

МЕДИЦИНА, ПЕДАГОГИКА И ТЕХНОЛОГИЯ: ТЕОРИЯ И ПРАКТИКА

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“AVESTO”DA HUQUQSHUNOSLIKKA DOIR MASALALARNING YORITILISHI

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Buxoro viloyati Osiyo xalqaro universiteti Tarix fani o'qituvchisi

Annotatsiya: Ushbu maqolada Qadimgi yurtimiz tarixida o'ziga xos o'ringa ega bo'lgan Avestoning sud-huquq tizimi haqida fikrlar bundan tashqari jamiyatning kichik bo'g'ini oilaning to'g'ri hayot kechirish masalalari haqida to'xtalib o'tamiz.

Kalit so'zlar: Avesto, Vandidod, Tabiat, axloq, Ahura Mazda, din, huquq, Jazo, o'g'irlik, talon-toroj, bosqinchilik, firibgarlik, jismoniy jazolash, sud, jamiyat.

COVERAGE OF LEGAL ISSUES IN "AVESTO".

Annotation: In this article, we will dwell on the legal system of Avesta, which has a unique place in the history of our ancient country, as well as on the issues of proper living of the family, a small part of society. .

Key words: Avesta, Vandidod, Nature, morality, Ahura Mazda, religion, law, Punishment, theft, robbery, invasion, fraud, corporal punishment, court, society.

ОСВЕЩЕНИЕ ЮРИДИЧЕСКИХ ВОПРОСОВ В «АВЕСТО».

Аннотация: В данной статье мы остановимся на правовой системе Авесты, занимающей уникальное место в истории нашей древней страны, а также на вопросах правильной жизни семьи, небольшой части общества.

Ключевые слова: Авеста, Вандидод, Природа, мораль, Ахура Mazda, религия, закон, Наказание, воровство, грабеж, нашествие, мошенничество, телесное наказание, суд, общество.

“Avesto” ning katta hajmda bo'lganligi sababli dindorlarning kundalik faoliyatida foydalanish uchun “Kichik [Avesto](#)” yaratilgan. “Kichik [Avesto](#)”, “Katta [Avesto](#)” dan tanlab olingan duolar to'plamidan iborat bo'lgan va bizgacha [Avestoning](#) juda oz qismi yetib kelgan. Vandidodda jinoyatlar tasnifi: Bizning kunlarimizgacha ulardan faqat oxirgi kitob Vandidod (forscha Vendidat – “Devlarga qarshi qonun”) yetib kelgan. Zardushtiylik huquqining ushbu yodgorligi zardushtiylik dini davlat maqomini, zardushtiylik esa davlat tomonidan qo'llab-

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quvvatlashni yo'qotgan davrda jamoa turmushi qattiq tartibga solinganligadan dalolat beradi. Shu sababli Vandidodning ko'plab huquqiy qoidalari Yaxve dini jamoasi alohida bo'la boshlagan davrda tuzilgan.

Shu bilan birga Vandidodning huquqiy qoidalari ancha dunyoviy zaminga xos xususiyatlarga egadir. Garchi besh kitobda va Vandidodda qonunlar Xudoning kashfiyoti sifatida taqdim etilgan bo'lsa ham, tadqiqotchilar ushbu kashfiyotning xususiyatidagi tafovutini qayd etadilar. Masalan, S.Ganbarov tomonidan yozilgan "Avesto"da siyosiy va huquqiy g'oyalar tadqiqotida Vandidodda jinoyatlar tasnifi misolida yaxshi ko'rish mumkin:

Birinchidan, dinga qarshi jinoyatlar: bid'at, boshqa din vakili bilan nikohga kirish, ruhoniy vazifasini qonunsiz bajarish.

Ikkinchidan, shaxsga qarshi jinoyatlar: qasddan hujum qilish yoki jazava holatida hujum qilish, tahdid qilish shifokorning zararli xatti-harakati, homiladorlik paytida ayolning sog'lig'iga qarshi jinoyatlar.

Uchinchidan, hayvonlarga ayniqsa kuchuklarga qarshi jinoyatlar.

