Published by the decision of the Scientific Council
of Khachatur Abovian
Armenian State Pedagogical University

Department of Philosophy and Logic
named after Academician Georg Brutian

W I S D O M

Special Issue 1(1), 2021
PHILOSOPHY OF LAW

WISDOM is covered in Clarivate Analytics' Emerging Sources Citation Index service

YEREVAN – 2021

DOI: 10.24234/wisdom.v1i1.682
Oleg ZIBOROV,
Natalja MEDUSHEVSKAYA,
Konstantin SIGALOV

THE SOCIOCULTURAL CONTEXT IN LAW: MODERNISM - POSTMODERNISM - METAMODERNISM

Abstract

This article analyses the socio-cultural aspects of modern law in terms of philosophical and legal analysis and in the context of the changes that take place in the culture of the 19th-21st centuries. The objective of this work is to identify the discourse of today's cultural strategies and their reflection in law and legal culture.

The article uses an arsenal of methodological tools of philosophical and legal analysis, a cultural methodology through which the values of modern society are revealed, as well as a methodology of historical and philosophical research.

The main result of the work is to establish that modern law cannot be understood outside and regardless of its contextuality, as well as in accordance with the cultural logic and peculiarities of civilisational development in the context of globalisation.

The main conclusion of the article is that the emergence of post-postcapitalism and the deepening of the consumer society result in a crisis of law and its excessive bureaucratisation and formalisation. The emerging cultural logic of metamodernism refers to such concepts as "structure of feeling", "oscillation", "communication", "post-truth", "totality" in order to restore the subject-orientation of law and give anthropological substance to the traditional concepts of "human dignity", "freedom" and "justice".

Keywords: modernism, postmodernism, metamodernism, structure of feeling, oscillation, post-nonclassical legal understanding, irrational.

Introduction

Today, modern legal science has various types of understanding of the law that can be combined into post-nonclassical legal understanding; however, what mainly unites them is the understanding of law as a means of regulating and transforming social changes, a means that contributes to the development of law. It is unlikely that there will be researchers who will deny the centrality of law in the modern social reality; it is therefore not surprising that most studies in modern moral theory, philosophy of politics and economics, social philosophy in one way or another concern law, consider its aspects, nature and interaction with various spheres of social life.

In its turn, philosophy of law refers primarily to analysis of the nature of law, its sense and meaning, considering it in a socio-cultural context, factoring in the pluralism and multifactor nature of legal reality analysis. Philosophy of law refers to the axiological consideration of law, its values, ideals, archetypes, and influence on the formation of the modern way of life and thinking. Taking into account the inclusion of law and legal culture in the general grid of social coordinates, we refer to the analysis of those developments that take place in the understanding of the law, its role and meaning in the cultural

logic that has been formed over the past and present centuries. V. P. Malakhov (2019) writes: "The philosophy of law discusses what kind of law we can generally have, what kind of law (real, formal or abstract) is possible" (p. 4).

The emergence of a postmodern understanding of the law is associated with:

1. the total influence of the State on all aspects of an individual's life, the strengthening of bureaucratic structures that control all his/her actions, thereby reducing his/her freedom and ability to make decisions independently;
2. the ongoing globalisation processes in economic, political, and cultural life that are leading to the levelling of national feelings, moods and values of subjects.

As R. Wacks notes, the postmodern concept of society "has also witnessed a new pragmatism. A down-to-earth set of goals (economic, ecological, political) is accompanied by the advocacy of a more inclusive community that emphasises the special predicament of women, minorities, the dispossessed, and the poor" (Wacks, 2020, pp. 154-155). Dissatisfaction with the postmodern concept has led a number of researchers to analyse the changes that have occurred in the world and culture; therefore, the new cultural strategy of metamodernism, although it has not yet become an established social theory, demonstrates those overdue changes that require reflection, analysis, and evaluation.

Problems of Law in the Modern Era

In the modern philosophical literature, the beginning of the Age of Enlightenment is usually associated with the advent of the modern era that is marked by the establishment of classical scientific rationality with the subject-object opposetion, the dominance of one truth, monologism, and orientation primarily towards the development of natural sciences. But already, the second half of the 19th century witnessed a radical separation of natural and socio-human sciences and a methodology of socio-humanitarian cognition where the subject is not eliminated from the cognitive activity. In addition to natural scientific rationality, there is also socio-humanitarian rationality that is understood by S. A. Lebedev (2020) as "a set of methodological requirements that should be met by socio-humanitarian scientific knowledge, socio-value objectivity, reflexivity, systematicity, cultural feasibility, adaptive utility, openness to criticism, the possibility of change" (p. 38).

The new scientific rationality is not limited to the inclusion of the subject in cognitive activities. Its gnoseological aspects expand due to ontological components. This is first due to a reference to the irrational, the idea of which was not new in the history of socio-humanitarian cognition. In fact, at the beginning of the modern era, researchers begin referring to it, albeit timidly and inconsistently, but persistently.

The socio-cultural aspect of the scientific consideration of such a spiritual phenomenon as "law" begins precisely with the modern era. This is due to the beginning of the paradigm that the sciences of spirit are not identical to those of nature, and spiritual phenomena include special human relations reflecting the development of culture itself with its semioticity, the necessity not so much for an explanation as for understanding in order to identify senses, determine mental attitudes that arise slowly against the background of historical, economic, and political events.

