude to wealth, honors, attitude to rulers, to other people, an understanding of good and bad actions is derived, and from here – the direction of people

to the desired actions through the appropriate rules of human behavior. Plato's examples of good behavior include serving god, sacrificing to the gods, honoring sacred rites, paying a debt to our parents, hospitality, and following virtues.

Next in importance to the gods, Plato places the soul, since it is closest to man, and only after it – the body. And who does not want to refrain from what the legislator decided to consider shameful – “extremely dishonestly and abominably treats the most divine – his soul” [12, 728a]. At the head of all the benefits for people, Plato put the truth. The truth becomes a means of preventing injustice on the part of other people, because “there is only one way to avoid serious, incorrigible and even completely incorrigible injustices on the part of other people – this is to fight them, fight them off, win them over and steadily punish them” [12, 731b]. The truth also serves Plato's purpose of building an ideal state. To live truthfully is not to lie, to live honestly, sensibly, intelligently, to promote the growth of the state, to strive for charity, the greatest submission. To live truthfully is also not to commit injustice. Justice consists in giving everyone their due, but at the same time everyone should do their own thing [11, 432b-433B], poverty and wealth boundaries should be set [12, 744d-e], equality should be observed in the state, which consists in what is given to everyone in proportion to their nature, “especially to virtuous people”. Realizing that the majority will be dissatisfied with such equality, Plato suggests applying equality by drawing lots, and praying “to God and a good fate” that “they will arrange the draw according to the highest justice” [12, 757e-758a].

In the “Definitions”, justice is formulated as “the appeasement of the soul in itself and of the parts of the soul as one in relation to the other and as a whole; a resolution giving to each their own merit; an ability whereby one who possesses it preferentially chooses what seems just to them; the ability to obey the law in life; equality in cohabitation; the ability to obey the right laws” [12, 411d-e]. Plato's justice, despite the fact that it contains separate humanistic ideas (setting the line of poverty and wealth, calling for charity), is generally based on anti-humanistic principles, in particular the justification of slavery, the differentiation of classes and the strict maintenance of each person in his class, the imposition of responsibility for the fate of the state exclusively on the ruling class, the justification of actual inequality and the justification of natural privileges, the superiority of collectivism over individualism, the humiliation of women. The ethical assessment of a person's attitude to moral actions turns into criteria that determine the degree of severity of these actions and punishment for them, retribution, suffering that accompanies injustice (for example, Plato distinguishes cases when a person becomes unfair by their own or not by their own will, when a person can be corrected or not). Depending on this attitude, Plato also suggests appropriate “purification”, in other words, punishment. When issuing appropriate laws, Plato emphasized, the legislator should use conviction and force to achieve their goal [12, 722c].

Plato's legislation totally interferes in all relations, leaving nothing private. These include the state decreeing marriage and the communion of wives and children, the abolition of private property, the introduction of caesura, and strict regulation of the arts. The law is elevated to the absolute and becomes a means of eradicating all the imperfection of human essence, the measure of human pleasure and suffering for the sake of building an ideal state. Realizing that in many cases it will be difficult for the legislator to regulate such relations, he still encourages the legislator to show skill and not stop and look for adequate legislative means to regulate them. This desire for an ideal state becomes so dominant, absolute, that for its sake Plato declares the need for heavy punishments, up to death, to all “ungodly” who “deny the existence of the gods”, the sanctity of sacrifices, sophists. For the most serious crimes of incorrigible criminals – death or exile, for speaking out against the haves – expulsion or resettlement [12, 735e]. It is difficult to call the justification for this rigid approach the fact that Plato's attitude to the role of the state, as well as the law in society, to the assessment of slavery, the attitude towards women also lies in the plane of the foundations that prevailed in Greece at that time. Numerous external threats and wars, in which Ancient Greece was forced to get involved, predetermined the needs of national cohesion and therefore everything that did not work for these needs, and this undoubtedly belonged to the occupation of rhetoric, philosophy, ethics, quite often caused irritation among the Athenian slave authorities and the conservative part of society and accusations of freethinking. There are known cases of strict liability for disbelief or disrespect for the gods recognized by the state, which occurred with Protagoras, Anaxagoras and Diagoras of Melos, Socrates was even executed for educating young people in the spirit of “disrespect for tradition” and existing rules of conduct, and Seneca – forced to suicide.

