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PHILOSOPHICAL FOUNDATIONS FOR UNDERSTANDING THE SYSTEM OF LAW

Abstract

The article deals with a problem of correlation between the evolution of the main ideas pattern, philosophical foundations of the intellectual life of age and historical state-law systems. The method is a cyclic conception of history, according to which on every round of historical processes, the framework of state-law system development was formed by the main ideas presumption about space, time, the multiplicity of the world and so on. According to it, authors argue that the existence of some milestones in the history of ideas gives us an opportunity to highlight some phases of the state-law system evolution, such as temple-state with its mythological space and cyclic time; polis state, which emerged from rationalization and understanding the world is multiple; medieval theological state with its dualism and teleological history conception; modern state based on separation of abstract conceptions such as nation and their embodiment.

Keywords: state-law systems, law and state philosophy, history of state and law ideas, cyclic history, state-law conception, Ancient state, polis state, the Medieval and early modern state.

Introduction

Cognition is a process of collecting knowledge of circumambiency's reality (or its irreality). It is a functional process, which is determined by its goals and tasks in perspective. The goal is prescribed by the subjective image of the cognitive object, constructed by the researcher's mind as an ideal pattern. This pattern reflects the researcher's will to rational cognition and value judgment about the object of a cognitive process. Though the object per se is independent of the researcher's mind entity, its image in the researcher's consciousness reflects values and preemptions of the cognizer.

The universal object of cognition is the entire Universe (nature and culture, which together form the milieu of human existence). Its image is defined by a three-dimensional socio-spatial-time continuum, in which man and society is the sole discrete category, which at a certain point stands out from the "universal nothing" and is inevitably transformed into "nothing" in sometimes.

The emergence of man and his endowment with the "potency of reason" entails the thinking activity's "came-to-reality". This activity is tied to three inseparable parameters determined by noesis logic: social then man investigates the world of which he is a part; spatial then man investigates the world by limiting it by physical parameters (distances, weights, efforts, etc.); temporal/chronological then man investigates the world by determining the temporal (past – "before"; present – "now"; future – "after") frameworks of examined phenomena. Along with it, the objectivity of the intelligible world predetermines the infinity of space and time and the initial subjectivity and relativity of any tied with subjects of cognition parameters.

Cognition is a means for obtaining, depositing, systematization, practical implementation and transmission of information about the world as an object of noesis. The genesis of the cognition process has a cyclic pattern. Within each cycle, its own idea of the noesis essence and its functionality is formed. The basic hypothesis is that the systematization of philosophical and legal cognition in its historical development corresponds with socio-cultural cycles: sacred cognition (temple state culture); philosophical cognition (polis state culture), theosophical cognition (patrimonial-theosophical state culture); scientific cognition (secular state culture).

Mythological Space and the Temple State

The culture of the temple state was based on the understanding of the state as a form of social organization and power, based on the associative array set by the "temple context". The concept of the original form of the state as a temple complex has been complexly investigated by both Russian and foreign historiography. It is necessary to pay attention to the works of the Russian criticist I. M. Dyakonov. In his texts, he demonstrated the role of temples not only as an apparatus for the organization of irrigation activities but also as symbolic, structuring community centres (Dyakonov, 1989). A similar thesis about Mesoamerican cities was promoted by V. I. Gulyaev. He regarded Mayan temple urban complexes as the "political, administrative, cultural and economic centre of the surrounding area" (Gulyaev, 1977). The ideas of these scholars were largely based on the works of the famous American anthropologist Clifford Geertz. In his "Interpretation of Cultures", he presented a traditional organization of religion in Bali description as a system of temples, to which rural communities gravitate and with which their parishioners identify themselves. Temples play a key role in structuring the world and shaping the hierarchy process through the stratification of the

space. Also, traditional religion shapes perceptions of the sanctification of social inequalities by mythic-ritual tools (Geertz, 1973). This phenomenon was also noted by scholars in Mesopotamia, ancient Egypt, India and other examples of early city-states organization.

The temple, as a formation basis of early states and the early form of law, was noticed by historians of the economy. Temple households were the first to use money (Hudson, 2004) (at the beginning for internal transactions, then for external settlements). Also, they formed the interest rate on credit and, accordingly, the first forms of credit contracts (Graeber, 2012). Thus, the temple became also the place where the first form of bureaucracy in history was formed (Grierson, 1977).

