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LEGAL THEOLOGY IN INTERDISCIPLINARY DISCOURSE

Abstract

The paper as a research subject deals with the importance of a new interdisciplinary trend in studying the law – legal theology. The authors argue in favour of acknowledging the value of the theological dimension of law and legal awareness for the contemporary post-secular world. The aim of this paper is to substantiate the theoretical and practical value of legal theology for investigating legal awareness, shaping legal culture and legal theology of the contemporary Russian state. As a result of the theological dimension of law, the paper also focuses on spiritual and moral grounds of legal awareness, which determine legal values, ideals and beliefs of a personality as well as primarily impact the related criminal behaviour. For these purposes, to investigate legal awareness of a criminal, the authors appeal to orthodox anthropology based upon patristic concepts and teachings on combating egocentrism and aggression, as well as the reflection of passions which generate, originate the basic negative motives of legal mentality and legal awareness of an individual. The legal theology actualizes the ascetic study of legal awareness and enables in the context of the post-secular world to mobilize religious feelings and concerns in order to establish a steady rule of law.

Keywords: legal theology, philosophy of law, legal culture, post-secularism, legal ideology, legal values.

Introduction

The contemporary period of state and legal development of Russia to some extent resembles the passage through the wilderness of ancient Jewish people in search of the “promised land”: following disappointment in communistic ideals of public and political future, the long-awaited island of salvation not achieved; strategic goal, ideal and idea of the polity not found; vector of legal policy not formulated; “image of future” for the sake of which one can live and die not shown. Unavailability of the state idea and ideology is a fairly logical result of the Soviet past: people have cultivated a steady immunity against various tempting projects of “earthly paradise”. Meanwhile, the state needs a distinct hierarchy of values, including the highest absolute values. Undoubtedly, one of such values is faith in God.

Thus, one can't help but support an aspiration to consolidate and protect this value in the RF Constitution which proved to be the case in the course of adopting an amendment to the Basic Law of the Russian state in 2020. In particular, the adoption of the said amendment should be treated as commencement for shaping a new stage in the development of legal mentality and legal doctrine in Russia. This stage should be viewed as commencement for shaping a new interdisciplinary field of expertise on law – legal theology.

The importance of legal theology for the Russian state is conditioned by the historical specifics of its development. Compromise with regard to ideals has not yet been found: a dispute between conservatives and westerners-modernists with regard to Russia's path in XXI century is not diminishing; there is no accord towards the

evaluation of the past (pre-revolutionary Russia, Soviet period and its luminaries, February and October revolutions); there are no common views towards the future, including faith in God. Westerners criticized the religious choice of the Holy Great Prince Vladimir, Equal of the Apostles, who opted for an eastern-Christian faith from Byzantium while the Slavophiles, on the contrary, found exactly in it a foundation of values of the Russian world and link successes in the history of Russian people with a choice of orthodox Christian faith. The legal theology enables not only to investigate into the history of the state but also the history of the legal system of Russia in the context of the Christian faith.

The contemporary Russian community is unified through memory, the past, achievements and the outcome of the life of the past generations: it is not a coincidence that the topic of World War II is so beloved and significant for the state power. However, the history of Russia is not only and not even mainly XX century but primarily a millennium of equivalent great wars, achievements, accomplishments that shaped our culture where the faith in God was one of the fundamentals.

It is important to point out that all peoples of multi-ethnic Russian state belong to monotheistic peoples, except for Buddhists. Christianity, Islam and Judaism are based upon a common value foundation of the Ten Commandments of Moses and date back to the biblical prophet Abraham. The basic distinctions between ethnicities of Russia lie particularly in the interpretation of the ways of implementation of these commandments. However, still, religiosity, faith in God and traditional values are a foundation for the ethnic identity of each of them. Thus, the legal theology enables to preserve the unity of the Russian state since it argues respectful treatment towards the religious legacy of each nation.

A simplified perception of faith influenced by the Marxist-Leninist thesis about “opium for people” often dominates in legal, political and socio-philosophical literature. The achieve-

ments of the Russian theological and legal, political and historical thought were lost and forgotten; eventually, the philosophy of law, political theology, theory of state and law could not but “suffer” and “sustain damage”. Meanwhile, the European political and legal culture, national statehood and legal mentality are conditioned by the biblical legal and political ideal, Christian values and ethic views – the legal studies in the religious domain, the subject-matter realms of which cover spiritual and moral, religious and socio-cultural roots of legal cultures, legal institutes and legal values, biblical state and legal ideals, and conceptual foundations of national philosophy of law: philosophy of truth, faith and morality remain an important and relevant line in research.

Literature Review in Legal Theology

In the contemporary Russian philosophy of law and legal science, the conceptions on religious ideals of building a state and the related legal system, on Christian approach towards the nature of a state and law are almost entirely based upon the views of representatives of pre-revolutionary state and legal and theological thought. However, back at that time, there were divisions into advocates and opponents of theocratic understanding of law and state, western and eastern understanding of relationships of spiritual and secular power (symphony of powers) and spiritual and moral foundations of the law. However, it is worth noting that virtually all Russian legal scholars, without exception, emphasized the value of religious and philosophical analysis of the law, legal awareness and legal culture.