2.3. Aristotle's Teaching and His Idea of Natural Law

The idea of natural law is also given a certain place in the works of Aristotle (384-322 BC), who was a disciple of Plato. Considering the concept of justice, Aristotle distinguishes between natural and legalized law: "State justice is partly natural..., and partly legalized .... It is natural if it has the same power everywhere and does not depend on recognition or non-recognition". [49, 1134b, 18-35, 1135, 1-7]. These arguments of Aristotle gave reason to some scientists to believe that for him there is no natural law, since immutability disappears as a criterion of naturalness. Thus, when Aristotle answers the question of "whether it is harmful or useful for the state to change the ancestral laws, even when some law turns out to be better," he argues that "people do not strive for what is sanctified by ancestral traditions, but for what is happiness in itself". Therefore, "written laws should not be left unchanged. Both in the rest of the arts and in the state system, it is impossible to present everything perfectly. It is necessary to present the laws in a general form, but human actions bear the imprint of the individual. It follows that some laws have to be changed from time to time". However, for Aristotle, natural, human customs are important, which have the form of parental attitudes (*patrioi nomoi*), unwritten laws (*agraphos nomos*), *unwritten laws*, and their meaning lies in the fact that "the law will not have any weight if it does not force obedience to existing customs", and therefore the matter of changing the laws "should be decided with the greatest care" [8, 1269a], for "when changing the law leads to a slight improvement or, conversely, when it is already easy to violate the existing law, causing harm, then, of course, it is better to endure certain mistakes of legislators or officials, for there will be not so much benefit when the law is amended as harm from a learned habit of disobeying the existing authorities" [8, 1269a]. From these fragments, it may seem that Aristotle speaks only of the natural in the sense of ancestral customs, which should be respected, treated with caution, but which can change if necessary. A deeper analysis of his positions shows that progressive ideas of equality were shared to a certain extent by Aristotle.

For Aristotle, law is something that serves the common good. Joining the opinion of all, Aristotle argues that law is a certain equality (and, according to Democrats, is identical to equality), that "concerns the individual" and that "equals should have equally" [8, 1282b]. Personal differences (physical data, skin color, etc.) do not play any role, although the "measure in claims (for a larger or smaller share of political rights)" should be those components without which the state cannot exist. However, equality in Aristotle is not for everyone, and above all, not for slaves, because slavery was common at that time in Ancient Greece. It would seem that he departs from Plato's position in this respect, arguing that 'the very power of the master over the slave is unnatural; for by nature there is no distinction, only by law one is a slave, the other is free. Therefore, the power of the master over the slave, based on arbitrariness, is unfair" [8, 1253a]. After all, who "naturally does not belong to himself, but to another person – he, although a person, is by nature a slave". But in the end, Aristotle justifies the existing state of slavery, since "domination and subordination are not only necessary, but also useful, and from birth some beings have differences: some are intended for domination, others for submission" [8, 1254a]. Therefore, "one by nature should rule, the other – to obey, and it is to those who are endowed by nature with power – are destined to be masters" [8, 1255c]. Therefore, even virtues such as modesty, bravery, or justice are necessary for a slave only to the extent that "their arbitrariness or lethargy does not manifest itself in the work they perform" [8, 1259b].

Aristotle analyzed monarchy, oligarchy and democracy as possible forms of polity in terms of which state is suitable for which form of polity and how they should be arranged, without determining which is best. At the same time, he pointed out the need to take measures to preserve the existing structure, "to try to protect the state, protecting, on the one hand, from those factors that destroy it, and on the other – to issue such laws, written and unwritten, that would contain orders that especially contribute to the preservation of the state structure" which can ensure the state's longest existence". Equality, according to Aristotle, finds a specific manifestation in democratic states, where there is the supreme power of the decisions of the people, and where the main basis of the democratic system is freedom, which is based on the principles of equality. In a democracy there must be "first of all the free status of slaves, women and children – to the extent, of course, that it is not considered harmful as well as giving everyone the freedom to live as he pleases and without fear" [8, 1319c].