Nevertheless, we can argue that the role of the temple in the formation of cognition of law and state was more important. The Weltanschauung (including the view of the state-legal system) of the temple epoch is based on the mythic-ritual approach to the perceived phenomena and, accordingly, is characterized by four major components - teleological, anti-historical, monistic and orthopraxic. Teleologicality existed at the level of mythology interpretation by priests-intellectuals (and, in some cases, by near-religious psalmists). It can be understood as the world cognizing from the position of answering the question of the purpose. Objects in mythological consciousness exist not "for a reason" but "for a purpose". So, it can be argued that in such a worldview, the temple (and the state coinciding with it) become the purpose of human society's existence. This purpose that embraces the entire world was understood as eternal and unalterable. It is clear that at a certain stage of development, teleological and anti-historical characters of mythological consciousness become more rhetorical than ideological truths. Nevertheless, the truth of such an approach is not denied (Veyne, 1988).

Finally, analyzing the ontology of power in the temple state in the context of "four pure types of authority" proposed by Alexandre Kojève

(2004) (the Father, the Judge, the Master and the Leader), we have to admit that the temple Weltanschauung is most appropriate to the power of the Judge as timeless and, so on, anti-historical. According to Kojève's approach to temporal stratification of the types, the power of the Father belongs to the past, the power of the Master to the present, the power of the Leader to the future and the power of the Judge to eternity. This also corresponds to some historical manifestations of the authority in this epoch. We can turn attention to the concept of *iuris dictio* of Roman kings in the early stage of Roman history. So, it did not refer to law-making but specifically to judicial action ("say what law is") (Dozhdev, 2015). The text on the Hamurappi's Stella also emphasized the special role of the king's judicial process, and the Old Testament indicates the power of the judges of Israel as the first form of authority after the settlement of the Jews in Palestine.

The anti-historical nature of the temple consciousness also manifests itself in the understanding of justness as a constant state of the Universe. So a violation of the right order of things becomes a violation of justice. Respectively, the function of the state and power became the maintenance of the unchanging right order of things. It is indicative, in particular, that the Egyptian and Sumerian terms "maat" and "me", often translated as "truth", "justice" also mean "right ritual", "right order of things", etc. (Assman, 1991, Emelyanov, 2003). Hence the popularity of the talion principle, as a way of restoring the constancy of the world, comes forward.

Orthopraxis as a construing tool at the everyday level manifests itself in priority of ritually correct actions to their correct understanding (in terms of the generally accepted in this society and sanctified by the religious and mythological order) (Geertz, 1973). In this sense, the legal norms declared by the authorities become an embodiment of "right doing", i.e. a fixation of the existing practices and a statement of their correctness.

The main problem of the temple-era mind was the existence of a gap between the sacral world (anti-historical, mythological, monistic, teleological) and the observed reality with its changeability, violation of "right" practices and diversity. In this situation, the temple plays the role of the "non-divine sacred", situated in an intermediate position between the sacred heavenly and the temporal earthly world in a state of *sanctus*, that, on the one hand, separates *sacer* and *profanum*, and, on the other hand, creates the possibility of a connection between them (Zenkin, 2012). The famous scholar of mythology and religion Mircea Eliade (2002) noted that in mythological, religious systems, the ruler plays the role of a nodal point, a link between the heavens and the human world, and occupies this point in the course of a certain ritual performed at a certain point in space. In this point of view, the temple was a portal connecting human and divine essences. The only ruler could take this linking point cause he was a living embodiment of God. Also, there were the priests providing the interaction of the divine and humanity. The subjects of cognition were priests; the knowledge obtained in the course of the cognitive process was sacral (super-historical) in nature, and their instrumental purpose was to justify the immutability and "divine predestination" of the authority of the "earthly" ruler and the legitimacy of the "corporate elitism" of the priests' corporation, while the "common people" - the temple slaves - have no rights to serve the temple-state itself and its representatives - the ruler and priests.

The stratification of the world can be pictured accordingly. The temple, as the centre of power and religion, which was *sacer* – "own" land, the homeland of the people worshipping the temple and submitting to authority Next *sanctus*, consecrated place, and the third - external, profane world, which understood as an object of potential conquest. Such a division existed for quite a long time, for example, in Roman law, distinguishing things *divini iuris* - so of the divine law, such as temples, above all the temple of Jupiter Capito-

lius, lands of *quirite* law (*ius civile*) historical lands of Central Italy, which belonged to the Roman community from ancient times and for which the *quirite* property regime applied and lands of *ius gentium*, in which the classical regulation of property was not consumed and formally belonged to the collective of the Romans, but not to a particular proprietor (although in practice during the Imperial period the distinction between the formal lease of these lands and the civilian property remained purely speculative).

