

Religious Basis of the Historical and Contemporary Law

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Summary: *The aim of this research is to reveal historical and contemporary aspects of the similarity, difference, and interaction of Christian and legal spheres of social reality. The legal nature of the proposed study obliges the use of the formal legal (dogmatic) research method with special attention paid to the content and sanctions of legal prescriptions. Thus, the historical development confirms the constant need of mankind both in the picture of the world, the model of the worldview offered by religion, and the normative regulator based on absolute transcendental values. The fundamental role of religion in the origin and development of the law is proved by historical facts.*

Keywords: *law and religion; Christian values; spirituality; the evolution of the law; interdisciplinary approach.*

Introduction

Contemporary society tends to absolutize the concept of law and legal norms due to the idea of the rule of law as the primary principle of social organization. Quintessential secularity is regarded as one of the main mandatory features of the modern nation-state (Loughlin 53). Moreover, the idea of the separation of secular law and religion is shared by such theologians as Richard Whitecross (711) and Cory Stephen Stott (18). Christian theologians offer different reasoning for the separation of religion and law. First, the

idea that the only obligatory law for Christians is the Divine law, whereas the positive law and ethics are both relative; second, the idea that Christians should live by faith and not by law; third, the idea that the resurrection of Christ freed Christians from every legal or moral obligation and bounded them by His commitments (Balzyk et al., 2021).

We turn to the position that considers the law in close relation to religion and supports the view of many scholars that the total separation of the law and religion is detrimental. According to H.J. Berman, this separation »caused the massive loss of confidence in law and the massive loss of confidence in religion« (154). The law, playing an extremely important role in the consolidation and functioning of society, cannot be based solely on itself or the will of a legislator, and cannot serve as an absolute measure of all human values. In fact, the highest purpose and the final function of the law in human society is a projection of the transcendent Divine Law into real life (Gallegos 114). This is the highest providential essence of the law. We share Berman's premise that the law channels and communicates with religion through four principal ways: a ritual, traditions, authority, and universality (256). Not only connections between the natural law and theology, but also grounds of the positive law, laid in the Scripture, are on the research agenda nowadays. As an example, an American scholar D. Opderbeck provides an understanding of the praxis of the positive law from the position of Christian theology (122).

Laura Underkuffler (844), Rafael Domingo (83), and other legal scholars point to the perniciousness of the total separation of the law and religion and morality, and accordingly the separation of jurisprudence and theology, considering that its ability to express a holistic picture of the world acted as a universal pillar of social values, in particular. The failure of the secularized science and the liberal theory to account for »nonrational« or religious yearnings has been cited as the primary reason for the popular decline in the appeal of the liberal political ideology and the rise of politics of the right-wing evangelism in its stead (Underkuffler 898).

Analysis of the Western tradition of law, its current crisis, and the problem of the reconciliation of law and religion as a way out of the impasse are central to the research of the American historian of law H. J. Berman (»Western tradition of law: the era of formation«; »Faith and law: reconciliation of law and religion«), who believes that respect for the law is justified only when the law refers to something higher than itself, otherwise there is a kind of idolatry. The role of the law is closely connected with the observance of the general principles of social morality and spiritual faith. Even though the church and the state are divided, they interact closely. In any society, the concepts of justice and legality must be based on what is considered sacred and sacred. In other words, the law must have an authority

based on the honesty and justice established by the Gods. The law is not only just but holy.

Studies on the interrelation of the law and religion are particularly active in societies that have recently been positioned as atheistic (301). Often in societies with atheistic views, relevant studies of law and religion try to prove the innovation of any gods and religion in general, while emphasizing the importance of law and law in general. After all, the law ignores the supernatural, reducing itself only to certain external spheres of existence (politics, economics, social governance, conflict resolution, etc.).

