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## **RELIGION AND LAW: MUTUAL INFLUENCE AND INTERCONNECTION**

### **Section two**

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**The article is devoted to the recognition of the impossibility of the disappearance of the phenomenon of religiosity in society and the obvious facts of the influence of religion on the processes of formation and development of law.**

**An analysis of many historical sources convincingly states that religion itself is in fact a spiritual cradle right.**

**It is substantiated that three things are necessary for initiating legal communication: knowledge of law (intellectual element), activity (volitional element), and – without a doubt – consciousness (spiritual element).**

**After all, only the spiritual identifies the first two.**

**Only the spiritual component fills with “legal light”, content, purpose, spirit of law, legal connection, guarantees them from transformation at best into a formal scheme, at worst – into criminal chaos, and law itself is not law.**

**Key words: God, faith, religion, law, society, reason, justice.**

**Problem statement.** The continuous progress, as noted in the first part, has led to the fact that it was necessary to point out the obvious: the role of religion as a factor in the law-formation process, providing the right and spiritual content, and moral guidelines, and conceptual apparatus, and its “sound form”.

This was discussed above, that is why it was important to elaborate and elaborate, that is, it is essential to get into the core of the problems.

At the beginning, religion, as mentioned above, gave not only the name, but also the origin of the existence of law. From Jupiter it was called jus. The supreme deity in the pantheon of the Romans is called jus, sanctified by his authority and predicted a long and glorious destiny. The “children” of Jupiter derive their respect for law from their appreciation of their “father” [1, p. 115].

An indefinite etymology convinces one that it is impossible to separate the emergence of law, the development of statehood, from Jupiter. It was not without Jupiters influence that law itself was considered as “the science of matters sacred to the divine and also to the human”. It should be noted that the “divine”

ranks first, that is, science is primarily about “matters divine” and only then about “human” issues. However, more than this, religion had its own right of *fos* as commanded by heaven, the Gods. As an obvious right, *fos* existed apart from the human right.

Originally *fos* was a regulator of the relations of life in the sphere which the Gods had abandoned to the discretion of human beings. At the decline of the republic *fos* takes on a complex understanding and is used to mean a system of religious norms about what the Gods allow people to do, as opposed to the prescriptions of legal norms; *fos* is something decided by the will of the gods, recognized by fate, fate itself, in Ovidian terms “if it pleases fate to fall”.

In Cicero it is also possible to observe the interpretation of the *fos* as natural law, the supreme unscriptural law. It is noteworthy that legally significant actions were performed in solemn circumstances in full view of the crowd. The religious cult accustomed people to and fostered respect for the law, a respectful attitude toward it, and a tolerant attitude toward the law [2, p. 31–108].

Sacred law is, in addition to this, a whole complex of legal principles and institutions belonging to the ancient layer of Roman law, unwritten “sound” was the basis for its subsequent elaboration. All of this accustomed people to appreciate the law, strengthened the juridical culture, and fostered legal consciousness.

Religion accustomed people not only to appropriate actions, but also to the location for performing legal actions, which was to be sanctified simply – a temple, not just – some place devoid of sanctity.

Ancient law was standing on the protection of its sanctities. Ignoring, and even more significantly, violating sacred law required purification, sanction. Was the first notion of crime inspired by sin? The sin, the crime against conscience, was the first form of guilt.

Religion, even the most primitive one, performed a vital mission: it united disparate tribes, provided an opportunity for the formation of a legal space, the preconditions for a unified market and economic sphere, and provided an impetus for the development of national culture. However, religion also means conscientious fulfillment of one’s duties. Religion was also the psychological and spiritual basis of the procedures, actions, rules, and norms that regulated these sacred actions. Religion was understood as virtue in the performance of assigned duties, as conscience, even doubts, appropriate mental trepidation, that is, the inner struggle, the moral fight inherent in human beings. As Cicero remarked, not discharge, but strain of the soul, moral effort – this is what in the field of law one cannot engage in socially important affairs, to appeal to the Gods [2, p. 58].

Considering the influence of religion on the process of origin and on the development of law, it should be stated that religious cults fit quite unambiguously into the general theme of research. The whole ritual side of religion is quite a verbal procedure, it is a linguistic communication.

It is without any irony to state that ancient law was also songful. Then it remained verbal, but chose the path of prosaism and formalization. Meanwhile, oral art evolved into libel, incantation, spell, magic, which was punished as a crime already by the Laws of the Twelfth Tables.

The prominent thinker Ilyin emphasized that the Greeks created a religion of hearth and beauty, while the Romans developed a religion of magical ritual [3, p. 308].