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Rationalization, World's
Pluralism and the Polis

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The culture of the polis state is connected with the phenomenon of the polis - city, state, civil community. Undoubtedly, the transition from the temple state to the polis was not a simultaneous event (there was no point in history when people once went to sleep in the temple state and woke up in the polis one). Such a rigid dichotomy is absolutely impossible in the sphere of the history of ideas, including the state-legal ones. As has been shown above, elements of the temple Weltanschauun remained active in the polis consciousness even at the late stage of its development.

The thesis that the community of citizens as bearers of collective freedom predetermines the uniqueness of the socio-political polis type culture led criticists to the question "was the polis a state" in foreign and later in Russian historiography at the turn of the 1980s - the 90s. The Israeli historian Michael Burnett, for example, rightly noted the lack of many modern state's elements in a polis society: the absence of a regular army and, with a few exceptions, a police forces (the regiment of 300 Scythians, among whom were often not only Scythian slaves, but also free Athenians who worked for pay, was nevertheless an exception), permanent taxes (the citizens were rather entitled to receive money or goods from the state treasury, which was thought to be collective property), a bureaucratic appara-

tus, and the absence of constitutional order (Burnett, 2000). Elements of public power could be noticed in the Golden Age of Athens. That was the appearance of a permanent mercenary army, paid public offices, the transformation of *phoros* into a type of a tax on the members of the Delian League, the beginning of the law-making process prevailing to the fixation of customary law. Nevertheless, the defeat of Athens in the Second Peloponnesian War could be interpreted as the end of the "early state project" in Ancient Greece

The early Roman society was interpreted in a similar way by many political historians. For instance, E. M. Staermann, basing his hypothesis on the Marxist interpretation of the state, considered the period of its emergence in Ancient Rome not earlier than the beginning of the Principate, considering the previous period as a stateless civil community - *civitas* - in which there was no coercive apparatus alienated from the society.

O. V. Kharkhordin, basing his thesis primarily on linguistic analysis, argues that our interpretation of the term *res publica* is based rather on the modern insight of the state, while the contemporaries understood the term more literally. So the word *res* had a meaning "thing", "object of property". Thus the normal condition of Roman society was a situation then the community of Roman citizens (*civitas*) controlled and benefited from communal property (*res publica*, understood by Cicero as *rei populi*) (Kharkhordin, 2015; 2020).

Nevertheless, it is necessary to pay attention that contemporaries understood polis or republic not as an apparatus of coercion but from the Aristotelian concept of "virtuous life" of citizens as the purpose of polis existence. From this point of view, following W. Runciman (1990), it is possible to define a polis as a "civil state".

The crucial point in such a state was the status of a citizen from which personal freedom and dignity are derived. It gave the right to participate in political life expressed in direct democracy, the right to have property, etc. Accordingly,

the loss of citizenship entails the loss of rights and freedoms, which were determined by the status of a citizen of the polis in their existence.

The division of citizens in Ancient Rome into *sui iuris* and *alieni iuris* people, i.e. living on his "own" or on "alien" rules, is especially indicative. Only being in "his own rules", i.e. the sum of three statuses - freeman, citizen, and the head of a family - gave the fullness of all personal, property and political rights. Only adult men who were members of the militia and who defended the interests of the polis with arms can acquire "full citizenship". Juvenile boys, girls and women, being "de jure" free citizens, at the same time possessed, in the modern language, partial legal capability and were deprived of a number of political and economic rights. The understanding of civil liberty in the polis was contrasted with both slavery and statelessness. Though slaves were not considered people in principle (at least in legal theory), being perceived as "speaking tools", then foreigners and non-citizens (Metegs in Athens, Perieki in Sparta, Priscopes Latin in Rome) not being slaves, at the same time were not legally equal to free citizens and could not take part in political life (with a few exceptions). It was the polis that the distinction between work and labour emerged.