A good example of such a study was A. Romashko's thesis which concluded that the legal sphere correlated with the sacred sphere during different periods of the development of legal systems in every civilizational model. The hallmark of the contemporary period is the indirect influence of the sacred sphere on secularized legal systems, exercising mainly through philosophical and ethical categories (54).

Ukrainian scholar D. Vovk argues that the relationship between the law and religion in a society at the post-secularized stage is characterized as follows: the recognition of the fact that religiosity does not disappear in contemporary society; »rehabilitation« of the religious paradigm in the understanding of the law, in particular, the gradual recognition of the religious justification of law; strengthening the interaction of law and religion as forms of social and individual consciousness and regulations; increasing the importance of general social functions of law (ideological, educational, communicative, etc.); the departure from the traditional autonomous model of state relations and churches (96). Authors share these ideas and confirm that many aspects of Christian grounds of jurisprudence are not enlightened comprehensively.

The complex interaction between the law and Christian religion is analyzed from the position of theoretical jurisprudence in this article, and its special mission is to reveal connections between Christianity and law in its historical retrospective and contemporary co-existence. The mainstream of the methodology is the interdisciplinary approach used in this study due to the complex object of the research that combines sacred and secular spheres of social regulations. This approach implies the study of law as an integral part of social regulation together with morality, ethics, and religion. Particularly, the interdisciplinary approach in this study involves the combination of exegesis applied to sacred Christian texts and hermeneutics applied to secular legal texts. Nevertheless, the authors take into account the borderline between these methods that lay in both the recognition and non-recognition of revelation as a way of knowing the truth.

According to the principles of exegesis, the holistic content of the Holy Scripture is open only to inspired readers. This characteristic feature should distinguish the research in the field of law-and-religion from similar studies in the fields of law-and-economics, law-and-literature, and law-and-sociology. The value-based approach allowed us to understand the place and rank of the law in the paired categories of the law, morality and religion, and to affirm the primary role of religion in the process of emerging and being the law. Christianity and law both are regarded as normative value systems. This approach is used to reveal the connections between morality and law as well.

Considering normative aspects of the raised issue, dialectics was used to retrace the evolution of the law and to disclose various connections between legal and religious prescriptions and the content of Christianity and the contemporary law. Dogmatic ontology was explored for understanding the transcendent nature of the Holy Scripture in the context of the legal study. The legal nature of the research conditioned the usage of the analytical approach, whereby legal and religious norms and principles were regarded as the result of the enactment, adoption, or the act of recognition implemented by public authorities such as the state, governmental entities, or Christian church institutions. Recognising Christianity as a historical religion (Cottrell 320), we cannot ignore the methods of the historical research. The legal nature of the proposed study obliges the use of the formal legal (dogmatic) research method with special attention paid to the content and sanctions of legal prescriptions.

1. Sacredness as an intersection point of law and religion

It seems axiomatic to declare that the main feature of a religion is its sacred nature manifested in assigning holiness to certain worldviews, objects, beings, and institutions. The existence of a religious system is possible only in the dimension of sacredness. We argue that despite the rational basis of the legal sphere, sacredness and faith as its core elements give extremely deep meaning to the concept of law and the idea of law; therefore, the faith strengthens the influence of legal regulations. In particular, the idea of the rule of law is a kind of credo of the contemporary state and law-abiding citizens as well. It seems to be proved, that religion in general, and Christianity in particular, stand in an opaque and complex relationship to the global Rule of Law, in particular the Christian religion is both a specific source and a deeply sedimented general foundation of the globally expansive Rule of Law (Walker 275).

The Christian religion is one of the three world religions (along with Islam and Buddhism), which features the belief in Jesus Christ as the incarnation and manifestation of God for the salvation of all mankind and human society and guidance

in truth. Ideas of religiously conditioned understanding of law (in their moderate version) at the present stage develop not by returning to the thesis of its divine origin but rather on the basis of ideas about the existence of an element of faith in basic moral and political values (justice, freedom, human rights, democracy), the comprehension of which occurs not only in a rational way but also in Christianity as the basis of Western legal tradition. This approach is based on the separation of the ideological component of the Christian religion (for example, the ideas of human divinity, redemption, freedom of will, equality of people in the service of God) from the practice of Christian churches, whose historical experience knows the justification of slavery and social inequality, conscience, and the consecration of religious wars.