While research in respect of political theology and its value for political science in the years since K. Schmitt has been conducted for more than half a century, the value of legal theology for legal science needs to be substantiated individually. Although in recent years, the biblical roots of the European and global legal culture are

invariably becoming a subject of scientific studies (Barenboim, 1997; Papayan, 2002; Sorokin, 2007; Velichko, 2019).

In foreign literature, the theology of law and legal theology have long been developing as an independent line at the intersection of jurisprudence and theology. For instance, research is being intensively conducted in this area overseas; even the “Journal of law and religion” is being published by the Publishing house “Cambridge University Press” where the article “Legal theology” by Mark Hill was published. It addressed the issues of the given interdisciplinary field of expertise and subject matter of theological and legal thought (Hill, 2017). He treats legal theology as a chapter of ecclesiology (from Greek *eckklêsia* “People’s Assembly, Church” and *logos* “word, teaching”). Many scientists refer to the church law as applied ecclesiology; thereby, they speak about “theology of the church law” and “theology in the church law”.

The researchers of Christian legal theology underscore the necessity of studying Christian law. Norman Doe (2015) highlighted the ecumenical role of legal theology in his article “The Ecumenical Value of Comparative Church Law: Towards the Category of Christian Law”. He pinpoints that churches share common principles and their existence imply a category “Christian law”, and the identity between the norms of Christian churches shows that the laws of believers, irrespective of their various confessional identity bond Christians through common forms of actions. For this reason, comparative Christian law should have a higher value in ecumenism.

The challenges of legal theology caught the attention of contemporary scholars due to the crisis of western traditions of the law caused by desacralization, dechristianization of legal systems of Western countries (Berman, 1998). Their attention focuses on the issues of catastrophic changes in the law due to the loss of spiritual values and norms. Meanwhile, they view “the root of the evil” in the materialism of the contemporary legal mentality, in radical liberalization of

legal awareness. Robert Bork, a well-known judge in the USA, during the ruling of R. Reagan, was an applicant for membership of the Supreme Court. In his works “Slouching Towards Gomorrah, Modern Liberalism and American Decline”, he describes the negative consequences of the loss of faith in God and “cultural revolution” of the 60th, the emergence of extreme liberalism and the follow-up degradation of the community, emphasizing, in this context, a crisis of legal awareness in the light of losing faith in God. The scholar offers to develop legal theology and Christian theology of the law in order to restore the legal systems of the West to their religious and moral roots (Bork, 1996).

Martin L. Gross, in his work “The End of Sanity, Social and Cultural Madness in America” (1997) and Patrick Buchanan in his work “The Death of the West” (2003), express almost the same ideas. Buchanan shows that since the 60th dozens of judicial rulings of the Supreme Court making Christian traditions, organizations and symbols unlawful have been passed under the pretext of respecting freedom of religion. Meanwhile, atheistic liberalism has reached a fever pitch: offending the religious feelings of Christians turned out to be acceptable and desirable. However, the demonstration of scepticism towards left-wing liberal postulates (for instance, nature of homosexuality, equality (physical) of races and cultures, assessments of historical past, evolutionary origination of biological species etc.) are toughly prevented and prosecuted. He writes: “Dechristianization of America is a risky game, the stake in which is our civilization. America tossed an “ethical compass”, according to which the republic made its way over two hundred years, overboard and now steers by guess and by God” (Buchanan, 2003, p. 34). The scholar writes about the necessity of “reverting to the roots” in the area of legal science and draws attention to the fact that the dechristianization of the contemporary world entails growing selfishness and egoism. It is well known that the rule of law that rests not on the fear of punish-

ment, not on the charisma of a legislator and not on rational approval but on the moral strength of the law is the most sustainable.

Legal Theology in the Post-Secular World

The post-secular world represents a new phase of developing relationships between secular and mundane, sacred and profaned, religious and indifferent, religious and scientific rationality. Following a few centuries of antagonism, now is the time of mutual recognition of faith and science as important and equal paths in world cognition. Post-secularism appeared to replace rational secularism of the Modern with its claims to “uncharming the world” and, to some extent, can be regarded as its negotiation. Post-secularism represents a new paradigm of philosophical mentality where religiosity is no longer regarded as something “sustained” by humanity and where religious ideas and attitudes are well covered in the contemporary world. A renowned German political philosopher Jurgen Habermas (2002), views post-secularism as such a status of the community where caring about the continuation of the existence of religious communities in an invariably secularizing environment is actually in place (p. 22).

The German thinker maintains that a state based on a neutral ideological foundation accepts neither the position of the one aspect or the other (faith or expertise) in the course of the political decision-making process, thus preserving an equal distance both for the faith and for the expertise, for the faith and for a reason with the commitment to openness. In the post-secular world, believers do not need to translate their religious beliefs into a secular language since these beliefs are recognized equally as the beliefs of humanists in ideas on human rights, while the language of commandments and spiritual and moral principles is similar to the profaned language of bearers of secular moral. The establishment and recognition of borders between

secular and religious spheres of social life occurred in tandem with cooperativity and mutual respectfulness towards the perspectives of each of these spheres. In the post-secular world, the value of religious faith in human life is not subject to denial and ostracism.