At the same time, the unanimity of the civil community did not exclude the hierarchical division within it. This structural distinction was manifested by the class system of Athens or by the census system of Rome. Citizens, though having equal rights, could exercise their rights with different degrees of intensity (for example, to occupy certain public offices). This intensity depended on their property status and, as a consequence, different degrees of participation in public life and disposal of public property (including incurring expenses for public needs). Noteworthy that the disintegration of the classical polis model is associated with the transition from the conscript model, when each soldier came with his own weapons corresponding to class or census, to the standardization of armaments and

their distribution at public expense. It gave way to the growth of the army, but destroyed the system of the status-intensity relation of the using of rights and privileges of the status and also created the basis for the formation of private armies (for example, Pericles' reforms in Athens or Caius Marius in Rome) (Gabba, 1976).

The work was the lot of slaves, whose activity was not creative and was exercised under coercion. It involved external control and application of measures of negative impact for the failure to comply or violation of established "above" the rules of the working order.

Labour was the privilege of free citizens, who have the right to choose the type and form of employment and to determine for themselves its terms and final results. Types of free labour were military activities carried out for the purpose of armed defence of the polis, sports and creativity in arts, one of the varieties of which is philosophy - "love of wisdom" expressed in various forms and traditions. It is important to remember that ancient philosophy was not a science in the modern sense. Ancient philosophers had no formal education, scientific degrees and ranks, there were no scientific specializations with the separated subject and methodology, there were no specialized institutions with educational and scientific activity. At the same time, there were schools of philosophy of antiquity, such as Plato's Academy, which paved the way to scientific schools of modernity. The key feature of these schools is the presence of the founder of this or that branch of knowledge, his students and pupils. The main pattern that characterized an ancient philosophical school was the existence of a cognitive tradition common to different generations of philosophers, which acts as a contextual link between different generations of thinkers.

Philosophy played a crucial role in restructuring the Weltanschauung (at least among the intellectuals of polis society) in the understanding of the state, its role and its place in the world. First of all, the natural philosophy of the Antiquity shows the transition from the teleological

consciousness of the temple age to the aetiological (Hubner, 2011) search for the prime origin. This search leads to the development of two other important features of the image of the state's formation in the polis mind. At first, it is historicity. The presence of cause and consequence necessarily presupposes the existence of the connecting process, that is, a historical process. Thus, the state does not exist for some purpose but for some cause. Its existence became an external and predetermined historic process. The idea of historicity gave rise to fatalism as a feature of ancient thought (Losev, 1988).

Simultaneously, the search for the primal cause of the physical world marked the transition from monism to pluralism in mind. Its extreme embodiment became the ultra-pluralism of Democritus of Abdera, who believed that every object corresponding to a primary cause (Reale & Antiseri, 1997). In the political sense, the combination of historicism and pluralism led to the recognition of the state forms diversity and their estimation in terms of consequentialism, especially in the ideas attributed to the sophists Gorgias and Callicles (Reale & Antiseri, 1997). From the standpoint of consequentialist ethics, the function of the state was not to maintain some ideal social order – of orthopraxis (which is impossible due to historicism and pluralism of such forms), but to provide the maximal "public good", the "good life" of the polis, which becomes the ideal function of the polis as a citizen-state according to Aristotle.

Nevertheless, with the emergence of the schools of Epicureans and especially Stoics, the basis of moral philosophy became "virtue ethics" or aretology, which opposes both the deontological morality intrinsic of the temple era mind and the consequentialism of sophists and naturophilosophers. The close connection between the moral code and the law, up to their unity, imamnent to deontology of temple consciousness (a classic example here is the norms of the Pentateuch) was replaced by the new concept of equality. Due to this pattern, the law may well not correspond to justice. So, Cicero (1994) in "De Legibus" justifies both logically and by examples the difference between *aequitas* (justice) and *lex* (positive law) (De Legibus, Book I, XV (42)). Thus, it can be argued that there was intrinsic to the polis mind separation of the abstractions of law as the embodiment of the virtue of justice and law as a set of actually existing norms and rules underpinned by the authority. The combination of deontology, aretology and consequentialism led to an understanding of crime close to the modern one, in which the violation of a formal norm (deontology), malicious intents (aretology) and criminal consequences (consequentialism) matter.

In the context of Kojève's ideal models, this search for the cause, i.e. appeal to the past, manifests that for antique thought, the ideal type of power was the power of the Father. This is clear in Aristotle's "Politics" (1983), where the family (and, accordingly, paternal power) is interpreted as the primal cause of the state (Politics, Book I, 6).