On the example of the doctrine of human rights, the Ukrainian researcher S.P. Rabinovych quite rightly notes that the modern idea of human rights comes from the Christian concept of freedom, given that this connection is exclusively in the plane of ideas, but not in the plane social practice of Christianity. The indirect influence of religion on the formation and operation of law, manifested, in particular, in promoting the genesis of new legal norms or institutions or inhibiting this process (for example, public debate on the possibility of legal consolidation of euthanasia, abortion, same-sex marriage and even international law languages is largely justified by religious arguments) (Rabinovych, 2004).

Religious influence is reflected in determining the evolutionary movement of the legal system as a whole and ensuring its stability. Thus, the humanization of the legal systems of Western countries in the form of the prohibition of the death penalty, the abolition of cruel and degrading punishment, the mitigation of the conditions of punishment, and the expansion of social human rights has a strong Christian color. The influence of the right to religion is felt, in particular, at the level of individual and social consciousness. Religion, as a form of consciousness, is always characterized by authoritarianism in the sense that the believer in his internal and external activities feels a connection with sacred authority (in Abrahamic religions such authority is God), which is the absolute goal and value criterion of his (believer's) existence (here Hegel's definition of religion as awareness of the absolute essence is mentioned).

Sacrality is the most important component that gives the concept of law and the idea of law extremely deep meaning, says V.A. Aprelev (Aprelev, 2010). I.A. Isaev, analysing the sphere of the sacred, considers one of its most important levels the field of jurisprudence. Entering the world of the sacred »we enter the realm of human law«, according to which the »eternal« law reminds itself of the symbols of justice, rising above all cultural norms, good and bad. If the sacred moment characterizes the law in terms of its deep spiritual content, which has not only cultural

but also historical roots, the moment of sacredness characterizes the law in terms of those boundary grounds that give its imperative, normative unwavering and irresistible force (Isaev, 2006).

Modern anthropological concepts confirm the open truth since archaic times: society and nature are based on the preservation of a world order protected by many prohibitions that ensure the viability of social institutions and the regular change of natural phenomena. The sacred sanctifies the phenomenon of the legal, and this can be seen from the respect that legal activity enjoys on the part of religion. K. Schmitt noted that the church has its own special rationality, which is contained in its institutionalization and has a legal nature.

Jurisdiction of the moral, as paradoxical as it sounds, means the restoration of the principles of divine law, and in the sacred legal order ethical values find a whole new meaning – the meaning of eternal values. In cases where human law does not fix an absolute divine norm, but rejects it, replacing it with the opposite, it ceases to be law and becomes lawlessness, no matter what legal »wrapper« it fits into. In other words, human law never contains the divine law in its entirety, but in order to remain law, it must conform to divine principles, not contradict them. Therefore, to this day, most peoples retain the attitude to the law as a shrine. An oath on the Bible during a judge's oath in many countries of the world is a perfect testimony to that (Schmitt, 2000).

Moreover, the rule of law has some features of the sacred phenomenon: the rule of law, like religious faith, is a phenomenon of consciousness. The authors share B. Tamanaha's opinion, that »for the rule of law to exist, people must believe in and be committed to the rule of law. They must take it for granted as a necessary, proper, and existing part of their political-legal system. This attitude is not itself a legal rule. It is a shared political ideal that amounts to a cultural belief. When this cultural belief is pervasive, the rule of law can be resilient, spanning generations, surviving episodes, in which the rule of law is flouted by government officials. When this cultural belief is not pervasive, however, the rule of law will be weak or non-existent« (italics are ours) (Tamanaha 8).