However, despite the fact that democracy, according to Aristotle, had many vices, including the threat of demagoguery, the misinterpretation of freedom as the right to do what one wants and the desire not to obey anyone, his attitude to democracy looks more positive, comparing with Plato's, where "tyranny arises from no other structure, but only from democracy, in other words, from extreme freedom arises the greatest and wildest captivity" [11, vol. 3, 564a], for although "in a democratic state the common idea is that freedom is above all, and that only in such a state is it appropriate for a person to live free by nature", but "the insatiable aspiration of one and contempt for all others distorts this system and prepares the need for tyranny" [11, 562c] and "when a tyrant appears, he grows out of this root – that is, from the position of a people's deputy" [11, 365d].

Philosophical ideas of equality, human nature, its role and place in nature prepared the ground for the justification of the idea of natural law by the stoicism school (ca. 300 BC). The law of nature was conceived by the Stoics as independent of positive law, and nature itself as a psychophysical or only physical structure of man. It was the Stoics who formulated several different concepts of natural law, including naturalistic – cosmological, theological and rational [50, p. 10-11]. The idea of natural law has long developed in the form of absolute natural law, based on the belief in the existence of general and unchangeable laws of world life and human relations. It was believed that every living being has natural properties that inevitably manifest themselves in their behavior, and the natural law is an unchangeable and universal ethical or legal norm of human behavior. Absolute natural law got its ideas from the metaphysical perception of world life, the atomism of Democritus, and the absolute justice of Aristotle. It was based on relativism, sensualism, practicality, and anthropology. The natural law teaching of this period has an individualistic, atomistic and mechanistic character.

However, even in the time of Chrysippus, the idea of a fundamental difference between human nature and nature as such, the existence of an immutable law of nature (Lex Naturale) in the form of common sense, equality of all people regardless of wealth and slavery as contrary to human nature, the need to recognize human rights law to preserve human dignity.

2.4. The Influence of the Natural Law Ideas of Ancient Greece on the Development of Roman Law

The natural law ideas of the philosophers of Ancient Greece, not being implemented in practice in Greece, had a huge impact on the development of Roman law after the absorption of all state entities that emerged from the Empire of Alexander the Great by the Roman state from the middle of the second century BC. A significant role in the reception of the doctrine of natural law was played by the Scipio group, which included the Greeks Panaetius of Rhodes, Polybius and Roman aristocrats led by Scipio Aemilianus. Being somewhat modified by Panethius, the doctrine of Stoicism on natural law was inculcated on Roman soil, based on reason as the law for all people, their equality, albeit a certain inevitable difference in states, ranks and natural abilities, the recognition of a certain minimum of rights for people as a condition of preserving human dignity [32, p. 158-159]. This is clearly traced in the works of Seneca (4-65 ad), one of the most prominent representatives of late Roman stoicism, an exponent of the spirit of the New Stoic (Empire), who saw the main purpose of the Stoics, who "were removed from public affairs... to improve one's life and create legal bases for the human race" [15, p. 71]. Seneca emphasized the equality of the nature of all people "a slave is a person equal in nature to other people; the soul of a slave contains the same principles of pride, honor, courage, generosity that are given to other human beings, whatever their social position" [4, p. 737], the unity of human nature. Defining the essence of human duty, Seneca emphasized: "Nature brought us into the world related to each other, because from the same principles it created us, for the same purpose it appointed us. She put mutual love into us, encouraged us to communicate. She determined what is right and just; by her command, the one who does evil is more unhappy than the one who suffers evil; by her command, a person is ready to lend a helping hand to another person. Let this verse be in our hearts and on our lips: nothing human is alien to me, to man" [15, p. 408-409].