In the stratification of the political space, the polis-minded pluralism led to the recognition of the possibility of the other centres of the world existence. Such a view created the possibility for the formation of international law as a recognition of the "other" in international politics as a legitimate bearer of law. Nevertheless, apart from the world of equivalent centres of power, there was a world of "barbarians," which reflected the division of citizen - free alien - slave intrinsic to the polis consciousness.

Pax Christiana, Vector of History and Mystical Body of the Medieval and Early Modern State

The abovementioned problems of polis-minded interpretation of the state led to the formation of a different view, which was embodied in the Early Christian concept of state. It should be remembered that during a long and very eventful historical period, combining late antiquity, the

Middle Ages, and the Early Modernity, the organization of public authority had taken a variety of forms. Traditionally historiography is focused on the forms which have later developed into proto-national states. Other forms of social organization and public power - from the "imaginary super-community" of *Pax Christiana* and the Medieval Empire to non-territorial forms of spiritual and chivalric orders remained usually obscured by the shadows of "ideal forms" (Lachmann, 2000). Famous Marxist theorist Perry Andersen in his "Genealogy of the Absolutist State", mentions this problem. However, after that, he himself takes the historical development of England and France as an "ideal model" (Anderson, 2013). Of course, there are many studies devoted to different non-state forms of organization of public authority in the Middle Ages, such as Medieval city-states and their leagues (Scott, 2012; Praak, 2018) or spiritual-chivalric orders (Riley-Smith, 2002); however, they do not address the problem of the interrelation of different patterns of Medieval statehood.

Nevertheless, it is possible to distinguish common features for all these forms. At first, all of them could be described as based on personal power relations, defined as "feudalism". As has been shown in Russian historiography by Aaron Yakovlevich Gurevich (2007) and in Western historiography by Susan Reynolds (1994), feudalism should not be understood as relations of lend-owners, which were rather a rare case, but as a special myth of authority in which all power relations are thought of as based on kinship, being, most often, quasi-kinship. Such relations can be seen both in the feudal pyramid, which was essential to the classical feudal monarchy (relations of lord-vassal as father-son) and in city brotherhoods-corporations (where horizontal brotherhood relations were supplemented by hierarchical ones between "elder" and "younger" brothers). So was in the spiritual-chivalric orders with their knights-brothers and half-brothers as well as in the church, where monastic brother-

hood was structured in a hierarchical structure with the "holy father" - the pope - as the head.

The pluralism intrinsic to the ancient philosophy with its regard to cause-and-consequence relations was replaced by the dualism of spiritual and physical. This pattern was expressed in the concept of two cities developed by Aurelius Augustine. There were two organizational-administrative systems that were formed and coexisted in the conditions of the patrimonial-theosophical state. It was stated in a narrow sense (regnum, that is derived from rex - king) and confessional (church as a "master" of human souls). Social organization was considered in the context of the "two cities - of God and of the World" pattern. "The City of the World" unite people who put their own egoistic interests above spiritual. At the head of the City of the World stands "earthly" rulers, who, despite their "crowned" kingship and the status of "anointed by God", are subject to base passions no lesser than their subjects. The "City of God" gathers those who have devoted themselves to the Lord's ministry, for whom earthly life is but a moment on the road to the Apocalypse and Judgment Day. These people fully commit their lives to the Lord Jesus Christ.

However, rigid dualism would clash with principles of monotheism as the basis of Christian philosophy. This contradiction could lead to the danger of a rigid opposition between the spiritual and the physical, the secular and the temporal, intrinsic to medieval Gnostic heresies, of which the Cathars (Albigensians) were the most prominent representatives. Tools to solve this contradiction were outlined in the Early Christian texts by Melito of Sardis, Eusebius of Caesarea, and especially Paul Orosius. According to his arguments, the Divine Plan for the establishment of the Kingdom of God on Earth included the creation of a secular Empire (Tyulenev, 2005). Thus, the Christianization of the ruler became the Christianization of the Empire and the realization of the Divine plan by gradual convergence and

simultaneous extension of the City of God onto the City of the World.