Supremacy means something high, sublime, directed to heaven, upwards, which concerns first of all the spiritual (heavenly) and the soul, and focuses its attention on the internal aspects of man, people and law in particular. After all, oddly enough, the law also has an inner world of its knowledge. That is why in societies with a high consciousness and culture of the population, the rule of law can be stable. Conversely, where the population lacks faith and the ideology of the rule of law, it may disappear over time.

The faith in the rule of law is to some extent irrational despite the rational grounds of law. Intuitive faith in the rule of law enables the believer to affirm an ineffable commitment to the law when the rational grounds, though often available, are insufficiently powerful to sustain it (Apreleva 16).

To understand the content of the law, in addition to identifying the characteristics of the reality or manifestations of human properties, it is extremely important to consider its deep spiritual and cultural foundations. Belief in the existence of ontological (divine or natural) foundations of the law is the most stable irrational motive for law-making (357).

After all, according to the natural-legal concept of legal understanding, the theory is based on the idea that all rules of law should be based on certain objective (natural, super-positive) principles that do not depend on the will of man and society, the state. And the primary source of all existence, including the state and law, is God, and the universe combines two aspects: spiritual and derived from it – material. The state and law are the result of God's intervention, the primacy of spiritual principles. The bearer of natural and legal existence is human nature.

Christian religion and law both may be regarded as normative value systems. Nevertheless, the nature and origin of their values are completely different. Christian values stem from the transcendent idea of God whereas values of law and legal values stem from human nature or the nature of social relations. The ultimate version of the origin of law values was presented by the normativist theory »Law is valuable precisely because it is a norm« (Kelsen 76). In any case from any position of contemporary cognition of the law, the values of law are determined by mundane reasons. »Law ignores the supernatural, reducing itself only to certain external spheres of existence (politics, economics, social management, conflict resolution, etc.). Religion, on the contrary, relies on the irrational (or rather they cannot be appreciated) absolute values from the position of law, encompassing holistic human existence« (Kalinin 44).

Thus, values in the Christian religion are absolute; the values in law are relative. Christianity proceeds from the understanding of the value as an absolute good that has significance in any relation and for any subject. In Christianity, the values in question have an absolute divine source and therefore are endowed with an absolute moral dimension. Christian values are not reduced only to evangelical precepts and moral rules. They constitute a whole system whose elements are the following: »ontological – God, Existence, immortality (eternity); anthropological – the human being, the soul, free will, faith, hope, love, salvation; ethical – good, love for neighbour, non-resistance to evil, forgiveness, suffering, martyrdom, holiness, virtue; aesthetic – beauty as an expression of God in the world, the beautiful thing

as a form of goodness; cognitive-mystical – Holy Scripture and Tradition, prayer, grace; symbolic – Church, an icon, worship, rites and rituals; social – the Christian community, synodality, humanity« (Baeva 79).

It seems that the list must be amended by justice. The supreme good, which is the source of all other values as well, is the God-revealed truth about the Most Holy Trinity as the absolutely perfect Spirit. This truth is the highest point in the hierarchy of Christian values because it is the source of faith. The doctrine of the uniqueness of the human person as an immortal, spiritual being created by God in His own image and likeness occupies a crucial place in the correlation of Christianity and law. Law likewise the Christian religion contains and defends universal human values such as justice, humanness, and humanity. As a value-normative system, the Christian religion determines the legal behaviour of believers, assessing it in terms of compliance with religious norms and principles.

Religion is an important factor in the formation of the positive attitude to legal and state institutions, the formation of law-abiding behaviour. According to M. Eliade's words, the law is endowed with a sign of holiness, because it is recognised as a divine institution and is in this respect the material embodiment of the Sacred in worldly life (118). Religious dogmas and precepts have played and continue to play the role of the state creative factor, becoming both an unofficial and often an official normative system of individual state entities and entire geographical areas.