In the 18th century, B. Pascal, and in the first half of the 19th century, S. Kierkegaard referred to the irrational world of humans. But in those days, these concepts were not widely used, appeared more like crankery, and did not correspond to the spirit of the times. The optimism of the Age of Enlightenment is gradually replaced by doubts about the omnipotence of the mind that can supposedly make a person happy and solve all life's problems. It turns out that science is not able to solve the contradictions that permeate the social life of the 19th century, and most importantly, science does not clarify the meaning of life and is not able to eradicate vice, crime,

and poverty. It is dissociated from human beings and their daily world. Dissatisfaction with science and its inability to give human life meaning shifted the attention of many scientists to irrationalism.

But this was not the only reason for the search for new philosophical strategies. The third scientific revolution led to fundamental discoveries and the appearance of new branches of natural science that were not only moving humanity far forward in the knowledge of nature but also opening new areas in the practical activities of man that put him on the verge of death. Already during the First World War, it became clear that science could be used both for good and bad causes, for the mass destruction of humanity and its culture. Already at the beginning of the 20th century, such factors as toxic gases, bombings of peaceful cities and senseless victims forced a number of philosophers to talk about the death of civilisation. Irrational, mystical ideas about the world became prevalent, while astrology, magic, and occultism reappeared and complemented our knowledge of the world obtained in an irrational way.

The formation of scientism and anti-scientism, irrationalism, and their opposition gain development and rationalisation in the philosophical concepts by A. Schopenhauer, F. Nietzsche, A. Bergson, N. O. Lossky, O. Spengler and others. A huge contribution to the introduction to the theoretical discourse of the unconscious was made by S. Freud: "With his epochal insight into the unconscious determinants of human experience, Freud took his rightful place in the Copernican lineage of modern thought that progressively relativised the status of the human being. And again, like Copernicus and like Kant but on an altogether new level, Freud brought the fundamental recognition that the apparent reality of the objective world was being unconsciously determined by the condition of the subject" (Tarnas, 1995, p. 358).

A reference to the extra-rational is an urgent attempt to reveal the multidimensional nature of the subject whose being does not fit into the narrow framework of rationalism. In this regard, one cannot disagree with the statement by S. A. Lebedev that an important pattern of the development of socio-human sciences is a "reflexive and emotionally expressive nature of discourse" (2020, p. 241).

In the Russian legal science of the beginning of the 20th century, the necessity of taking into account the extra-rational aspects of law was described by B. A. Kistyakovski and L. I. Petrażycki. The latter writes: "The content of the science of law, along with the issues it gives rise to and the solutions devised in the attempt to address them, appears to be an optical illusion consisting in the following: It does not see legal phenmena where they actually take place, and it sees them where they in no way are, nor can they be found, observed, and known, i.e., in the world external to him who experiences the legal phenomena" (Petrażycki, 1907, p. 22). The author refers to legal experiences that are plain to see but should be attributed to a real existing legal being. Even P. I. Novgorodtsev is no stranger to the influence of irrationalism in law, although he was a supporter and admirer of I. Kant's metaphysics. "Based on Kant's ethics and by criticising the costs of rationalism, it will be more accurate to say that Novgorodtsev follows the path of defending irrationalism" (Zhukov, 2018, p. 82). As a supporter of revived natural law, the Russian thinker kept guard over an individual person who cannot be understood from the point of view of enlightenment logic with its cult of reason and rationality in general.

There is no denying the fact that a significant part of the behaviour that should be regulated by law is sometimes coloured with very strong emotions, experiences, worries, and stresses. In Russia, this emotional aspect in law and legal consciousness found its expression, for example, in sympathy for robbers who were forced to hide in the forests and live in inhuman conditions away from their families and loved ones. Ballads about the robbers and the tragedy of their situation

were widespread during the medieval period of Russian culture. They are devoted to moral issues and glorify courage and power, freemen and the desire for truth as a characteristic of the Russian people. In the robber songs, criminals are justified since they are isolated from their families and are under the constant threat of impending severe punishments. But the bush telegraph does not condemn them; on the contrary, they are considered fighters against inequality and injustice, spontaneous rebels who find support from the people. "The emotional tone of many robber songs is daring and bright, a person dies with his newfound will: "they rowed and sang their funny songs". This fun comes from immoderate freedom without any bonds" (Medushevskaya, 2017, pp. 451-458).

The adventure genre has always been characteristic of Western thought, but at a certain stage, the vector of activities of a part of picaros changed, a positive adventurer appeared, i.e., a fighter against injustice, sometimes a private detective, or even an old pensioner (Hercule Poirot, Sherlock Holmes, Miss Marple). They fight against criminals, shame negligent official servants of the law, and snipe at short-witted ordinary people (Sigalov, 2014, pp. 11-14, 2018, pp. 1688-1695).

Returning to the topic of emotions in law, we note that confidence in considering law as a fortress of the reason is shattered in the modern era. And this issue concerns the emotionality of not only ordinary legal consciousness but also the professional. So, legal procedure is all imbued with emotionality.

The irrational may include imagination, emotions, intuition, and fantasy. Beginning from the modern era, the inclusion of the irrational in cognition has led to the creation of new methodlogical strategies for considering law and legal phenomena. Hermeneutic and phenomenological methodologies arose during this era and actually focused scientific cognition on the study of extra-rational aspects of human legal beings.

Legal gnoseology emphasises that forms of extra-rational cognition of law promote concentration, undivided attention, determination, and quick reaction. This does not downplay the importance of rational cognition of law since we cannot rely, for example, on extra-rational intuition. However, the fact that it can contribute to a faster solution is difficult to question.