Overcoming the dualism of spiritual and secular reflected the religious and dogmatic struggle of the age of the first Ecumenical Councils over the dual but inseparable nature of Jesus Christ. As a result of this struggle, Eastern and Western Christian traditions solved these questions in somewhat different ways. Long before the Great Schism of 1054, traditions diverged on a number of issues, including purely linguistic (using Latin and Greek), attitudes toward repentance and redemption, and secular authority. It is telling that the first apologetic father to write in Latin, Quintus Septimius Florence Tertullian, was simultaneously a practising lawyer. His perception of repentance as a judicial action and understanding sin as a crime and penance as punishment, along with his enmity towards state authority, formed the Western tradition basis (Preobrazhenskii, 2004).

Of course, it was a complex of reasons for the divergence between Eastern and Western Christianity in the understanding of the spiritual and the secular balance in the medieval state. Along with the ideological motives mentioned above, there were also purely practical ones. First of all, there was a "vacuum of power" in the West, which lasted at least until the consolidation of the Carolingian monarchy on the continent. In this situation, the leaders of the local communities were primarily bishops, while the bishop of Rome became a leader and defender of the all Christian world. Decisive for the development of such a role became pontificate of "strong" popes as Gregory I the Great and Leo I the Great (Gonsales, 2001). Simultaneously within the Eastern Church, the tradition of power was not interrupted despite the weakness of a couple of Emperors. As a result, the concept of "symphony" of secular and spiritual power was formed. However, it should be remembered that in practice, after the reign of the Iconoclast Emperors, the concept of "Symphonia" served more as a rhetorical justification for the Emperor's dominance

(Treadgold, 1998).

In the Western tradition, the concept of *rex-sacerdos* (king-priest) (Cunning, 1996) combined functions of spiritual and secular power in one person. As a result, Western kings acquired sacred features peculiar to the mythological mind, and the political struggle between church and secular power was conducted for the possession of the position of such a dualistic figure (Bloch, 1983). In particular, the ritual of anointing for kingship, common for France and England, was thought to confer on the king the properties of a priest and even of a saint - the ability to administer the sacraments, to heal the sickness, and so on (Duby, 1978).

The sacralization of the king's power led to another form of dualism - the formation of a political theology of the king's two bodies - a temporal human body and an eternal body of state (Kantorowicz, 1957). This doctrine laid the foundation for the subsequent accentuation of the abstraction of the state in Modernity and for the revolutions of the 17th and 18th centuries allowed to break the connection between the physical body of the king (which could be, among other things, executed) and the immaterial transcendental body of the state, which became embodied in the abstraction of the nation-state in the USA and France.

The Christian historical conceptions were a combination of aetiology (God as the primal cause of the Universe) and the existence of the Begining Point as an act of Creation and teleology (the end of time as the realization of the Divine Plan for the establishment of the City of God on Earth). The Divine plan implementation was predetermined and not dependent on the will of people. This thesis found an idea of society's current existence as an intermediate, transient one. The goal of society's existence became the achievement of the final point, which, however, was inevitable. This gave birth to the interpretation of the City of World as a "restraining" power, whose purpose was not to establish the Kingdom of God but to prevent the transforma-

tion of the City of World into the earthly subdivision of Hell. This doctrine, set forth by St. Augustine and based on his intrinsic negative anthropology (man is sinful by nature, and any deed of his free will leads to sin) (Augustine, 2009), was developed by John of Salisbury in his "Polycraticus" (1990). According to it, the function of the State was thus to maintain the present state of things (since the attainment of the Kingdom of God did not, in fact, depend on it) and to counteract evil. So, the main feature of the state became a punitive apparatus. This idea was established in the concept of "two swords" - spiritual and secular - already formed during the reign of Charlemagne and corresponding, in Kojève's terms, to the pure type of Lord, as directed to the present and associated with risk and violence.

From the spatial point of view, the Christian oikoumene had no limits since it potentially occupied the entire Universe. Such imagination could lead to both the expansionist policy of spreading the Christian state and the recognition of the equality of all subjects of international law, regardless of their confessional affiliation, since all are created by God equally, and all are potential Christians. A striking example of the birth of international law as a recognition of the equality of subjects was the treatise of Paul Włodkowitz, a Kraków professor and doctor of law in the early fifteenth century. He argued in "Tractatus de potestate papae et imperatoris respectu infidelium" and in his speech at the Council of Constance that rights to his land of any lawful sovereigns, regardless of whether they were Christians or pagans, are equal (Prokhorenkov, 2015). Similarly, in the sixteenth century, a Dominican friar Bartolome de las Casas (1968), in his treatise on the History of the Indies, justified the legitimacy of the Inca Empire and of their emperor, Montezuma, and interpreted Fernando de Cortés's war against the Incas as violating international law.