Legal theology represents a new interdisciplinary trend in studying conceptions and essential features of the state and law as well as religious and legal systems. In today’s situation of the post-secular world, the conceptions about the nature of the law from the point of view of theology, as a whole, and christen theology, in particular, can’t help but sustain changes, especially due to numerous discussions about the correlation between the law and religion, state power and spiritual power, law and faith in the new context of co-existence and mutual respect of the faith and expertise and also due to new achievements of theological and doctrinal science. The philosophical and legal analysis of religious systems inevitably determining legal consciousness, legal culture, legal consciousness, and legal values in this or that state appears to be equally important and significant.

Believers and those are the vast majority in Russia, judging by sociological research, can’t help but get interested in the issues on the nature of the law and state where they reside since many conflicts in daily life are addressed precisely in setting off from the ideas of the state and law, conceptions on their substance: for instance, the issue on the legal prohibition against visits of churches in the period of COVID 19 on the part of on secular state.

Mass media pages illustrate statements of the clergy and proactive laymen who accused the state of worshipping the looming Anti-Christ that unwittingly reminded of the attitude of the state on the part of Old Believers when the state became a “devil’s shelter”, “beast’s image” and “kingdom of Anti-Christ”. So the issue of the attitude of religious consciousness towards the ideas of the law and state is far from being an idle one: a dispute on the nature of the state and

its laws from the point of view of religious mindset would arise not once.

In Russia, a theological and theocratic approach towards the substance of the law and state is no longer regarded as an obsolescent one or an artefact of the political and legal mentality of the past years. Thus it is no wonder that a process of revision of profound foundations of constitutional legal awareness is now going on in the contemporary Russian community. That was reflected in the discussion in respect of references to God in RF Constitution Part II new Article 67 with meaning 1: "Russian Federation pooled by millenary history, preserving memories of ancestors who translated us the ideals and faith in God as well as the succession in the development of the Russian state, recognizes a historically formed state unity"¹.

This amendment would inevitably impact both the secular and church law. The fact would call for its consideration in unity with other legal values of the RF Constitution. Thus axiological studies within the framework of legal theology have both theoretical and practical value.

The national legal thought will still have to substantiate the scientific theoretical and conceptual value of legal theology, develop its methodological, axiological, industry-specific, institutional and system models, trends and principles and address the most important topics and interdisciplinary ties.

Legal theology enables not only to identify but also to render assistance in resolving a whole array of fundamental issues facing the contemporary community and the state.

Firstly, this is a crisis of contemporary legal awareness which has long been talked about among scholars in foreign countries and in Russia (it is important to mention P. I. Novgorodtsev and his paper "On the crisis of contemporary law awareness" (1909), which arose as a result of the spiritual and moral crisis. It is caused by oblivion

of Christian moral values, the patristic background of correcting a human being through the internal combat with ones' passions: false pride, vanity, love of money, jealousy, gluttony as well as desacralization of the law, the transformation of the law into a mechanism, algorithm and production process.

Here one should point at the extensive experience of patristic anthropology in the analysis of human behaviour from the point of view of moral and legal values, which are not divided in Christianity. Legal theology enables to revitalize the "spiritual heart" of legal awareness – "human conscience" (Ilyin, 1994), restore a conception of the law as "science on the good and fair". In fact, the national philosophy and the theory of law in pre-revolutionary times and in a subsequent period in emigrant foreign press appealed to the world's legal thought by its reasoning on the intimate identity of morals and law and on spiritual and moral foundations of the law and legal awareness.

Secondly, the contemporary period of state and legal development of Russia is featured for the pursuit for a strategic goal, ideal, the idea of the state since a vector of legal policy not formed, "image of the future" not shown, for the sake of which construction of the state is being undertaken. Unavailability of the state idea and ideology is a fairly logical result of the Soviet past: people have cultivated a steady immunity against various tempting projects of "earthly paradise". Meanwhile, the state needs a distinct hierarchy of values, including the highest absolute values. Any references to God in RF Constitution couldn't have failed to cause a serious discussion in the community. What is the role of religious communities in the contemporary post-secular world? Can anyone be held accountable for disrespect to the feelings of believers in God? What are the limits of personal freedom? What human dignity and the related natural rights are rooted in? It appeared that answers to these and many other questions couldn't be addressed beyond a theological discourse since the idea of

¹ See the full text of the Law "On amendment to the Constitution of the Russian Federation" <http://duma.gov.ru/news/48045/>

natural human rights is rooted precisely in Christianity.

Here attention should be drawn to the fact that the basic confessions of the Russian Federation – Christianity, Islam, and Judaism are based upon a common value-based foundation, Moses' commandments and moral and legal norms of the biblical Decalogue since all three of the religions derive from the Holy Prophet Abraham, common for them. These confessions are so-called "Abrahamic". Their basic values and beliefs coincide – the sanctity of marriage, the absolute value of life and dignity of each human being, mercifulness to a fellow being, compassion, faith in God, the life of the soul after death and preservation of its personal identity and many others. These values are also shared by atheists who are bearers of a value-based code of Abrahamic religions "by inertia".

For the world's legal culture, Moses' Pentateuch is a common religious text producing an impact on theology and legal culture. Thus the Bible is an essential source of legal, political and socio-economic views, ideas, values and norms for many peoples of Russia, not to mention the constituent Russian nation. Today the works unveiling in-depth biblical roots of the contemporary political and legal institutions and considering biblical state and legal ideals constitute an enormous value.