R. Posner (2020) notes that "a solution is a form of action, but no action is possible without emotions" (p. 246). If we project this thesis on the Russian reality, we can clearly argue that the low level of legal culture of the population of this country, the lack of developed legal experience, or the solution of emerging problems in an adequate legal way, the low level of legal worldview are all factors that contribute to an increase in emotionality in the legal response. Moreover, this method of dealing with legal situations demonstrates a more primitive practical action. We can also pay attention to the fact that the level of education is sometimes not a guarantee of legal action at all. And the fact that an extra-rational action can lead to a wrong move does not determine the focus on forming one's own legal responsibility, studying legal norms and legislative acts, as well as on raising the level of one's legal culture. It is difficult to disagree with the following thesis by R. Posner (2020): "In general, law recognises that emotionality is an aspect of human behaviour, but its reaction to this fact is determined by the goals of specific laws applicable to specific situations, and not by a general opinion about whether emotion is good or bad" (p. 249).

In this context, R. Posner's article "Utilitarianism, Economics, and Legal Theory" (1979, pp. 103-140), in which the author defends and gives reasons for his wealth-maximisation theory, is noteworthy. On the one hand, the author analyses the differences between norm-ative and positive analysis, and on the other, formulates a preference criterion between ethical theories (Kolosov & Sigalov, 2020, p. 33).

The Cultural Strategy of Postmodernism. The Influence of Postmodernism on Law

In the second half of the 20th century, nonclassical rationality is replaced by post-nonclassical scientific rationality that postulates the following principles in legal theory:

1. subject orientation with due regard to the everyday world and communication;
2. interdisciplinary and involvement of a wide conceptual framework in legal research;
3. dialogism and multidimensionality of the legal being;
4. pluralism of truths that is based on the impossibility of simultaneously covering all various aspects of legal reality;
5. contextuality, i.e., the interaction of legal phenomena with other forms of spiritual mastery of the world (for example, with the aesthetic mastery of reality) (Medushevskaya, 2018, pp. 33-40).

The image of culture changes, and even if it generally retains its traditionality, those artefacts, traditions, models and patterns of behaviour, forms of sociality that penetrate into this national culture from the outside are gradually interspersed with it and begin to influence it. Thus, the change in the cultural paradigm of modernism after World War II led to the formation of a new one – postmodern logic. As a result, these changes influenced those in the legal life of society. It was the uncertainty and relativisation of cultural values, norms, schemes that led to the erosion of normality, which affected not only the aesthetic and moral spheres but also the legal one.

In the community of law theorists, disputes over the relationship of legal and moral norms have led to long discussions. In our opinion, the connection between them is obvious. Therefore, the deformation of traditional morality, the expansion of the scope of the permissible, fragility and smoothing, and the identification of the permissible with the impermissible have prompted the transformation of legal norms, the displacement of the legal and the illegal up to their substitution. The effectiveness criterion for a legal norm is determined not by certain metaphysical reasons but by political will and ideology, scientific, technical, and technological knowledge. In this regard, L. Turner (2011) notes: "The cyberpunk world can be considered a projection into the future of negative forms of a combination of technology and political interest".

In addition to the uncertainty in postmodern law, the ontologisation of the irrational is also felt there. There is no place for irrationality in classical law. It is believed that one of the most important functions of law is minimisation, and it is better to exclude any irrationality that may include intuitiveness, emotionality, and fantasy. But when we refer to the gnoseological side of the irrational, we have to state that emotions, faith, fantasy, insight are also important forms of cognition. However, postmodernism is not limited exclusively to the cognitive approach. On the one hand, irrationality in law leads to the necessity of taking into account its expressions and manifestations in the activities of judges, jurors, prosecutors, or internal affairs authorities. On the other hand, it can not only "clarify" the mind but also have an effect in the opposite direction when subjects are guided in their actions not by law but by emotions, internal beliefs, faith, or ideas about justice. R. A. Posner rightly raises five questions that arise in the legal system in connection with the reaction of law to emotionality:

1. What is the impact on the legal evaluation of an offence when it is caused by emotions?
2. Should law take into account and use emotions?
3. How should law enforcement officers feel from an emotional point of view?
4. How can an adequate emotional state be formed for such officers?
5. How can law prevent the superiority of emotions during legal proceedings (Posner, 2020, p. 245)?

In this article, the authors do not seek to answer the questions. This is primarily about the

fact that the problem of the irrational in law is evolving from the cognitive plane to the ontological one, thereby prompting legal theorists to refer to issues posed by postmodern culture.

As noted above, the decline and degradation of normality, whether moral, legal or political, becomes a significant aspect of postmodern culture. Regulatory systems are pluralised until they confront each other, bringing legal reality to a state of entropy. At that, the chaotisation of legal systems is most often decorated with statements and calls for justice and freedom, limited violence, and absolutised tolerance. But chaos does not contribute to freedom; moreover, it leads to the triumph of formal freedom or arbitrariness.

In law, such principles can contribute to its deanthropologisation, the transformation of man into an object of manipulation, which is incompatible with a true understanding of justice and freedom. People living in a world of simulacrum become themselves simulacra, plunging into the imaginary world of post-truth, becoming a means of achieving political goals, an object manipulated by political elites. Their civic activities are fully regulated. Such individuals are immersed in a "virtual" political world far from reality or avoid active involvement in the political sphere and do not enjoy their electoral rights.