Polybius, for his part, supplemented the teachings of the Stoics with the idea of the essence of the state, which should be based on justice, a mixed form of government with monarchical, aristocratic and democratic factors based on the principles of stable balance and mutual restraint (the right of veto) [14, p. 159]. The introduction of the ideas of stoicism into Roman law led to them being distinguished along with **FAS** – God-given, original law and such types of law as **JUS GENTIUM** (right for all the peoples known to Rome), **JUS CIVILE** (from civitas – city), **JUS PUBLICUM** (law in relation to management that was religious in nature), **JUS PRIVATUM** (law in relation to property and family relations), as well as **JUS NATURALE** – natural law. Moreover, such a right was considered a directly valid right.

Cicero in his work "Republic" concentrated on the essence of the then understanding of natural law, first defining this concept: "In fact, there is one true law, namely – common sense, which in accordance with nature applies to all people, is unchanging and eternal (from A.Z). By its commands, this law encourages people to fulfill their duties, and by its prohibitions, it keeps them from doing evil. His commands and prohibitions always have an impact on good people, but they have no power over evil ones. The deprivation of this law by human legislation is certainly, from the moral side, erroneous, the restriction of its operation is unacceptable, and the complete abolition is impossible" [16, p. 270].

In real life, human rights in Roman law are considered as privileges associated with rank, which are not personal, but collective in nature, designed to ensure the proper performance of functions that are assigned to the individual by society. Human rights are inseparable from responsibilities or services, and responsibilities are not imposed by the state, but help people realize their potential. The duty of the state was not to ensure and protect individual rights, but to assist in meeting life needs, providing certain services to members of society

[50, p. 75, 80]. There was no concept of legal capacity for voluntary action, human rights were not recognized as rights in the legal sense, which continued until the end of the Middle Ages [51, p. 34]. The perception of man as an inviolable bearer of inalienable and sacred rights in ancient times has not yet occurred [52, p. 59-60].

CONCLUSIONS

The crystallization of natural law ideas in Ancient Greece and Ancient Rome had several stages. Important achievements of Greek philosophers of the pre-Socratic period was the development of the foundations of the theory of knowledge, which was used to explain the cosmological model of the universe, substantiating the idea of the existence of a universal logos, the law of nature, uniform for the natural and social environment, where man, as a "natural" being, was not known separately from nature. The eternal Natural law was not established by people, because it was based on the divine mind and its power and was the law of justice and law inherent in nature and society. It was not evaluated as good or evil, due to its objective nature, and therefore its observance was considered true and wise.

The development of humanitarian knowledge, the formation of a secular system of morality and ethics, the study of the essence of man contributed to the distinction between human and natural law, the further development of ideas of natural law, namely recognition of the equality of all people, the prohibition of discrimination based on origin, the requirement of morality in human behaviour. Sophists were among the first on the basis of the distinction between natural and human law, which may contradict nature, began to recognize the equality of all in nature, denied slavery and traditional notions of the "naturalness" of nobility by origin. The main contribution to the understanding of natural law (jus naturale) was made by the Stoics, who proved that it is based on the fundamental difference between nature and human nature, on the understanding of the place and role of man in nature, on the existence of the unchangeable law of nature (lex naturale) in the form of the power of reason, common sense, which demand justice in the form of equality of people regardless of wealth, the recognition of slavery as contrary to human nature, the recognition by law of human rights to preserve human dignity. These humanistic and human-centered ideas were used to study the essence, nature and justice of the state at that time, to distinguish between the concepts of natural and legalized law and were also used as criteria for evaluating written laws.

Progressive natural and legal ideas of the philosophers of ancient Greece, not being implemented in the homeland, from the middle of the second century BC were adopted, developed jointly by Roman Greeks and philosophers and implemented in Roman law as directly applicable law (jus naturale), along with other types of Roman law, as a rational law of common sense, consistent with the moral principles of society, immutable and eternal natural law.