Thirdly, no compromise in respect of the ideals has yet been found: a dispute between conservators and westerners-modernists with regard to Russia's the path in XXI century is not diminishing; there is no accord towards the evaluation of the past (pre-revolutionary Russia, Soviet period and its luminaries, February and October revolutions); there are no common views towards the future, including faith in God. The contemporary Russian community is unified through memory, the past, achievements and the outcome of the life of the past generations: it is not a coincidence that the topic of World War II is so beloved and significant for the state power. However, the history of Russia is not only and

not even mainly XX century but primarily a millennium of equivalent great wars, achievements, accomplishments that shaped our culture where the faith in God was one of the fundamentals.

A simplified perception of faith influenced by the Marxist-Leninist thesis about "opium for people" often dominates in legal, political and socio-philosophical literature. The achievements of the Russian theological and legal, political and historical thought were lost and forgotten; eventually, the philosophy of law, political theology, theory of state and law could not but "suffer" and "sustain damage". Meanwhile, the European political and legal culture, national statehood and legal mentality are conditioned by the biblical legal and political ideal, Christian values and ethic views.

Fourthly, the biblical ideal of the state and law merits comprehensive analysis and study since, in recent centuries, its image was significantly distorted due to the secularization of political and legal mentality. However, the religious conscience and mindset continue to determine the fates of the world: the majority of large conflicts of Modernity arose along civilisational and cultural, to be more precise, rather religious and not economic fracture. At the individual level, religious values continue to determine the behaviour and daily routine of a human being through the recession in spirituality in the Western European countries determined by the community is obvious.

Legal Awareness in the Context of Christian Legal Theology

For over one hundred years, one of the important topics in the contemporary theory of law is legal awareness of a personality and legal sphere of the human spiritual world, which is not only the source of legal texts, legally significant interests and needs of a personality but also serves as the most important regulator of human relationships and enabling generator of regulatory provisions changing the meanings of legal norms, le-

gal acts and judicial practice. Specifically, legal awareness stands as the basic context for understanding and interpreting the law, regulatory instruments and tenor-generating elements for interpretation of the law. Eventually, it is legal awareness on which the quality of legal life of the community and efficiency of legal statements depends on and not on a legislator compiling contents of laws which before they being operative are doomed to be subject to comprehension and interpretation by a bearer of legal awareness. The contemporary legal hermeneutics actualizes the problem of legal awareness as a contextual source in the processes of understanding the law. The legal psychology discovers the source for shaping the intent and motive of criminal behaviour, particularly in legal awareness.

The national philosophy and the theory of law in pre-revolutionary times and in a subsequent period in emigrant foreign press appealed to the world's legal thought by its reasoning on the intimate identity of morals and law and on spiritual and moral foundations of the law and legal awareness. One of the most prominent theorists of law both in Russia and overseas was professor of Saint-Petersburg University Lev Josephovich Petrazhitsky (1867-1931), who emphasized two polar principles for building a state legal system: right to personal liberty and right to social service. He also laid the foundations for the theory of legal awareness and psychological understanding of the law (Petrazhitsky, 2019). His apprentice – Pitirim Sorokin, even deeper, disclosed the linkages between the law and moral psychology of a personality (Sorokin, 1914). A socio-cultural focus of studies in the theory of law shall be recognized as one of the most important achievements of this theory. It enabled to address irrational roots, foundations and prerequisites of law, investigate the specifics of national legal awareness and legal mentality. A multitude of essays was written on this particular topic. However, a new stage of studies of legal awareness is required. I am confident that it might be possible only with due regard to the basic provi-

sions of patristic anthropology.

While wrapping up writings of the Holy Fathers of Orthodox Christianity into the studies, a researcher derives answers to numerous questions which remain unanswered within the framework of a positivist theory of law. For instance, one of such questions shall be: how the level of expertise in law correlates with legal nihilism, denial of law, distortion of legal awareness, the criminogenic conscience of a personality and causes for a crime. For instance, a typical answer to the question on causes of legal nihilism is an answer seeking for its roots: “in legal ignorance, narrow-mindedness, immaturity and legal discourtesy of the mainstream population” (Kostina, 2012). However, “sinful” in corruption is specifically the senior lawyers, for instance, a notoriously known “Colonel Zakharchenko” who became a symbol of limitless appetite for profits and corruption which can't be “accused” of legal ignorance.

A right answer to the question on causes of the crisis of legal awareness in the contemporary world can be given only with due regard to a Christian doctrine on the “passionate” and “egoistic” nature of a contemporary. As correctly stated in the contemporary pedagogy: “The patristic doctrine treats a human being in his/her “properly human” dimension, the most complicated for psychology and pedagogy – in value-semantic space of a human being as a personality; in the space of its freedom, moral awareness (conscience), faith, love, creativity and will” (Lifintseva, 2013). It is high time to comprehend that the patristic doctrine on passions and the related combat shall be used in studying the problems of contemporary legal psychology and criminology. “The issues on the essence of passion, types of passions, psychological mechanisms, their emergence, dynamics and, eventually, ways to overcome and prevent “harmful” passions deserve serious consideration both from the scientific and practical point of view” – note contemporary psychotherapists and psychologists (Florenskaya, 2003). This includes anthropological

and spiritual, and moral observations, teachings and guidance of the Holy Fathers Isaac Sirin, Nile of Sinai, Abba Dorofei and others. Their writings enable us to comprehend that the crisis of legal awareness and the growth of legal nihilism are of global nature, and there are a few who call the spiritual crisis of a European individual the most important cause. It is this crisis that underlies the crisis of the Western tradition of law, as shown by G. G. Berman – a well-known jurist of the contemporary epoch (Berman, 1998).