2. Axiomatic assertions in law and religion

The positive law contains some self-evident assertions like religious dogmas. An example is the rule of *Nemo iudex in causa sua* (no one can be judged in his own cause). In particular, the idea of the superiority of law over the state cannot be verified by simple experience; the rule of law is a guide to an action and not a strictly coercive means like other legal regulators. But it is a question of whether these axiomatic provisions of law play the same fundamental role as religious dogmas. From the positivist point of view, legal axioms are regarded as subsidiary to legal norms, notwithstanding effective means of legal speculation that help in the decision of legal cases (Krestovska and Matvieieva 223).

The opposite opinion considers the axioms as the basic elements of the legal system (Ogleznev and Surovtsev 227). And at last, some scholars strongly criticize the idea of inserting axiomatic methods and phenomena into the legal sphere (Madej and Horák 264). Recognizing the rational core in every above-mentioned opinion, we assert that religious dogmas and legal axioms have some common and some particular features. Both dogmas and legal axioms are regarded as truth that does not need verification. The difference is that the criticism of the

Christian dogmas is appropriate by no means while axioms in the law are rational and may be criticised.

Moreover, the fundamental role of dogmas in Christianity is doubtless, while the role and place of legal axioms in the law is a question. After all, the ideology of the Christian religion is stable and based on one faith in Jesus Christ, and law is a dynamic phenomenon and certain principles and provisions can be transformed according to the challenges of a particular time, or era. Finally, religious dogmas and legal axioms both play an ambivalent role in the theological and philosophical discourse. Theology asserts religious dogmas as points of understanding every element of the religion, while axioms in jurisprudence play the technical role to some extent. They are tools for solving intellectual problems in the field of law, form results of theoretical generalization of the legal life, i.e., principles of law, and specific legal regulation.

In all primary cultures, the idea of law was associated exclusively with religious consciousness (Sibley 55). In this matter, we fully share the position expressed, in particular, by Yu.V. Tikhonravov regarding the religious roots of law. He believes that the connection between the emergence of law and the forceful influence of religion is directly causal. Moreover, the fact of the religious force determines the law in its positive (legal) form, i.e. in the legislative acts established by the state authorities (359).

Moreover, law and legal consciousness have not only grown out of the religious life and religious consciousness and, as it were, are secondary to them, but also retain this powerful layer of meaning at all stages of their development. According to H. Kelsen's conclusion, »the earliest social order has a completely religious character. Originally it knows no sanctions other than religious ones, that is, those emanating from a superhuman authority. Only later, at least within the narrower group itself, do there appear, side by side with the transcendental sanctions, sanctions that are socially immanent, that is to say, socially organized, to be fulfilled by the individuals according to the provisions of the social order«(77).

If the sacred moment characterizes the law in terms of its deep spiritual content, which has not only cultural but also historical roots, the moment of sanctity characterizes the law in terms of boundary grounds that give it an imperative, normative unwavering and irresistible force (Isaev 261). An oath on the Bible during the judge's oath in many countries of the world is a perfect testimony to that (Zubov 382). Religion in general and Christianity in particular, should be regarded as the basis of law from some principal positions. John Martens (31-41) studied the historical origins of the law laid in the sacred fabric. The researcher provides a comprehensive analysis of Greco-Roman views of law, where he concludes that the final

and only goal of the law is the true knowledge of God. If we take into account the above, it is possible to presuppose that the existing system of the positive law stems from the transcendent idea of the supreme order and the carrier and translator of this order. The idea of non-human and supranatural origin of law is dominant in theology, philosophical doctrines, and everyday legal consciousness (Martens 55).

Many examples can be given. The Church Fathers regard conscience as the natural law placed by God in the human heart at the time of creation: »When God created man, He sowed in him something divine, a certain thought which has in itself, like a spark, both light and warmth; a thought which enlightens the mind and indicates to it what is good and what is evil – this is called conscience, and it is a natural law« (Dorotheus, »The Third Instruction. On The Conscience«). John Locke, whose ideas are laid in the basis of contemporary understanding of the civil society, law, and state, repeatedly asserted, that law, as well as reason, had been given by God (85).