Once one has examined the internal processes that occurred in the legal sphere, it is appropriate to pay attention to the external ones too. The conditions of the genesis of “sound jurisprudence”. Among the external relations of law, economics is traditionally considered. This is doubtful in this case. The slave-holding method of production, private ownership of the slave remained constant, but law was changing quickly. More crucial to law was its relationship to politics. Politics was emerging in antiquity and, to a certain extent, was ahead of law, but despite the close proximity, the internal rejection was more powerful. The incompatibility of law and politics was manifested in the destinies of people (Socrates, Cicero), states (Antique polis). It is obvious in theory too.

Plato and Aristotle wrote about politics both for and against science, but despite many similarities, law could not emerge from politics. However, politics influences law.

*Religion and law: mutual influence and interconnection...*

Already on the example of antiquity it is clear that the sphere of politics, political interests is much wider, it was established under the influence of a number of factors, transcends national boundaries, becomes a foreign policy. The sphere of law is narrower, law itself determines the limits of its activity, national law does not exceed the territory of its own state.

The purpose of politics is state power, the establishment of relations of dominance and subordination.

The goal of law is the regulation of normal life relations.

In politics the goal justifies the means, politics is dominated by agreements and reticences, secrets, intrigue, and games. It has its scenes, its clans and chiefs, its symbolism, its vocabulary and lexicon, not quite understandable to the uninitiated. Politics adores spectacle, publicity, pomposity.

Law admits only legitimate means, the right is open, understandable to people, clarity and unambiguous interpretation, the law is its principle, the law deals with the individual case, the specific person.

Politics points to political values, unattainable ideals, without the capacity, power or means to implement them. It attempts to attain exorbitant objectives that may never be comprehended.

Law is realistic, it guarantees what it declares, it specifies norms of behavior that are feasible for everyone, it is the norm, not an inaccessible ideal.

Politics is characterized by a plurality of ideologies, changing party programs, etc.

Law exists "in a single copy", it is unique and unrepeatable, one at this time and in a particular nation. Even in the formative period, "oral law" attempted unification and unanimity.

Political image, opinion, expression, sentiment, are significant for politics. It interprets political priorities, participation of the masses, and legitimacy. In law, from the beginning, all that is important are actions, their conformity or disagreement with legal norms, it is arguing about legality.

General principles are significant for politics, not norms, that is, general quantitative and qualitative guidelines that universally regulate political life.

Law at the level with principles operates mainly with norms, concrete and obligatory, regulating typical life situations, including those inherent in politics – norms of electoral law, norms of representation, etc.

In political activity can actually participate organizations that are not registered by the state, illegal and shadow structures, which have a considerable influence on policy, than the parties represented in parliament.

The law is democratic: all are equal before the law, both the supreme head of state and the ordinary citizen.

Political activity is principally, less formal, but also less guaranteed.

The law is much more formalized, but in the same degree and more guaranteed.

Politics fragments society, singling out parties, factions, elites, pressure groups, etc., and the political center and the periphery.

Law, in turn, unites society by subjecting all of its members to the same requirements, because a single law applies to the entire territory of the state.

Non-compliance with political norms requires (though not always) an indefinite reaction of the party leadership (organizational conclusions, moral condemnation, etc.).

In law, there is an absolutely clear reaction (sanction) to unlawful behavior and the violation of legal norms. The most complicated cases and stages of political activity are regulated by law, have a legal assessment, legal guarantees, etc. The sphere of law tries to liberate from the action of politics, party ideologized programs, and class positions. The law is common to all political parties.

Politics can manage without morality, and its effectiveness will not suffer.

Law cannot operate without morality; otherwise, its productivity declines rapidly.

There are many more examples of the distinction between law and politics, but as formal logic states, the strength of arguments is not in their number, but in their weight [4].

The picture is completely different in the “religion–law” relation.

What is interesting is that “jurisprudence that sounded”, ancient law – and this is the uniqueness of the situation – experienced the charitable influence of both primitive, pagan and Christian religions. The former provided it with concrete legal material, the latter strengthened it conceptually and spiritually, and the “light of law” appeared as a reflection of the light of Christ.

Christianity influenced the law with its religious-mystical, philosophical, and emotional-moral visions. A number of fundamentally significant points should be mentioned. In fact, in ancient prehistoric times, religious beliefs generated the law, subsequently religion has been in close contact with jurisprudence, had a beneficial effect on it. It is possible to identify a general: both the emergence and the stages of development, prosperity, exaltation, decline and general direction from appropriate strict forms and procedures to more humane and soft, all this was inherent in the mentioned correlation.