To'rtinchidan, mulkiy jinoyatlar: o'g'irlik, talon-toroj, bosqinchilik, fribgarlik. Xasislik mulkiy jinoyatlarning alohida turi hisoblangan. Chunki "kimki adolatli iltimosni rad etsa ... aslida ashyo so'rayottan o'g'ri hisoblanadi".

Beshinchidan, axloqqa qarshi jinoyatlar: fohishabozlik, er-xotin xiyonati. Bundan tashqari ko'rsatilmagan yordam ham qattiq jazolanadigan axloqiy jinoyat hisoblangan.

Oltinchidan, tabiat kuchlariga qarshi jinoyatlar: erga, suvga, olovga va o'simlik dunyosiga qarshi jinoyatlar, ayniqsa erning isloflanishi bilan bog'lik jinoyatlar. Tabiat kuchlarining o'zi va hayvonlar tomonidan sodir etiladigan jinoyatlar to'g'risida maxsus to'xtab o'tilgan. Tabiat kuchlari va hayvonlar o'sha paytdagi zardushtiylik huquqida jinoyat ob'ektlarigina bo'lib qolmasdan, balki sub'ektlari ham hisoblangan.

Denkart asarida Ahura Mazdaning kashfiyoti uch turga bo'linishi haqida so'z yuritiladi: - gazanig - oliy ma'naviy bilim va burch; darig (qonuniy) - dunyoviy bilim va dunyoviy burch; hada mapsrig - ushbu ikki soha (ya'ni sharhlar o'rtasida joylashgan barcha narsa) Xisrav I (531-579 yy.) hukmronligi yillarida tuzilgan Sosoniylar qonunlari majmui –"Bir ming sud qarorlari kitobi"da huquqshunoslik kasbining katta diniy ahamiyati to'g'risida so'z yuritiladi.

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Din va huquqning aloqasiga, jumladan sud ishlariga bunday qarash tasodifiy emas edi. Eronda kodekslashtirilgan huquq mavjud emas edi. “Denkart”ga muvofiq sudyalari (ular kohinlar tabaqasiga kirar edi) “Avesto” va Zandda (“Avesto”-ga forsha sharhlar) asosida qaror chiqarishlari kerak bo’lgan; oliy kohin (magupat) sudyalari va amaldorlarning har qanday qarorlarni bekor qilishi mumkin edi. Zardushtiylik huquqining yirik tadqiqotchisi A.Perixanyan “Avesto”da “ayollar huquqi” haqida qayd etadi.

Bugungi kunda huquqshunoslarimiz tomonidan tadqiq etilayotgan ilmiy tadqiqotlar inson huquqi muammolariga bag’ishlanayotgan bo’lsa, ushbu masalaning ilk yechimi sifatida yana “Avesto”ga murojaat etish mumkin. Jumladan, bolalarning huquqi to’g’risida “Avesto”, - deb qayd etadi S.Ganbarov, - tug’ilgan va hali tug’ilmagan bolalar huquqlarini qat’iy muhofaza qiladi, Voyaga etmagan bolalarni ota-onalaridan olib ketish, vasiysiz qoldirish og’ir jinoyat sifatida qaralgan. Bolalarni juda yoshligidan fanlarga o’qitish tavsiya etilgan. “Agar sening o’g’ling bo’lsa, deyiladi: “Adurbada maslahatlari”da, - uni bolaligidan maktabga ber, chunki o’qish - ko’zning nuri”. deb qayd etgan. Ijtimoiy munosabatlarda o’sha davrlardagi boshqa dinlarda bo’lgani singari zardushtiylikda qulchilik qoralangan, biroq qul zardushtiylikda muayyan huquqlarga ega bo’lgan. Bir qator hollarda u o’z hukmdoriga qarshi da’vo qo’zg’ashi ham mumkin bo’lgan.