It is a great tribute to the contemporary foreign scholars who do not only agree with the negative assessment of the status of the contemporary post-industrial community but also testify about catastrophic changes due to the loss of spiritual values and norms. At that, they view the “root of the evil” in the radical liberalization of conscience and mindset. Meanwhile, liberalism has reached a fever pitch: offending the religious feelings of Christians turned out to be acceptable and desirable. However, the demonstration of scepticism towards left-wing liberal postulates (for instance, nature of homosexuality, equality (physical) of races and cultures, assessments of historical past, evolutionary origination of biological species etc.). However, the dechristianization of the contemporary world entails growing selfishness and egoism. It is well known that the rule of law that rests not on the fear of punishment, not on the charisma of a legislator and not on rational approval but on the moral strength of the law is the most sustainable. In the latter, the rule of law is based upon the suppression of own selfishness by using internal spiritual forces. Thus, combating own selfishness represents an activity of genuine legal awareness. The essence of legal awareness consists in the subordination of one’s false pride to the principle of love for the neighbour and respect for the other who is the image of God. Love for the neighbour and respect for the other exists unless two interests: own and that of the neighbour – collide. However, in order to cede place to the other, one should have humility. It is also required for com-

pliance with the requirements of the law: respect for the law also slips away from the moment of conflict of interests. Thus, the law-obedience implies victory over own false pride and selfishness. However, the awareness of one’s exceptionalism, uniqueness and individuality by each personality remains an impediment to such victory. In order to overcome this false opinion, one needs to be navigated by the presence in the world of a personality infinitely more authoritative, bigger and more significant than Me, own personality and individuality. In other words, one needs to recognize a Supreme personality, which is God. For this reason, materialism and false pride are so tightly linked with each other: there is no one higher than a personality. It is not a coincidence that the following motto was popular in the Soviet epoch: “Man! That has a proud sound!”

Opposition to false pride is Christian humility, the basis of which, on the one part, is recognition of own imperfection and, on the other part, the existence of the Divine Principle, which is God.

Thus, the basis of legal awareness is respect for the other, his/her dignity, rights and interests. The source of benignant respect for the other is humility since the feeling of one’s imperfection, unworthiness towards God represents an obstacle to any attempt of arrogance before other people who are possibly more perfect and welcome to God. By recognizing one’s imperfection, it is impossible to be arrogant before others and think that other people are inferior to you.

If to look closely at the inner world of a contemporary individual, we would see the attributes of egocentrism – arrogance, resentfulness, insecurities, jealousy, stubbornness, petty tyranny, pleasure-seeking etc. Such traits of character of an arrogant person as a propensity to ignore the rules of conduct, lack of respect for authorities, influencers, superiors, social hierarchy and rules of everyday life plays a negative role in the legal awareness of a contemporary individual. The growth of egocentrism entails escalating racism,

nationalism, extremism and aggressiveness.

For instance, racism, which is an implication of false pride, is well known to the world from the history of Western countries – Great Britain, the USA, Spain and others. One has only to recollect all western colonies and the behaviour of colonists in colonies, the attitude of the Americans to the Indians, Africans, Chinese, Japanese, Mexicans, Slavs, Italians, and Irish etc., in order to agree to this statement. False pride also generates notorious anti-Russian xenophobia of the West. Prejudiced attitude towards all Russia-related things started long ago, back in the Middle centuries and during the Tsar times. Here what I. A. Ilyin (1998) wrote about the danger of national arrogance, namely about the sources of the USA's right to interfere with the affairs of other countries: "Arrogance stems from spiritual blinding and creates an illusion... Since it starts from the naïve megalomania and reaches its catastrophic climax in the political vanity".

Violence and aggression filled not only a media space of the American cinematograph and television. They penetrated into the schools and kindergartens, hospitals and offices. The fact is that one of the most hate-filled properties of an arrogant person – is his/her irrational, uncontrollable hatred, sometimes reaching up to loathing towards one's victim. Since an arrogant person cannot admit his/her guilt, repent, beg pardon, somewhat correct the committed things, he/she grows to hate his/her victim, criticize, humiliate, insult and devise any theories, for instance, that it, not him/her who is responsible for the incident but his/her victim is guilty.

Children today in the "consumerist society" are figuratively brought up in arrogance, fostered awareness of the fact that they are the hub of the universe. But when they face reality, they see that they are neglected and, on top of all other children, also reveal arrogance, have a self-image or "falsehood" as tell the Holy Fathers, and they do not care "a jackstraw" about the others. In a state of frustration, legal awareness is switched off, they feel lost, without knowing what to do

and start culling "persona non grata".