The emphasis on post-truth is a reference to the extra-rational in humans, to speculations on their emotionality, affectivity and gregariousness. Voters are transformed into obedient robots that are open to catchy slogans, calls, and vivid but hardly achievable promises. Skillfully replacing the internal content with external forms, the ideologists of political parties create myths that, due to their catchiness and imagination, seize voters with utopism, impulsiveness, and passion. Sam Browse notes about political shows: "In the thick of events, politicians use experts to make their political strategies more convincing, but not at all to get to the truth and understand what the best political strategy for people for whom laws are actually written" (Akker, 2019, p. 403) is.

Postmodernism is a continuation of modernism, but with some aspects associated with the post-postcapitalism era. The fragmentation and inconsistency in the evaluation and fixation of reality were noted above; it is therefore not surprising that these fragments should be evaluated in a certain way that is denoted by postmodernists as a "discourse". J.-F. Lyotard (2016) writes that "true knowledge is always indirect knowledge; it is composed of reported statements that are incorporated into the metanarrative of a subject that guarantees their legitimacy" (p. 86). Therefore, the philosopher concludes that such knowledge is embedded in all discourses, even if "the same thing applies for every variety of discourse, even if it is not a discourse of learning; examples are the discourse of law and that of the State" (p. 87).

The presence of different discourses inevitably leads to the conclusion that there is no classical understanding of truth. Each fragment has its own discourse; therefore, the truth is fragmentary, multiple, and heterogeneous. Knowledge is not universal, but the cognoscible reality itself is multidimensional, multifaceted, and multifarious.

J.-F. Lyotard links the emergence of postmodernism with the development of information societies, and it is a reflection of those socio-economic, political, and everyday living conditions of people. "In the form of an informational commodity indispensable to productive power, knowledge is already, and will continue to be, a major, perhaps the major, stake in the worldwide competition for power", the philosopher writes (Lyotard, 2016, p. 20). Therefore, a struggle for information awareness determines new political, economic, and legal strategies. Therefore, we will highlight those points in postmodernism that may be relevant to modern law.

Firstly, postmodernism states the existence of the surrounding legal reality independently and separately from legal consciousness. The essence of legal reality is hidden from us, and our legal consciousness reflects only what we see, i.e., legal phenomena. Totality is characteristic of mo-

dernism, and it is a result of the activity of the Logos. But if the world is virtualised, it becomes open to all kinds of myths. Well-known myths in legal reality are those of justice, freedom, or natural human rights. An equally common myth is that of civil society or equality. The latter proceeds from the equality of all system elements and is something unattainable, an illusion, a "captivating" delusion. When ideologists promise to create a society of abundance, it is also a myth since contradictions must be overcome and conflicts eliminated in the promised society. But that is impossible, just as a society without crime is impossible. In this regard, M. Foucault notes that good penal policy does not aim for the extinction of crime, since in this case, it will not be needed anymore. These and those mythologems are insistently imposed by the media, political ideologists, and scientists.

This is the second point to which we would like to pay attention.

Secondly, being an atomised and isolated subject, a person is overwhelmed by a "sincere belief in consumption". But consumption is preceded by production, distribution, and all this requires strict organisation, formalisation, and management. A consequence of these intentions is the strengthening of the bureaucratic apparatus and its power, the formalisation of law, which further makes the consumer a means of manipulation and deprives him/her of subjectivity. And then, it becomes clear that the whole modern bureaucratic machine, this new Leviathan, is reasonable, necessary, and appropriate. At that, the beginning of this process traces back to modernism, in connection with which F. Jameson (2019) writes that modernists and their idea of "anti-capitalism" "ends up laying the basis for the "total" bureaucratic organisation and control of late capitalism..." (pp. 183-184).

Since the end of the 19th century, P. I. Novgorodtsev consistently criticized those social theories that are not based on spiritual foundations (and in this sense, he acted as a critic of positivism, who always negatively perceived and rejected the value and metaphysical foundations of law). He considered fruitless dreams of an earthly paradise, general prosperity and harmony, of a kind of God's city on Earth, considering these searches utopian and useless. And even more so, he did not associate the happiness of the individual with consumption. This idea arose much later with the formation of the modern consumer society. And if a person's happiness is not in spiritual but material values, then, consequently, to manage this entire growing mass of manufactured products, there must be a certain apparatus, and the entire bureaucratic system must be improved.

The atomisation and transformation of a subject into an object of manipulation allowed postmodernists to proclaim "the death of the subject", "which inevitably shifts the accents from the single to the universal. Moving away from concentration on the inner world of an individual, philosophy should turn to multiplicity – an impersonal and averaged "something" of linkedness in the conditions of a total information society. And it is the language that becomes such a linking element" (Malinovskaya, 2009, p. 83).

Thirdly. Imaginary reality requires its manifestation, which is reflected in the concept of simulacrum introduced in postmodernism. In the treatise "Simulacra and Simulation" by J. Baudrillard, simulacra represents reality, but it is, in fact, a phantom, fiction, fantasy. It is a figment of imagination. "The simulacrum has no roots," writes the philosopher, "it is disconnected from the traditional order of representation" (Khaustov, 2020, p. 133).

The word "simulacrum" means that an individual does not live in a real world but in an imaginary world where reality is "written" in disappearing inks, leaving barely visible traces. Due to networks, a person is immersed in a fictional hyperreality that may have nothing to do with reality. Our legal consciousness that is formed in the field of simulacra becomes increasingly hypnotisable and mystified under the influence of reality shows, ideologies, and mythologems. In law,

individuals do not seek regulation of their actions or a scheme of actions in the legal field, but a hidden meaning and scheme of actions in accordance with their expectations.