“Vandidod”ning IV fargard, 4-12-bandlar tahlili asosida shartnomaviy munosabatlarning xususiyatini ta’kidlash mumkin, zero har bir keyingi bitimda avvalgi bitimdagiga qaraganda, qimmatliroq bo’lgan ob’ekt qo’yilgan va u avvalgisining kafolati sifatida chiqqan. “Vandidod”ga muvofiq, har bir buzilgan yoki bajarilmagan shartnoma katta qiymatdagi yangi shartnomani tuzish bilan almashtirilishi zarur. “Vandidod” jazolash tizimi bilan shartnomaning bajarilishini kafolatlaydi. “Vandidod” mutlaqo aniq qat’iy buyruq shaklida tuzilgan, agar bir tomon “bitimda aldagan bo’lsa” jismoniy jazolashni qo’llashni ko’rsatadi, IV fargardning 36-53-bandlari og’zaki bitimdaga aldaganlik uchun 300 marta tikanak bilan jazolashni va 300 ta kaltaklashni, qo’l berishib tuzilgan bitim buzilgani uchun 600 marta tikanak bilan jazolashni, 600 marta kaltaklashni belgilagan. Shuningdek, ahdni buzgan kishining yaqin qarindoshlarining gunohni yuvuvchi tavba-tazarru yaqinlariga masuliyatni ham belgilaydi. Yaqin qarindoshlarga nisbatan belgilangan jazo choralari ahdni buzgan kishini jazolashning asosiy choralari jumladan, jismoniy jazolashga qo’shimcha hisoblanadi.

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“Avesto” bo’yicha qarindoshlar guruhlari tilga olinadi. “Vandidod” qarindoshlikning to’qqiz bosqichini quyidagicha etadi:

- 1) ota-onalar;
- 2) farzandlar;
- 3) aka-uka va opa-singillar;
- 4) bobo va buvi;
- 5) nevaralar;
- 6) tog’alar va xolalar;
- 7) amakivachchalar va ammavachchalar;
- 8) jiyanlar;
- 9) aka-uka va oga-singal nevaralari.

Zardusht ta’limotida qarindoshlik munosabatlari otaliq merosxo’rliq o’zaro huquq va majburiyatlar, qonunlarni buzganlikdagi javobgarliklarni tartibga solishda katta ahamiyatga ega bo’lgan. “Avesto”ni o’rganish natijasida quyidagi xulosalarni chiqarish mumkin:

Jazo ma’lum uchlikni buzganlik sharoitlarida belgilanadi.

O’zga fikrlovchilar uchun qattiq jazo belgilanadi.

Qattiq jazo qasddan qilingan jinoyatlar, dinga qarshi jinoyatlar, takroriy jinoyatlar uchun belgilanadi. Bunda jazo takroran qilingan jinoyatlar soniga qarab oshadi.

Jazoning bir turini boshqasi bilan birga qushish xarakterli hisoblanadi.

Ba’zi jinoyatlar “Avesto” bo’yicha kechirilmas hisoblanadi.

Jinoyatlarning ma’lum turi uchun jamoa javobgarligi belgilangan, bunda oila a’zolaridan birining gunohi qarindoshlarga yoyiladi.

“Avesto”ni o’rganish jinoyatlarni quyidagicha klassifikatsiyalashni taklif etishga imkon beradi:

- dinga qarshi jinoyat;
- shaxsga qarshi jinoyat;
- hayvonlarga qarshi jinoyat;
- mulkiy jinoyat;
- axloqqa qarshi jinoyat;
- tabiat kuchlariga qarshi jinoyat

“Avesto”da sud va sudda ishlarni ko’rish masalalariga ham katta e’tibor berilgan. Sud vazifalarini bajarish jamoa imtiyozi bo’lgan, deb o’ylash mumkin. Shu

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bilan birga “Avesto” odil sudlov uchun maxsus mo’ljallangan shaxslar haqida shohidlik beradi.

Sud jarayoni, “Avesto”dan ko’rinishicha, ma’lum marosimda, asosan duolar o’qish tegishli shaklda aytilishi bilan o’tkazilishi lozim. Sudda ishni ko’rish, chamasi, muhobalashuv, ya’ni munozaralashuv tusida bo’lgan, Ishni hal etishdan oldin qoida buzuvchining aybi qator masalalarni, aybdorlik shaklini - qasddan yoki ehtiyotsizlik tufaylimi, qattiq hayajon holatida, birinchi marta yoki takroran qoidani buzganlik, aybdor o’z aybini tan oladimi, aybdorning diniy mansubligi va boshqalar aniqlangan. Demak, “Avesto”da jamiyat hayoti, aholi va inson manfaatlari daxlsizligi masalasi ham alohida o’rin egallaganligini ko’rishimiz mumkin.

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