In broad terms, the egocentric attitude towards other people, as known, directly causes mental derangement, especially paranoia. In paranoia, a paranoiac lives in his/her fictionalized unreal world. The laws of this world are composed by him/her himself/herself. Thus, the ones who violate the laws invented by a paranoiac are subject, from his/her point of view to liquidation.

Here hence one can witness steady growth of violence and aggression in American schools. The contemporary western community holds leadership in the world championship in terms of false pride: "On the West – where materialism, egoism, individualism, extreme liberalism etc. – do exist – a person is brought up in arrogance. From early childhood, in English-speaking countries, he/she are taught to write "me" from a capital letter (M) and "you" sometimes are lower-cased. A Russian person always writes "me" from a lowercase letter and "You" sometimes from a capital letter, in token of respect.

Contemporary liberalism gradually devastates, demolishes not only a legal culture but the entire society at large. Here are the basic points of its program briefly: propaganda of sexual recklessness, abortions and sexual outreach for students in schools, legalization and propaganda of sodomy, propaganda of moral relativism and struggle against Christians, propaganda of feminism, the war against parents, privileges for special minorities, pushing of special minorities, sodomists and feminists to the armed forces, state authorities and executives.

All that affects not only the level of crime but also the attitude of the population towards authorities, regularities and the law at large. On the one part, the opinion of the majority of citizens with traditional Christian and family values are ignored by new laws, the fact that leads to legal nihilism and growing anarchist and rebellious moods of earlier law-obedient citizens; on the other part, promiscuity and lechery destroyed more than one empires in the history of humanity due to some reasons which should be particularly

articulated.

In its brilliant paper “American sexual revolution”, which was published in 1956 when America only started witnessing glows from the sexual revolution, a prominent Russian sociologist of law P. Sorokin showed that sexualisation of human consciousness does not only results in the devastation of the institution of family: growing divorces, incapability for mutual life, the recession of parental love, refusal from childbearing and increase in the number of abandoned children. In his paper, the scholar showed the negative impact of the sexual revolution on the economy, culture and politics, status of the state and law.

Since a chaotic sexual life undermines both the physical and mental health, morals and creative opportunities of its adherents, a negative impact of a similar calibre is produced on the society, the majority of which are lewd people. And the more is the number of such people and the more indecent is their behaviour, the harder are implications of the entire community, since if sexual anarchists account for a larger part of its members, then eventually they destroy the community itself. When lechery and random sexual life extends to the larger portion of the community members, then it inevitably entails incapability of the community to control biological and emotional motives, to counter the temptations of the body, material wealth and comfort, to curb the lust for power, to carry out heavy responsibilities and to make necessary sacrifices, to determine one’s historical path and to follow it. “From self-defined and self-controlled commonality, the community degenerates into a passively drifting downstream to the very edge of the historical Niagara” (Sorokin, 2006, p. 76).

Paralysis of will and incapability of the community to counter temptations result in non-compliance with the laws and attenuation of the degree of their severity. And “when the ruling group and the community, at large, weaken the severity of the laws – writes Pitirim Sorokin – normally during the span of three generations a

decline in culture occurs as was the case at the last phases of Babylon, Persian, Macedonian, Mongolian, Greek and Roman civilizations and also at the end of Ancient and Middle kingdoms, New Empire and epoch of Ptolemy in Egypt” (Sorokin, 2006, p. 95).

However, the culture does not exist separately from the community. Thus its decline and degradation of the community are in direct dependency. The enslavement of a personality with evil pleasures does not lead to a law-abiding and morally sustainable society since the majority of its members are egoistic nihilists preoccupied with these pleasures. Such people inevitably come into conflicts the fact that leads them to constant violation of moral and legislative norms and endless infringement of life interests of each other. This results in a step-by-step impairment of the existing legislative and moral order and perpetual warfare between community members in pursuit of a maximum share of material benefits and pleasures. The established laws are constantly violated in it. The violation of moral norms inevitably entails a violation of the rules of law. The codes of conduct are increasingly ignored, and they eventually stop managing human behaviour. Thus, in the process of sexual emancipation, the community increasingly approaches a status of moral anarchy, where everyone considers himself/herself a legislator or a judge entitled to distort moral and legal norms as he/she wishes. The community with such impaired moral foundations loses internal solidarity and civil virtues necessary for its welfare. Its internal peace is increasingly violated by riots and rebellions, and its security is constantly undermined by the brute force of crime.

Therefore, sexual anarchy and political and social anarchy are twin demons. Though one might appear earlier than the other, they are interrelated and interdependent – asserts P. Sorokin and illustrates with many examples. Sometimes sexual liberation preceded an explosion of socio-political upheavals, and sometimes these processes occurred simultaneously. But almost in-

variably, these two forms of anarchy went along.

Religious norms of chastity and asceticism are directly linked with government policy in the area of nurturing patriotism and shaping legal awareness. Over the recent years, the focus of the supreme power on national patriotism has become apparent; in isolation from chastity, it seems to be unrealistic. Catering for ones' pleasures, family desertion for the sake of these pleasures, denial of childbearing and other forms of a free life do not entail readiness for self-sacrificing for the sake of the neighbour. It is a low probability that depraved egoists who used to live according to their passions and lusts and committed to greed for profit by the ideology of "consumerist society" would devote all energies, health and life for the sake of their countrymen – people whom they have never even set their eyes on. On the contrary, they would attempt to derive benefits from the situation, would not disdain betrayal, defect to the enemy's side and would do anything they want in order to preserve their lives for new sensual frolics and material welfare. The contemporary western legislators are progressing towards the legalization of lechery, sexual perversions, while the decline of Europe is palpable not only from a providential point of view.

