

Історія участі українського козацтва у міжнародних відносинах, особливо ранніх часів, до сьогодні викликає більше питань, ніж дає відповідей. Багато в чому це пов'язано з браком джерельної бази, адже січового архіву не зберіглося. Чимало матеріалів щодо озброєння, старшинського складу, матеріальної бази містяться в архівних фондах Литви та Польщі, бо саме в рядах армій цих країн довелося служити українським козакам.

Таким чином, інтерес європейських країн до українського козацтва з роками лише зростає. Козацтво в період з середини XVI – XVII століття змогло здобути міжнародний авторитет та здійснювати свій вплив на хід справ у Європі. Українська козацька держава змогла довести, що є сильною і змогла добитися того, щоб з нею рахувалися на той час могутні держави. Встановлення дипломатичних зв'язків з країнами Європи дало змогу козацтву ще раз заявити про себе як про потужну військову силу.

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THE INFLUENCE OF CHUMAK CUSTOMARY LAW ON THE DEVELOPMENT OF TRADE AND TRANSPORT LAW IN UKRAINE

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Modern legal sources interpret the concept of customary law as a set of customs sanctioned by the state. However, when it comes to the application of

customary law on Ukrainian lands, we have numerous examples when customary law as a set of established social norms in certain periods, in certain regions, operated for quite a long time without any authorization by the existing authorities, that is, it was the only autonomous and quite effective legal institution. A characteristic feature of Ukrainian customary law was its organizational connection with the norms of Christian morality laid down in the Bible and other religious prescriptions. The kinship of Chumak customary law with Cossack legal customs is also noticeable, and in some cases, its direct reception.

M. Hrymych, a researcher of the customary law culture of Ukrainians, emphasizes such a feature of customary law as its direct connection with Christianity: «The representative of traditional society knew the seven commandments of God, which constituted the basic legal and moral norm for everybody. A number of other rules were added to it, but in general their number was limited. There were few norms and rules in traditional cultures, and they were often universal for all peoples around the world, because they contained the optimal model of self-survival in society in particular and the survival of societies in general. However, the forms of their implementation were diverse, and, in fact, these forms were considered customs» [1, p. 14].

Customary (oral) law, unlike written laws, does not have a specific author, date of implementation, or official publication. At the same time, the norms of customary law in some cases took written form and continued to function as an official legal source («Ruska Pravda», «Lithuanian Statutes» and others).

Since its inception, the development of the chumak industry has taken place in difficult conditions. First of all, the intense political struggle for Ukrainian statehood in the 16th and 17th centuries had a negative impact on Chumak culture. At that time, the Ukrainian people were forced to face aggression from Turkey and the Crimean Khanate from the south and noble Poland from the west.

Customary law regulated the formation, organization, organizational structure of the Chumak valka (small caravan – S.Yu.) and the conditions of its movement and protection, as well as relations with Zaporozhe, the Crimean Khanate, and other objects of trade. According to the customary law, the so-called Chumak court was carried out, which, like the Cossack one, was characterized by non-appeal and severity of punishments.

Overcoming the numerous difficulties that the chumak had to meet at almost every step during their fishing required joint actions. Such a best form of association of chumaks for joint activities turned out to be precisely the small caravan, which was formed in the process of development of chumak culture.

Chumak valka as an entrepreneurial artel (team) in the course of the development constantly underwent qualitative changes in view of the existing danger of cargo transportation. The threat of an attack on the Chumaks disappeared, with the liberation of the Black Sea region and the Crimea from Turkish-Tatar rule at the end of the 18th century. Correspondingly, chumak team become smaller in number, sometimes consisting only of members of one family.

So, Chumak customary law is a set of rules that were formed on the basis of existing written norms, borrowings and created special permanent customs for the regulation of relations in the implementation of a given type of economic activity with the aim of normalizing the organization, management and activity of a trade corporation (small caravan, artel), built on the principle's equality of the parties, justice, love of freedom [2].

In the past, trade, and even more so, transport law, were not yet separated into separate sub-branches of civil law. Regulation of trade and transportation of goods was based exclusively on customary law. With the development of Chumak entrepreneurship, trade traditions underwent a constant evolution on the way of formation. The commercial law of that time should be understood as a set of norms, prescriptions in written legal documents, as well as customary law, which was created by observing folk traditions in trade and transportation of goods over the centuries. We can say that the Chumak valka is the source of the formation of official trade and transport law along with other factors.

The legislation of that period, creating privileges for the social elite, contributed to the development of industry and trade. At the same time, the preservation of the status division of the population served as an obstacle to the development of entrepreneurship and bourgeois relations in general. The formation of commercial law took place in the direction of the evolution of customary norms into episodic attempts to regulate trade by written law. This, in particular, was carried out by focusing legal norms on the protection and development of the domestic market, on the development of international trade. In the future, during the development of capitalist relations, the process of formation and improvement of certain legal branches – trade and transport legislation – can be traced.

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