REFERENCES

[1] Russell, B. (1998). *Wisdom of the West: A historical survey of Western philosophy in its social and political setting*. Moscow: Respublika.
[2] *Anthology of World Philosophy: In 4 vol.* (Vol. 1, ch.1). (1969). Moscow: AN SSSR: Mysl.
[3] Diogenes Laërtius. (1986). *About the life, teachings and sayings of famous philosophers*. Moscow: Mysl.
[4] *Anthology of World Philosophy: Antiquity*. (2001). Minsk: Harvest.
[5] *Ancient philosophers.* (1935). Moscow: Industrialnaja Moskva.
[6] Pendrick, G. (2002). *Antiphon, of Athens*. Cambridge: Cambridge University Press.
[7] Losev, A.F., & Asmus, V.F. (1990). *Plato. Collected writings: In 4 vol.* (Vol. 1). Moscow: Mysl.
[8] Aristotle. (2005). *Politics*. Kyiv: Osnovy.
[9] Lurie, S. (1970). *Democritus*. Saint Peterburg: Nauka.
[10] Nersesyants, V. (1996). *Socrates*. Moscow: INFRA-M-NORMA.
[11] Losev, A.F., & Asmus, V.F. (1994). *Plato. Collected writings: In 4 vol*. (Vol. 3). Moscow: Mysl.
[12] Losev, A.F., & Asmus V.F. (1994). *Plato. Collected writings: In 4 vol.* (Vol. 4). Moscow: Mysl.
[13] Kislyuk, O. (Ed.). (2000). *Aristotle. politics*. Vol. 2. Kyiv: Osnovy.
[14] Polybius. (2004). *General history*. Moscow: OLMA-PRESS Invest.
[15] Seneca, L.A. (2017). *Epistolarum moralium ad Lucilium.* Leningrad: Apriori.
[16] Barham, F. (1842). *The political works of Marcus Tullius Cicero: Comprising his treatise on the commonwealth; and his treatise on the laws* (Vol. 1). London: Edmund Spettigue.
[17] Grotius, H. (1994). *On the law of war and peace.* Moscow: Ladomir.
[18] Holovatyj, S., Koziubra, M., & Syroid, O. (2008). *Anthology of liberalism: Political and legal doctrines and the rule of law.* Kyiv: Knyhy dlia biznesu.
[19] Dnistryansky, S. (2002). General science of law and politics. In Yu.S. Shemshuchenko (Ed.), *Anthology of Ukrainian legal thought: In 6 vol*. (Vol. 1). Kyiv: Vydavnychyj Dim Yurydychna knyha.