It shall be mentioned that the status of the western culture of his time Sorokin described as a crisis one due to the dominance of material values and sensual pleasures guilty in degradation of an individual, transformation of values into mere relative with metaphysical, ideative aspirations of an individual and not with the "consumerist society" and sensual culture. The scholar deemed that such future is attainable through purification and resurrection of culture and propagation of moral resurrection of the community based upon the principles of altruistic love and ethics of solidarity. However, unfortunately, the dreams of the thinker were not destined to be realized as the second half of the XX and early XXI centuries show. Pragmatism and utilitarianism appearing in the society as a consequence of

materialism of capitalist epoch entailed further development of mass culture, egocentrism, hedonism in the society the fact that extremely negatively impacted legal awareness.

Legal theology and the religious dimension of legal awareness enable us to see deep the crisis of materialism penetrated into the legal culture. Scientific theories based upon the sensual concept of truth (empiricism and materialism) have a tendency to become materialistic, mechanic and quantitative, even in the interpretation of an individual, culture and spiritual phenomena, including the law. Social and psychological sciences, including jurisprudence, imitate natural sciences copying an approach towards an individual similar to the approach of physicists and chemists towards inanimate nature. Eventually, legal phenomena have been taken to be interpreted from the standpoints of physiology, endocrinology and psychoanalysis, while the society becomes pragmatic with an economy-based interpretation of the history. There are attempts even to integrate the law with physiology, medical studies; for instance, one might hear about neurolaw with ever-increasing frequency (Petoft, 2019). Everything which is lofty, spiritual, supersensible, idealistic is ridiculed and get replaced by derogatory interpretations. Material values are becoming the principal ones in such a society: from wealth to benefits, satisfying physiological needs ensure consumption and pleasures. The consequence is relativism and nihilism. The entire historical path is viewed from the point of view of progress and evolution, and an individual is degraded to the level of organic or non-organic complex and not seen as a bearer of supreme values and truths. Along with the degradation of truth, an individual lowers down from the pedestal of a truth seeker down to the level of an animal who, through his rationale, strives to satisfy his egoism.

Sensual law is viewed by P. Sorokin as the one created by an individual, though, in fact, it serves private ownership, property, order, the welfare of the community and exploitation of an individual and its subordination. Its norms are

relative and volatile, and conditional. The laws are subject to changes, and there is nothing sacred and eternal in such a system (Sorokin, 2006, p. 497). No non-utilitarian limitations are imposed on property relations.

So, the contemporary systems (sensual) of ethics and law are facing the largest crisis. Ethical and legal values were increasingly viewed as speech reactions, disguising money obsession and cold math of individuals. Legal norms were perceived as an instrument in the hands of elites for crowd submissiveness. Relativity and conventionality of the norms of sensual law eliminate their prestige and influence, their universality and generality. They came to be perceived by virtue of their conventionality as an obstacle, barrier and unfortunate misunderstanding: “everything that is profitable is permissible”. Sorokin considers that sensual law and ethics lead humanity to a dead end since they create anarchy and atomism.

Conclusion

Consequently, the value of legal theology for the post-secular world and contemporary legal mentality consists in the fact that the study of spiritual Petoft moral aspects of legal regulation – as an essential component for addressing an array of complex problems of shaping legal awareness, legal culture, legal education, the study of lawful and unlawful conduct, investigation of various aspects of law enforcement and mechanism of social operation of the law cannot pass indifferently towards religious foundations of the life of the contemporary society. The development of theoretical conceptions which would fully take note of religious foundations of the state and law is a crucial stage for shaping and developing contemporary social thought where a key place is occupied by legal theology. This is also important from the point of view of state construction since the contemporary processes in

this sphere appeared to be unprepared for challenges of political and legal modernization are a serious test of Russian statehood for endurance.

Legal theology enables to revert the spiritual and moral dimension of law and legal awareness back to legal science. Spiritual causes for crime should, on the one part, become a subject of analysis of criminologists, law theorists, and, on the other part, a powerful argument in favour of introducing elements of Christian asceticism, orthodox education, classical Russian culture and Soviet pedagogical school into the school educational curricula. Everywhere one might see the influence of spiritual damage to legal awareness of a contemporary individual: non-performance of obligations or their improper non-quality performance under the contract, which are often the result of false pride, selfishness and greed; disciplinary offence – the result of disrespect to superiors, their orders, instructions, directives which are rooted in ego and deception in respect of one’s merits; embezzlement is rooted in greed for profit, the sin of gluttony; violations of proprietary rights – in vanity, self-interest etc. Undoubtedly, economic, social, cultural factors for committing delinquencies are important and significant. However, the basic cause for growing crime in the contemporary world is the loss of spiritual values and truths of Christianity in the process of secularization of the western world, lifestyle, mindset sacralizing selfishness, false pride, hedonism, the so-called human weaknesses which on the language of patristic anthropology are named otherwise – passions. Thus, one needs to nurture and maximize the spiritual wealth of our country – Orthodox faith, patristic teaching about a man, centuries-old expertise of national and cultural traditions. The foundations of Orthodox culture and other religions traditional for a number of constituent entities of the Russian Federation must not only be studied in schools but also become a fundament for basic values of the state.