The fifth point. J. Derrida introduces the concept of deconstruction to denote deceptiveness, illusory, fragmentation of the world. Therefore, deconstruction is primarily aimed at destroying the integrity and creating conditions for its degradation. In law, this cultural logic manifests itself in referring to the mental grounds, traditions and customs, national characteristics of legal systems in order to stand against the uniformity of the globalised world. "For example, to take customs and make their use possible, to give greater discretion to subjects of legal relations by limiting the expansion of their regulation. Or, for example, to clearly determine the boundaries between a public-law and private-law regulation by empowering the latter. In general, the methods of extra-legal regulation should be studied more carefully" (Medushevskaya, 2021, p. 40).

Postmodern thinking is metaphorical, and in this discourse, we see echoes of the influence of modernism by F. Nietzsche, where researchers come to ambivalent conclusions. The metaphor of the rhizome, a certain root system located outside of external observation and obviousness, leads us to at least two conclusions: first, the rhizome has no centre, no integrity, no power, and everything is both primary and secondary at the same time. Second, the rhizome grows on a specific type of soil, in a specific climate, being zoned. Therefore, the introduction of the concept of rhizome underlines the necessity of giving credence to ancestral voices, traditions, rules, and recommendations of customary law to preserve their national and public fundamentals, despite the need to interact with other elements. "Rhizomatic thinking is variable, unstable, mobile, and nonlinear, relative" (Medushevskaya, 2021, p. 41).

Sixth. For postmodernists, sense-making passes through the irrational, affective, and emotional-willing. Therefore, postmodernism tends towards anti-scientism. J.-F. Lyotard, therefore, writes that true knowledge is always "indirect knowledge; it is composed of reported statements that are incorporated into the metanarrative of a subject that guarantees their legitimacy. The same applies for every variety of discourse, even if it is not a discourse of learning; examples are the discourse of law and that of the State" (Lyotard, 2016, p. 86-87).

Therefore, the postmodern worldview, as a continuation and modification of modernism, has led man to deep doubts about the integrity of the world, the rational understanding of the world order that has been approved in metaphysics, starting from Ancient Greece. But after losing faith in the totality of the world and its absolutes, humanity has also lost the support, reliability, and thoroughness that existed before. Scientific knowledge is actually hypothetical; all our knowledge will sooner or later be questioned and falsified (K. Popper). Our knowledge is deeply relative, fragmentary, and variable. The state of postmodernism is characterised by quintessential vagueness, multidimensionality, and baselessness. On the other hand, the postmodern discourse has raised the critical question of the fragility of human existence, the search for new senses, the need to turn to the human in the broadest aspect. Postmodernism is as paradoxical as the world in which we live. However, one cannot but pay tribute to this discourse, which turns us to the social world, where a person is not a sand grain lost in a huge universe, but a creator with his/her individual interests, motives, mental and spiritual experiences, passions, and emotions. The separation of the world of law from an individual is hostile to him/her, causes his/her alienation and destroys his/her identity. One cannot, therefore, disagree with I. L. Chestnov (2020), who writes that... "the post-classical approach gives practical substance to legal dogmatics and forms a much more adequate idea of such a complex and multidimensional phenomenon as law. Not denying the importance of dogmatic jurisprudence, he argues the necessity of supplementing the ap-

proach traditional for domestic legal science with a new, post-classical dimension of law" (p. 89).

Since the end of the 20th century, there have been changes in the development of capitalism accompanied by the emergence of a new cultural strategy, the symptoms of which remain extremely uncertain and vague. All the means of the digital age are aimed at doubling the world, i.e., the creation of a virtual symbolic world in contrast to the obvious and real one. The mystification and mythologisation of the world are enhanced by the improved technical facilities when a person no longer distinguishes the real world from the fictional one. Serving this effect are shopped photos, plastic surgery, advertising, films, and performing arts that virtualise the world beyond recognition.

Together with the development of consumption, differentiation is also increased due to different consumption opportunities. J. Baudrillard (2020) states that "faith in consumption is a new element; the rising generations are now inheritors: they no longer merely inherit goods, but *the natural right* to abundance" (p. 21). From now onwards, skills and abilities, competencies and spiritual development are not assessed as a way to achieve success, the criterion of which is the number of objects consumed.

Summing up the brief description of the social situation at the end of the past century and at the beginning of this one, we note that the financial crisis, social inequality, economic instability (including employment), increased social inequality, environmental crisis and demographic distortions (due to unregulated flows of immigration), instability and insecurity of the future, dissatisfaction with globalisation and destroyed traditional values, widespread irreligion and a lack of higher ideals have led to a new cycle in culture, of which law is a part.

Metamodernism and Law

In 2010, the essay by T. Vermeulen and R. van den Akker "Notes on Metamodernism", introduces the term "metamodernism" that has become a manifesto of the new cultural paradigm and is mainly aesthetic in nature. It notes that the modern world is witness to the rapidly growing problems previously unknown to humanity, such as unregulated immigration faced by post-industrial countries that are no longer able to cope with it. This is also globalisation in both economic and cultural ways, which is causing an increase in legal trends and parties and a breakdown in old neoliberal ideas and ideologies. This is also a convulsive effort to preserve the identity of nations, especially under the influence of, literally, the outbreak of Islam. The feeling of an unfairly arranged world, a world of declarative equal opportunities, leads to the radicalisation of young people.