[20] Palienko, N. (1908). *The doctrine of the essence of law and legal coherence of the state*. Kharkiv: Zilberg and S.
[21] Novgorodtsev, P.I. (2011). *Political ideals of the Ancient and New World.* Moscow: Direkt- Media.
[22] Novgorodtsev, P.I. (2011). *Introduction to the philosophy of law: The crisis of modern legal consciousness.* Moscow: Direkt-Media.
[23] Taranovsky, F.V. (1998). Teaching about natural law. In Yu.S. Shemshuchenko (Ed.), *Academic legal thought.* Kyiv: In Jure.
[24] Chetvernin, V.A. (1988). *Modern concepts of natural law.* Moscow: Nauka.
[25] Nersesyants, V. (1997). *Philosophy of law*. Moscow: Norma.
[26] Law of Ukraine. 2021. No.1.
[27] Krasovsky, K.Yu. (2021). *Natural human rights in Ukrainian constitutionalism.* (Candidate thesis, University "KROK", Kyiv, Ukraine).
[28] Bix, B. (2002). Natural law: The modern tradition. In J. Coleman, S. Shapiro (Eds.), *The Oxford handbook of jurisprudence and philosophy of law* (pp. 61-103). Oxford: Oxford University Press.
[29] Dworkin, R. (2012). *Keynote speech. The rule of law. Conference European Commission for Democracy through Law (Venice Commission) on "the Rule of Law as a practical concept"* London: Lancaster House.
[30] Dworkin, R. (2020) *Empire of law.* Moscow: Institut Gajdara.
[31] Llojd, D. (2002). *The idea of law*. Moscow: JuGONA.
[32] Popper, K. (1994). *The open society and its enemies* (Vol. 1). Kyiv: Osnovy.
[33] Fuller, L. (1999). *Anatomy of law*. Kyiv: Sfera.
[34] Novgorodtsev, P. (1896). *Historical school of lawyers, its origin and fate: The experience of characterizing the foundations of the Savigny school in their consistent development*. Moscow: Universitetskaya tipografiya.
[35] Nientiedt, D. (2021). Hayek's treatment of legal positivism. *European Journal of Law and Economics*, 51, 563-576.
[36] Crowe, J. (2016). Natural law theories. *Philosophy Compass*, 11(2), 91-101. doi: 10.1111/phc3.12315.
[37] Universal Declaration of Human Rights. (2008, Devember). Retrieved from https://zakon.rada.gov.ua/laws/show/995_015#Text.
[38] Stevenson, A. (2020). *Conceptions of law in classical Athens*. Retrieved from https://www.repository.cam.ac.uk/handle/1810/302759.
[39] Contreras Peláez, F.J. (2013). *The threads of natural law: Unravelling a philosophical tradition.* Dordrecht; New York: Springer.
[40] Kar, R.B. (2012). Western legal prehistory: Reconstructing the hidden origins of western law and civilization. *University of Illinois Llaw Review*, 5, 1499-1702.
[41] Zajadło, J. (2020). The concept of nomos – some remarks. *The Critique of Law. Independent Legal Studies*, 12(3), 143-161.
[42] Van den Berge, L. (2019). Law, king of all: Schmitt, Agamben, Pindar. *Law and Humanities*, 13(2), 198-222.
[43] Canevaro, M. (2017). The rule of law as the measure of political legitimacy in the Greek city states. *Hague Journal on the Rule of Law*, 9, 211-236.
[44] O'Connor, J.D. (2021). Natural law and ethical non-naturalism. *Studies in Christian Ethics*, 34(2), 190-208. doi: 10.1177/0953946820962893.
[45] Atkins, J.W. (2015). Zeno's republic, Plato's laws, and the early development of stoic natural law theory. *Polis: The Journal for Ancient Greek Political Thought*, 32(1), 166-190.
[46] Avetisyan, A. (Ed.). (1955). *Ancient philosophers (evidence, fragments and texts)*. Kyiv: Taras Shevchenko national University of Kyiv.
[47] Kostenko, O. (2020). *In the light of social naturalism*. Kyiv: Palivoda A.V.
[48] Sebine, G., & Thorson, T. (1997). *History of political thinking*. Kyiv: Osnovy.
[49] Aristotle. (2002). *Nicomachean ethics*. Kyiv: AQUILON-PLUS.
[50] Maslak, O. (2010). *Idea of natural law in Western philosophical traditions (social and philosophical analysis*) (Candidate thesis, Taras Shevchenko National University of Kyiv, Kyiv, Ukraine).
[51] Shevchuk, S. (2002). *Equal precedent law on human rights*. Kyiv: Referat.
[52] Holovatyi, S. (2016). *About human rights*. Kyiv: Dukh i Litera.

Anatolii P. Zaiets

Doctor of Juridical Sciences, Professor
Corresponding Member of the National Academy of Legal Sciences of Ukraine
National Academy of Legal Sciences of Ukraine
61024, 70 Pushkinska Str., Kharkiv, Ukraine

Department of Theoretical Jurisprudence and Public Law
National University of Kyiv-Mohyla Academy
04070, 2 H. Skovoroda Str., Kyiv, Ukraine

Zoya O. Pohoryelova

PhD in Juridical Sciences, Associate Professor
Professor of Department of Theory and History of State and Law
Uzhhorod National University
88000, 3 Narodna Sq., Uzhhorod, Ukraine

Suggested Citation: Zaiets, A.P., & Pohoryelova, Z.O. (2021). Formation of the idea of natural law in Ancient Greece and Ancient Rome. *Journal of the National Academy of Legal Sciences of Ukraine,* 28(4), 15-28.

Submitted: 12.09.2021
Revised: 24.11.2021
Accepted: 15.12.2021