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References

- Barenboim, P. (1997). *Pervaya Konstitutsiya Mira: Bibleiskie korni nezavisimosti suda* (First Constitution of the World: Biblical roots of court's independency, in Russian). Moscow: White alvy.
- Berman, G. G. (1998). *Zapadnaya traditsiya prava: epokha formirovaniya* (Western tradition of law: Epoch of formation, in Russian) (2nd ed.). Moscow: INFRA-M-NORMA.
- Bork, R. H. (1996). *Slouching towards Gomorrah, modern liberalism and American decline*. New York: Harper Collins e-books.
- Buchanan, P. G. (2003). *Smert' zapada* (The death of the west, in Russian). Moscow: AST.
- Doe, N. (2015). The ecumenical value of comparative church law: Towards the category of Christian law. *Ecclesiastical Law Journal*, 17(2), 135-169. <https://doi.org/10.1017/S0956618X15000034>
- Florenskaya, T. A. (2003). *Svyatootecheskoe uchenie o strastyakh i psikhoterapiya* (Patristic teaching on passions and psychotherapy, in Russian). *Moskovskii psikhoterapevticheskii zhurnal* (Moscow Psychotherapeutic Journal, in Russian), 3, 104-113.
- Gross, L. M. (1997). *The end of sanity, social and cultural madness in America*. New York: William Morrow.
- Habermas, J. (2002). *Vera i znanie* (Faith and knowledge, in Russian). *Budushchee chelovecheskoi prirody* (Future of human nature, in Russian). Moscow: Publishers “Whole World”.
- Hill, M. (2017). Legal theology. *Journal of Law and Religion*, 32(1), 59-63. <https://doi.org/10.1017/jlr.2017.20>
- Ilyin, I. A. (1994). *O sushchnosti pravosoznaniya* (On essence of legal awareness). In I. A. Ilyin, *Sobranie sochinenii v 10 tomakh* (Complete Works in 10 Vols., in Russian) (Vol. 4) (pp. 151-403). Moscow: Russian Book.
- Ilyin, I. A. (1998). *Sobranie sochinenii v 10 tomakh* (Complete Works in 10 Vols., in Russian) (Vol. 8). Moscow: Russian Book.
- Kostina, K. A. (2012). *Pravovoi nihilizm kak cherta rossiiskoi pravovoi kul'tury* (Legal nihilism as a trait of Russian legal culture, in Russian). *Vestnik Tambovskogo gosudarstvennogo universiteta* (Bulletin of Tambov State University, in Russian), 10(114), 333-340.
- Lifintseva, N. I. (2013). *Svyatootecheskoe nasledie kak istochnik formirovaniya smyslovogo prostranstva sovremennoi pedagogiki* (Patristic legacy as a source for forming a semantic space of contemporary pedagogy, in Russian). *Vestnik Pravoslavnogo Svyato-Tikhonovskogo gumanitarnogo universiteta. IV. Pedagogika. Psikhologiya* (Bulletin of Orthodox Svyato-Tikhonovsky Humanitarian University. IV: Pedagogy. Psychology, in Russian), 3(30), 69-83.
- Novgorodtsev, P. I. (1909). *Krizis sovremennogo pravosoznaniya [soch.] P. Novgorodtseva* (Crisis of contemporary legal awareness) [works] of P. Novgorodtsev. Moscow: Typo-lit. named after I. N. Kushnerev and Co.
- Papayan, R. A. (2002). *Khristianskie korni sovremennogo prava* (Christian roots of the contemporary world, in Russian). Moscow: Norma.

- Petoft, A. (2019). A historical overview of law and neuroscience: From the emergence of medico-legal discourses to developed neurolaw. *ArchivioPenale*, 1(3), 53-58.
- Petrazhitsky, L. I. (2019). *Teoriya prava i gosudarstva v svyazi s teoriei npravstvennosti* (Theory of law and state due to the theory of morality, in Russian). Moscow: Yuright Publishers.
- Sorokin, P. (2006). *Amerikanskaya seksual'naya revolyutsiya* (American sexual revolution, in Russian). Moscow: Scientific & practical centre for communicative studies "Project barrier".
- Sorokin, P. A. (1914). *Prestuplenie i kara, pod vig i nagrada: sotsiologicheskii etyud ob osnovnykh formakh obshchestvennogo povedeniya i morali* (Crime and punishment, feat and reward: sociological study on basic forms of public conduct and moral, in Russian). Saint-Petersburg: Publishers of Y. G. Dolbyshhev.
- Sorokin, V. V. (2007). *Ponyatie i sushchnost' prava v dukhovnoi kul'ture Rossii* (The concept and essence of the law in Russia's spiritual culture, in Russian). Moscow: Prospect.
- Velichko, A. M. (2019). *Isikhazm v prave i politike* (Hesychasm in law and politics, in Russian). Moscow: Veche Publishers.