At that, they note the neo-romantic aspect of the new post-post-capitalism era, its sincerity, unlike the cynicism and irony of the previous culture. The authors highlight the following features of the new cultural approach:

1. metamodernism fixes permanent oscillations between modernism and postmodernism;
2. the term reflects the neo-romantic turn primarily in the aesthetics and culture of the beginning of the 21st century;
3. this is a new turn in the historical being of the modern world that covers not only art but also politics and economics;
4. a specific property of metamodernism is the orientation towards revealing "the structure of feeling". The scientists write: "As we have defined it, metamodernism has become the dominant cultural logic of Western capitalist societies" (Akker, 2019, pp. 45-46). Generally, an inextricable link between culture and the social system is declared, and metamodernism actually becomes the cultural logic of globalisation and post-post-capitalism.

We hasten to add that metamodernism is still a very vague, fragile, and uncertain platform. The authors do not claim that their cultural logic is comprehensive and fully developed. But philosophy is significant with the effect that, due to its

heuristic function, it catches even more implicit, only emerging changes in cultural strategies.

R. Williams, a Western literary and cultural theorist, first introduces the concept of "structure of feeling" that is later widely used and analysed by F. Jameson. His interpretation turns out to be quite productive for meta-modernists, despite all the uncertainty and vagueness of this concept. A. V. Morozov (2019) notes: "so, metamodernism is between sincere enthusiasm, depth or fullness of modernism, on the one hand, and indifferent irony, superficiality or triviality of postmodernism, on the other, without generally cancelling modernism and postmodernism, but only pushing them into the background just as the movement of a pendulum distracts us from our extreme points" (p. 241).

As applicable to law, "the structure of feeling" can be understood as an emotional-affective reception of shared social experience. The excessive bureaucratisation and formalisation of modern law lead metamodern theorists to the necessity of referring to the inner world of an individual with his/her perception of the legal and illegal, permissible and impermissible, legitimate and illegitimate, thereby carrying out a kind of subjectivation of law with due regard to the communicative structures of collective legal experience. Immersed in the hidden world of the unconscious, meta-modernists emphasise the limitations of rationality as it does not contribute to easily comprehending the extra-rational perception of reality.

Formalisation of law sometimes seems to be its main advantage, and it is difficult to argue with this fact. The greatest victory of the theory and practice of jurisprudence is the ability to create normality that goes beyond the individual and becomes unconditional in this sense. On the other hand, modern man lives in a condition of alienation and defenselessness. It is no coincidence that N. Timmer emphasises the radicalisation of defenselessness that "could become one of the defining aspects of affect-based sensuality in postmodern literature, arts, theory, and life itself" (Timmer, as cited in Akker, 2019, p. 284). A defenceless person is passive; he/she is lost in the rapidly changing world and loses his/her reference points, roots, traditions, and the spirit of the people. It is no wonder, then, that V. Zorkin (2019), in his lecture at the 9th St. Petersburg International Legal Forum, notes that: "The doctrine of national identity has become a response to the challenges of postmodern law, which is called differently in different legal systems, but at its core reduces to the realisation of the significance of a value-normative foundation of the constitutional system of a certain state" (p. 5).

Metamodernism is a permanent oscillation between modernism and postmodernism. In this regard, L. Turner (2011) writes: "metamodernism should be defined as a changeable state between and outside of irony and sincerity, naivety and awareness, relativism and truth, optimism and doubt, in search of the multiplicity of disparate and elusive horizons. We must move forward and oscillate!".

The content of modern integrative legal understanding has been changed as a result of the oscillation between modernism and postmodernism. The value field of the integrative legal approach is filled with traditional legal values, but meaningful in the context of the present time: "such values as *personal dignity and justice are in the first place in the hierarchy of values*. In addition, they include *freedom and equality"* (Marchenko, Ershov, & Ershova, 2019, p. 279).

Oscillation is always "in-between". It includes permanent fluctuations, searches, negations, and statements: between traditionalism and technogenicity, between virtualisation and perceptible reliability. A person in search of him/herself, confidence, stability, his/her roots and foundations, he/she tries to find ways to him/herself in action, communication, cooperation, he/she is tired of postmodern uncertainty and chaos.

Metamodernism tries to overcome the extreme relativisation characteristic of postmodernism when the traditional meaning of such con-

cepts as "justice", "truth", and "freedom" disappears. In the real world and in a platonic way, these concepts turn into an untrue being when they themselves as ideas become unattainable and distant ideals.

V. D. Zorkin notes that metamodernist philosophy seeks to overcome Eurocentrism in the understanding of legal values, which is a legacy of the modern era. As known, one extreme, the dominant of Eurocentrist principles, is transformed into another one – postmodern cynicism with its chaotisation of life, degradation of values and going beyond the established normative attitudes and traditions. According to the scientist, metamodernism implies a broader approach to understanding the sense of law that helps "to accumulate the heuristic potential of various types of legal understanding" (Zorkin, 2019, p. 5). In connection with this statement, prerequisites are created for overcoming the modern crisis of law that is a result of its postmodern interpretation.