The Old Testament in its origin is a collection of concrete provisions given to God's own chosen people. Legalization of the moral, as paradoxical as it sounds, means the restoration of the beginnings of divine law (Isaev 299), moreover, in the sacred legal order the ethical values find a completely new meaning – the meaning of eternal values. The historical and civilizational mobility of human consciousness and the natural depravity of human beings do not allow the human being to accept the Divine law in its integrity. During various epochs and in different communities, only a part of the Divine law was accepted and realised.

The Savior's sermon on divorce demonstrates a good example of such a conclusion. He said that Moses allowed the divorce to his people, »because you were so hard-hearted, that Moses allowed you to divorce your wives, but it was not like this from the beginning. ...Anyone who divorces his wife – I am not speaking of an illicit marriage – and marries another, is guilty of adultery« (Holy Bible, »Matthew 5: 3-10«). That sermon established the highest moral and legal ideal of marriage, unattainable for many people, and furthermore conditioned a partial transfer of the institute of marriage from the realm of Canonical law to the field of secular law. Moreover, the understanding of marriage has changed dramatically in the realm of protestant confessions.

In case the human law rejects the absolute divine norm and replaces it with the opposite one, it becomes illicit, no matter what legal attire it is dressed in. For example, the law of the Decalogue clearly states: »Honour your father and mother«. And if any secular law declares that respect for the parents is a crime, the legislator becomes a wrongdoer. In other words, the human law never contains the divine law in its integrity, but in order to retain its role as a law, it must not contradict the

divine law. Therefore, most peoples have thus far retained their attitude towards law as a shrine.

3. Morality as a link between law and Christianity

In the positive law itself, we can easily find a moral component. Morality and law complement each other. The rules of law mainly serve and should serve as guides to morality, to consolidate and protect the moral principles of society. On the other hand, the force of laws increases if they are based not only on power and coercion but also on public morality. The legal system of a state-organized society enshrines the vital requirements of morality. In the process of creating regulations, the legislator takes into account the state of public morality, the ethical culture of the people, and assumes that the positive law should be ethical, and laws should be fair and humane.

According to I. Kant, the relationship between the positive law and morality is the following: the law is the first degree, the necessary minimum of morality. The law allows only those actions of individuals that are outwardly compatible with the requirements of the ethical law: »the universal imperative of duty can also go as follows: act as if the maxim of your action were to become by your will a universal law of nature« (Groundwork of the metaphysics of morals 4:421) (25). The final purpose of the law is to create conditions for the self-realization of an individual. Further, without morality as an organic segment of the rule of law, no rule of law is possible, because it is based on the duty of individuals to obey the law – a moral duty, of course. One of the manifestations of the rule of law is that law is not limited to legislation as one of its forms, but also includes other social regulators, including morals, traditions, customs, etc., which are legitimized by society and due to historically achieved cultural level. All these elements of law are united by a quality that corresponds to the ideology of justice, the idea of law. In the doctrinal sense, the principle of the rule of law reflects the moral foundations of law and is a manifestation of natural law in modern legal systems, along with the principles of justice, proportionality, equality, and reasonableness.

According to the guiding principles of the Council of Europe, the most important reference to the rule of law is the »devotion« of member states »to the spiritual and moral values, which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy« (Council of Europe, »European Commission for Democracy Through Law«). It is important that, in contrast to the secular doctrines of natural law, the moral and legal ideal of Christianity is extremely specific and has its own register of virtues set forth by Christ in the Sermon on

the Mount: humbleness, mercy, meekness, sincerity, peacefulness, righteousness, patience (Holy Bible, Matthew 5: 3-10).