The change of the Weltanschauung paradigm at the turn of the Middle Ages and Early Modernity was complex. The formation of Renaissance

monarchies and early Absolutism, expressed in the maxim *Rex in Regno suo imperator est*, was accompanied by a "Copernican revolution" in consciousness (Khun, 1992). On this ground was created "social Copernicanism" - absolutist ideas of political space, with the le Roi Soleil (The Sun-king) in its centre and all other subjects as planets turning around him (Yates, 1991).

There were a couple of conclusions from this hypothesis. They played a huge role in the formation of modern ideas about the state and the law. Firstly, the king became the only source of law and rights. Others could only be the bearers of the rights granted to them by the king, just as the planets do not possess their own light but reflect the light of the Sun. Secondly, the hierarchy pyramid of the Middle Ages was destroyed. From the absolutist point of view, the king - the living God on Earth - so much higher than everyone else that the difference between a Duke and a peasant is extremely negligible to him. Not for nothing was the graphic symbol of absolutism, as Drayton wrote, a circle, where the king is the centre and the equidistant points on the circle are the subjects (Hart, 1994).

The scheme created a potential bifurcation, as one could move from it both toward the idea of equal rights for all and toward equal deprivation of rights. The parallel spread of Protestant theology with its desire for the dematerialization and deanthropomorphism of God automatically led to the deanthropomorphism and desacralization of the political sacred. In the Medieval paradigm, the physical body of the king was the focal point of the material world in which the sacred body of the state was manifested in the greatest concentration (as a metaphor, we can compare such a representation to the relationship between the images and God in the Medieval church). But in Modernity, these bodies were separated. The political theology of Protestantism deprived the body of the state of its personification. Similar to a Protestant thesis that the Pope could not speak for the Church and interpret Scripture, so the king could not be a "secular pope" speaking for

the state and interpreting the common law. The only worthy receptacle for the sacred body of the state became the equally transcendent body of the nation, as manifested in 1778 in the famous formula of the U.S. Declaration of Independence "We the People of the United States of America...", which became a new version of the traditional formula "We, George the Third, by the grace of God King of Great Britain, France and Ireland...".

Conclusion

The separation of science as a system of structured, rational cognition occurred during the Enlightenment. One of the postulates of the era was the proclamation of the right to freedom of conscience and religion and the ensuing sepa-ration of church and secular state. Since that peri-od, the sphere of state and church activities have been separated into independent fields of social activity, in which science and religion share the same object - the world - but cognize it with the help of different methodologies. Scientific me-thodology is based on experiments, causal logic, and rational argumentation. Religious methodlo-gy operates with notions of the miracle of divine creation and transformation of the universe, as well as dogmas based not on rational argumenta-tion but on faith and Revelation. The scientific attitude towards philosophy is twofold. On the one hand, philosophy appears as an independent group of social sciences (09.00.00 - Philosophi-cal sciences); on the other hand, it is seen as a structural and functional element of non-philoso-phical sciences with "philosophical component" (philosophy of law, philosophy of culture, philo-sophy of politics etc.). Consideration of philoso-phy as a separate system of philosophical sci-ences presupposes that the *object* of philosophi-cal cognition is singled out. According to I. A. Aseyeva (n.d.), the object of philosophy as the science is the cognitive process itself, or rather the social relations arising in the sphere of cogni-tive activity, evaluation of its results, 'inclusion'

of cognition system in the dynamics of human civilization development. Philosophy as a science "cognizes the world from the side of its essence and universal laws of existence and de-velopment" (Erakhtin, 2016). Considering phi-losophy in relation to other social sciences, we should use the subject field of cognition. It turns out that for philosophy as a science, the law is an element of the object of scientific-philosophical cognition, a part of the world of human civiliza-tion studied in the context of "the world's as a whole". If we talk about the philosophy of law as a part of the system of legal sciences, legal cate-gories should be considered as a subject area of cognitive activity, where philosophy will be in-volved primarily in terms of the methodology of cognition of law as a socio-cultural phenomenon, as well as legal technique of law-making and law-enforcement activity.

Acknowledgement

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