V. V. Koromyslov (2020) notes that "Metamodernism is the return of common sense under the pressure of global problems that have revealed the carelessness of the postmodern position and its helplessness in solving such problems" (p. 93). The correctness of this judgment can be doubted, which is found in modern scientific literature. However, it is certain that the postmodern discourse is coming to an end, as we see a different cultural paradigm aimed not at fragmentation and randomness, uncertainty and chaoticity, but at integrity in balanced relation to socio-cultural aspects, values and traditions that underlie a particular legal system. Quite clearly, this idea is argued by R. Dworkin (2020) in his book "Law's Empire": "each accepts political integrity as a distinct political ideal, and each recognises the judicial principle of integrity as a sovereign in law because we want to consider ourselves as an association of principles, as a community guided by a unified and consistent vision of fairness, justice and due proceedings in a proper ratio" (pp. 538-539).

The understanding of law as integrity proposed by R. Dworkin may be interpreted as a manifestation of the new cultural logic of metamodernism, in contrast to conventionalism and pragmatism criticised by him that explains the law in the postmodern discourse. Proposing his approach, the scientist writes: "Law's attitude is constructive: it aims, in the interpretive spirit, to lay principles over the practice to show the best route to a better future, keeping the right faith with the past. It is, finally, a fraternal attitude, an expression of how we are united in the community though divided in project, interest and conviction" (Dworkin, 2020, p. 550).

Conclusion

In the modern era, there have also been attempts to synthesise various areas in law, find common ground between them, and fit different understandings of law into a single context. Postmodern legal understanding is characterised by the absolutisation of relativism, lack of systematicity, and multiculturalism.

"Metamodernism", a new cultural strategy, has not yet developed in its final form, it does not seem to us yet a way along which the spiritual culture of modern civilisation will go, but a path that is still poorly defined and sometimes interrupted. Because of this, in modern socio-humanitarian and legal literature, there are different, sometimes diametrically contradictory, assessments and interpretations of metamodernism and its future.

On 28 April, in his speech at the Institute of Philosophy of the RAS, P. Ricœur aptly noted: "The central idea of law and politics, … is to create a means of realising a person's essential abilities. One of the provisions of political and legal philosophy that we can now consider is that belonging to a certain legal or political system is not something external, added to the human essence or political system, as if we already represent completed human beings outside the state or public space. No, the justification for law and politics is that human abilities are exercised through

them" (Ricœur, 1996, p. 31). The scientist keenly noted the necessity of reorienting law and politics towards humans, their internal contents, needs, requirements and feelings, which is necessary for a fuller realisation of their creativity, those abilities that actually make them humans.

The concept of meta-modernism does not pretend to be an established theory with a developed conceptual apparatus, principles, and systematised knowledge. The main thing that opens up to researchers when referring to the analysis of metamodernism is the fixation of a certain turn in the cultural strategy, which indicates, if not the end of postmodernism, then its modernisation and transformation in accordance with the new socio-economic and political context, a new turn, step or milestone in the development of post-post-capitalism.

References

Akker, R. van den (Ed.) (2019). *Metamodernizm. Istorichnost'. Affekt i Glubina posle postmodernizma* (*Metamodernism. Historicity. Affect, and depth after postmodernism*, in Russian). Moscow: RIPOL Classic.

Baudrillard, J. (2020). *Obshchestvo potrebleniya* (The consumer society, in Russian) (E. A. Samarskaya, Trans.). Moscow: AST.

Chestnov, I. L. (2020). *Metamodern i postklassicheskaya yurisprudentsiya kak varianty otveta na vyzov postmodernizma* (Metamodernism and post-classical jurisprudence as variants for responding to the challenge of postmodernism, in Russian). *Kriminalist* (Criminologist, in Russian), *3*(32), 85-90.

Dworkin, R. (2020). *Imperiya prava* (Law's Empire, in Russian) (S. Moiseeva, Trans.). Moscow: The Gaidar Institute Publishing House.

Jameson, F. (2019). *Postmodernizm, ili Kul'turnaya logika pozdnego kapitalizma* (Postmodernism or the cultural logic of late capitalism, in Russian). Moscow: The Gaidar Institute Publishing House.

Khaustov, D. S. (2020). *Lektsii po filosofii postmoderna* (Lectures on postmodern philosophy, in Russian). Moscow: RIPOL Classic.

Kolosov, I., & Sigalov, K. (2020). Epistemological foundations of early legal utilitarianism. *Wisdom, 1*(14), 31-44. https://-doi.org/10.24234/wisdom.v14i1.302.

Koromyslov, V. V. (2020). *Ot "svobody" postmoderna k otvetstvennosti i mudrosti metamoderna* (From the postmodern "freedom" to the responsibility and wisdom of metamodernism, in Russian). *Mezhdunarodnyy nauchno-issledovatel'skiy zhurnal* (International Research Journal, in Russian)*, 3*(93), 91-94. doi: 10.23670/IRJ.2020.93.3.045.

Lebedev, S. A. (2020). *Metodologiya nauchnogo poznaniya* (Methodology of scientific knowledge, in Russian). Moscow: Booklet.

Lyotard, J.-F. (2016). *Sostoyaniye postmoderna* (The postmodern condition, in Russian). (N. A. Shmatko, Trans.). Saint Petersburg: Aletheia.

Malakhov, V. P. (2019). *Teoriya pravosoznaniya: opyt formirovaniya* (The theory of legal consciousness: The experience of formation, in Russian). Moscow: UNITY-DANA; Zakon i pravo.

Malinovskaya, N. V. (2009). *Postmodern i ego vliyanie na ponimanie prava* (Postmodernism and its effect on the understanding of the law, in Russian). *Proceedings of Voronezh State University Series Law*, *2*, 78-90.