These virtues are moral in nature; nevertheless, they should be regarded as the source of law, as God's legal ideal given to us. The universality of this moral ideal is due not only to the fact that it is absolute and eternal. In addition to other virtues, this natural law is addressed to the personal conscience of each person and to the community as a whole. The very nature of a human as a spiritual being is composed in such a way that the moral ideal is natural to each person. St. John Chrysostom said that human nature already had the law of conscience from birth: »It is, that when God formed man, he implanted within him from the beginning a natural law. And what then was this natural law? He gave utterance to conscience within us; and made the knowledge of good things, and of those which are the contrary, to be self-taught. For we have no need to learn that fornication is an evil thing, and that chastity is a good thing, but we know this from the first. And that you may learn that we know this from the first, the Lawgiver, when He afterwards gave laws, and said, 'Thou shalt not kill,' did not add, 'since murder is an evil thing,' but simply said, 'Thou shalt not kill;' for He merely prohibited the sin, without teaching'« (467).

Realising the absolute nature of these commandments, knowing how imperfect the sinful man is, the legislator must encourage moral conduct through consistent and persistent rules called the law. The Sermon on the Mount entered the law of the Christian civilization, albeit in an interpreted form. So what is the law? The law is a way of objectifying the eternal moral ideal given to us by God in specific rules and principles (Ivanov 183). Legal and religious norms play a key role in the interaction of legal and religious systems. Sometimes, legal norms textually reproduce religious prescriptions that preceded them temporally and by origin. Law and religion support each other, and their demands largely coincide. In case prescriptions of legal and religious norms coincide their impact on the social development amplifies. The cohesion of legal and religious prescriptions creates affirmation for the socially approved behaviour in the consciousness of an individual. And contrariwise, legal norms that are not filled with universal values, the religious or moral content and contradict Orthodox canons become »doomed« to their non-acceptance, non-performance, or observance only on the basis of law-abiding, but not law-respecting motives (Malko and Lipinskiy 28).

The interaction between a law and a religion is expressed through the sanctification of legal institutions and relationships and the law itself that can generate a special emotional attitude of believers towards them. By sanctifying the law or its institutes, the religion declares violation of the law as a sin and thus promotes the implementation of the law. The law commands the observance of laws, and, in fact, religion does the same. Such prescriptions of the Christian religion as »thou shalt

not kill«, »thou shalt not steal«, and »thou shalt not bear false witness« are protected by Criminal law. As a result of such interaction, the socially necessary human behaviour is ensured by sanctions of both legal and religious norms, by the state and Church coercion, by a threat of supernatural punishment, and the promise of supernatural rewards.

The Christian religion, being a moral and normative system, influences the formation and implementation of secular legal norms. The Christian norms, for the most part, are not directly embodied in the legislation but affect law-making and law enforcement indirectly. This form of the interaction of Christianity and the law is the most sophisticated one as it seems not explicit but nevertheless significant for the law. By adopting and sanctifying the norms of the Old Testament (Decalogue), Christianity translated them into secular law. Implementation of the Ten Commandments into the positive law is disclosed by W. Huber as a historical five-stage process and assumed that contemporaneity should be the time of convergence between biblical legal thought and Western legal systems (Huber 56).

The Decalogue and the Sermon on the Mount should be considered a significant primary source of contemporary criminal, family, and constitutional legislation. The secular law is undoubtedly closely connected with the public activity and the public good, and on the contrary, religion is connected closely with morality and with a sense of sanctity.

However, the complete separation of legal and religious institutions does not require a complete separation of legal and religious values. Jesus Christ treated the law with great respect. Indeed, He identified it with justice, mercy, and faith. He said that the meaning and essence of the law – is love for God and for your neighbour. He condemned the Pharisees for violating the law. He said that they care only about formalities, neglecting the essence: »Woe to you, teachers of the law and Pharisees, you hypocrites! You give a tenth of your spices – mint, dill and cumin. But you have neglected the more important matters of the law – justice, mercy and faithfulness. You should have practiced the latter, without neglecting the former« (Holy Bible, Matthew 5: 3-10).

Although it is possible to separate completely secular norms from religious ones, the latter actually play a significant role in shaping law-abiding human behaviour, producing a stable system of values, and acting as motives for socially positive behaviour. As an example, the idea of justice plays a significant role in the operation of the legal mechanism. The states try in all possible ways to present their policy and decisions as fair, reflecting the moral expectations of the society. If this is achieved, then such decisions will acquire not only the state but also social power, which will increase their activity.

Conclusion

Religion in general, and Christianity in particular, stand in the complex relationship to Law, and their interaction is much more complicated than confrontation. The rational basis of law does not contradict the idea of faith as a core of religion; moreover, faith strengthens the influence of legal regulations. In particular, the rule of law concept has some features of a sacred phenomenon. And even in strictly secular social systems with a sharp distinction between law and religion, they need each other since the law gives the religion grounds for social functioning, and the religion inspires respect for the law.

And on the contrary, the destruction of religious foundations, wherever it occurs, has never been useful to the law and order. Religion, Christianity in particular, is one of the factors in recognizing legal prescriptions as just and consistent with morality. We also emphasize that the links between the law and religion are not linear and arise at the level of both homogeneous elements (e.g., religious consciousness and legal consciousness, religious norms and rules of the law) and disparate components (e.g., religious ideology and a legal system, state and religious activities).

The Christian religion and the secular law both are regarded as normative value systems. Strictly speaking, religious and legal values are different since separation lies in their origin and nature. The first ones stem from the idea of God, and the latter ones derive from the nature of social relations. Nevertheless, the law and religion act as elements of the system of social regulation. Religion in the human society largely determines the behaviour of people. The vast majority of right holders are bearers of a religious idea and perceive the world and society through the prism of religious attitudes.

On the other hand, the bearers of the religious idea establish a legal system and accordingly invest their religious values in it, and these values in turn are sacred, i.e., they have their ultimate source according to their ideas of the divine will, the cosmic law. As to the form of the religious and legal prescriptions, it should be said that the religion and law contain some self-evident assertions, respectively dogmas and axioms. The difference is that the dogmas must not be criticised, but legal axioms may. The role of the dogmas in Christianity is doubtless, while the role and place of the legal axioms in the law are open to question.

The following point of interaction between religion and law is morality. Such human virtues as humbleness, mercy, meekness, sincerity, peacefulness, righteousness, and patience are regarded as God's legal ideal given to us. The fundamental role of religion in the origin and development of the law is proved by historical facts. For example, the Old Testament in its origin is a collection of concrete provi-

sions given to God's own chosen people. Religion is one of the determinants of the formation process of specific legal norms, institutions and branches of law, and the legal system as a whole. Thus, the historical development confirms the constant need of mankind both in the picture of the world, the model of the worldview offered by religion, and in the normative regulator based on absolute transcendental values.

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VJERSKE OSNOVE POVIJESNOGA I SUVREMENOGA PRAVA

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Sažetak: Cilj je ovoga istraživanja otkriti povijesne i suvremene aspekte sličnosti, različitosti i međudjelovanja kršćanske i pravne sfere društvene stvarnosti. Pravna priroda predložene studije obvezuje korištenje formalnopravnom (dogmatskom) metodom istraživanja s posebnim osvrtom na sadržaj i sankcije pravnih propisa. Dakle povijesni razvoj potvrđuje potrebu čovječanstva za slikom svijeta, modelom pogleda na svijet koji pruža religija i normativnim regulatorom utemeljenim na apsolutnim transcendentalnim vrijednostima. Temeljnu ulogu vjere u nastanku i razvoju prava dokazuju povijesne činjenice.

Ključne riječi: pravo i vjera; kršćanske vrijednosti; duhovnost; evolucija prava; interdisciplinarni pristup.

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