Marchenko, M. N., Ershov, V. V., & Ershova, E. A. (Eds.) (2019). *Sovremennoe pravoponimanie: kurs lektsiy* (Modern legal understanding: A course of lectures, in Russian). Moscow: Norma, INFRA-M.

Medushevskaya, N. F. (2017). *Interesy i formi-*

rovanie pravosoznaniya v srednevekovoi Rossii (Interests and the formation of legal consciousness in Medieval Russia, in Russian). *Interesy v Prave. Zhidkovskiye Chteniya, Moskva, Rossiyskiy Universitet Druzhby Narodov* (Interests in law. Zhidkovskie chteniya, Moscow, Peoples' Friendship University of Russia, in Russian) (pp. 451-458). Moscow: RUDN.

Medushevskaya, N. F. (2018). *Kommunikativnoe pravoponimanie v kontekste postneklassicheskoi ratsionalnosti* (The communicative understanding of law in the context of post-nonclassical rationality, in Russian). *Tendentsii razvitiya prava v sotsiokul'turnom prostranstve* (Trends in the development of law in the sociocultural space. Zhidkovskie chteniya, Moscow, Peoples' Friendship University of Russia, in Russian) (pp. 33-40). Moscow: RUDN.

Medushevskaya, N. F. (2021). *Pravosoznanie v diskursivnoi praktike postmoderna* (Legal consciousness in the discursive practice of postmodernism, in Russian). *Pravovaya kul'tura I pravovaya ideologiya rossiyskogo obshchestva, Moskva, Moskovskiy universitet MVD Rossii imeni V. Ya. Kikotya* (Legal culture and legal ideology of the Russian society, Moscow, Kikot Moscow University of the Ministry of Internal Affairs of Russia, in Russian) (pp. 41-45). Moscow: Kikot Moscow University of the Ministry of Internal Affairs of Russia.

Morozov, A. V. (2019). *Ostorozhno, metamodern: sovremennost kak zontik i mayatnik* (Look out! This is metamodern: Modernity as an umbrella and a pendulum, in Russian). *Galactica Media: Journal of Media Studies*, *3*, 238-249. doi: 10.24411/2658-7734-2019-10032

Petrażycki, L. I. (1907). *Vvedeniye v izucheniye prava I nravstvennosti. Osnovy emotsional'noy psikhologii* (Introduction to the study of law and morality. Foundations for a psychology of emotions, in Russian) (2nd ed.). St. Petersburg: Yu. N. Ehrlich Printing House.

Posner, R. (1979). Utilitarianism, economics and legal theory. *The Journal of Legal Studies, 8*(1), 103-140, doi: 10.1086/467603

Posner, R. A. (2020). *Rubezhi teorii prava* (Frontiers of legal theory, in Russian) (M. I. Odintsova, Trans.) (2nd ed.). Moscow: House of the Higher School of Economics.

Ricœur, P. (1996). Violence and language. The hermeneutic approach to the philosophy of law. *Issues of Philosophy*, *4*, 27-36.

Sigalov, K. E. (2014). *Detektiv kak otrazhenie natsionalnoi pravovoi kultury* (A mystery story as a reflection of national legal culture, in Russian*). Paper presented at the Conference: Law and Literature: Materials of the Eighth Philosophical and Legal Readings in Memory of Academician V. S. Nersesyants* (pp. 110-116). Moscow: Norma.

Sigalov, K. E. (2018). *Estetizatsiya politseiskoi deyatelnosti v detektivnom zhanre kak sptsialnaya vostrebovannost epokhi* (*Aestheticisation of Police Activity in the Mystery Fiction as a Social Demand of the Epoch*, in Russian). *Rossiyskaya politsiya: tri veka sluzheniya Otechestvu. Sankt-Peterburg, Sankt-Peterburgskiy universitet MVD Rossii* (The Russian Police: Three Centuries of Service to the Fatherland, St. Petersburg, Saint-Petersburg University of the Ministry of Internal Affairs of Russia, in Russian) (pp. 1688-1695). Saint Petersburg: Saint Petersburg University of the Ministry of the Interior of Russia.

Tarnas, R. (1995). *A history of western thought* (G. A. Azarkovich, Trans.). Moscow:

KRON-PRESS.

Turner, L. (2011). *Manifest metamodernista* (The metamodernist manifesto, in Russian) (A. Guseva, Trans.). Zhurnal o metamodernizme (Journal of Metamodernism, in Russian). Retrieved from http://metamodernizm.ru/manifesto/

Wacks, R. (2020). *Filosofiya prava. Kratkoye vvedeniye* (Philosophy of law. Brief introduction, in Russian) (S. Moiseeva, Trans.). Moscow: Gaidar Publishing House.

Zhukov, V. N. (2018). *Religiozny smysl filosofii prava P. I. Novgorodtseva* (A religious sense of the philosophy of law by P.I. Novgorodtsev, in Russian). In M. Pribytkova (Ed.), *Filosofiya prava: P. I. Novgorodtsev, L. I. Petrazhitsky, B. A. Kistyakovsky* (Philosophy of law: P. I. Novgorodtsev, L. I. Petrazycki, B. A. Kistyakovski, in Russian) (pp. 78-97). Moscow: Political Encyclopedia.

Zorkin, V. D. (2019). *Pravo metamoderna: postanovka problemy* (Metamodern law: Statement of a problem, in Russian). *Zhurnal Konstitutsionnogo pravosudiya* (Journal of Constitutional Justice, in Russian)*, 4*, 1-9.