A common sphere of activity, established days of respect for the dead by the state, common procedures, joint officials, combinations of religious and secular functions, general documents and objects of regulation, even shared archives occurred in this correlation.

Religion was “blended” with law: pontiffs and religious priests judged the legal prescriptions, while senators, statesmen, and officials were in charge of cults and religious ceremonies.

Only hypocritical despotism emerges, ruthless in public – constitutional, criminal, administrative law, fraud and delusion in private-civil law.

Moreover, the problem of social evil, delinquency, and crime is common to both religion and law.

Any evil committed by freedom people of necessity parasitizes living on the body of good, and it needs to find justification for itself, to be covered by the garb of goodness, and often by the highest level of goodness. It is not accidental that the most authoritative thinkers of antiquity, Socrates, Plato, Aristotle, adopted ethical positions, studying power, politics, the state, law from the position of virtue.

Both religion and law aim to correct injustice, social evil. However, law focuses more on the external conditions of existence, defined by different socio-political institutions, concerned with the intersection of the activities of a particular bearer of evil. Religion turns more to the middle, believing that without Christ, without his Truth, any moral search is meaningless. This may also be the limitation of law, in particular criminology, crime, criminal prosecution in the fight against violence, including its most dangerous forms – organized, international, economic, etc., because the fight is against specific bearers of evil, and not against evil as a phenomenon.

A perfect illustration of this thesis is the famous Gospel episode: Christ and the Sinner. Ancient Jewish strict law condemned to death by stoning an adulterous woman for committing adultery. One such woman was brought to the Savior by a mob of Pharisees. Religion in the mouth of Christ, “He who is sinless, let him cast the first stone at her” The stunned crowd dispersed.

Religion can help overcome the habitual obscurity: the struggle against evil in the world is our duty, but we must begin with ourselves, with our own souls.

There are sanctions in the law. There is no appeal for sanctions in the Sinai dialogue, dictated directly by God’s unmentioned sanctions.

There is no sin, no evil, and no evil sense of revenge. The evil living in our attempts to increase the evil in the environment can push us to a new evil – to murder, to imprisonment, to the destruction of life, which we do not grant.

The fullness of sinlessness is only mercy and love. Good is not achieved by evil means, and “the end does not justify the means”. A good that is not well received is not good. This is a testament to us from the apostles and holy fathers.

The Christian religion stands on the premise that the destruction of evil (including crime) is only possible by overcoming sin in one’s soul and love. It may be possible to achieve this in the earthly world, but religion embraces truth as an ideal. The ideal connects us to the Kingdom of Christ, which is not of this world. The ideal is essential because it points to the purpose of human life, which is not the prosperity of the material world.

The philanthropic role of the Christian religion is manifested in the fact that it leads jurisprudence to more meaningful goals, promotes growth, and searches for the answer to eternal questions. The magistrate, the court, the investigator establish the truth of a particular case. It is frequently relative. On the other hand, religion appeals to move on to the truth of the Absolute. F. M. Dostoevsky once said: "Truth is higher than Russia", referring to the truth of God, not human ones [5].

Law, jurisprudence, civil-legal relations, the great question of humanity: "What is truth?" specifies, but at the same time demeans the level of mundane everyday life, deprives it of arrogance.

Law deals with the truth of the mundane, the concrete, limited to the traditional questions for the jurist: "who?", "what?", "where?", "when?". Law tries to make sense of the purely human, the everyday. It is forced to produce distorted evaluations, dealing with the ethereal, with the crucible of Truth, which assists jurisprudence in overcoming its chronic ailment: juridical relativism. If the Truth, which can only be embraced, is not called for, then indifference to the Truth, which cannot be invented or produced by the efforts of a creative person, may develop in the soul of a lawyer – "creator" as an active principle. The demiurgeons of their own legal world could not help but sense pride in the developed legal material. However, different principles, norms, legal institutions, whole spheres of legal regulation generate multiplicity and opposition to the criteria of truth and the relativity of the truths themselves.

Without reference to God, without religion, without spiritual energy connecting the human soul to the Absolute, there can be no true culture. Everyone is granted his own charismatic gift. Creativity by its nature, by its spiritual essence is a deeply religious act.

The author of the law should understand this. Culture in its highest manifestations (literature and art, philosophy, theological thought, law) is closely related to religion; spirituality and culture are in direct relation to the degree of its religiosity. The withering of true humanity, the "umbilical cord of culture", in the words of the priest Pavel Florensky, grows from the grain of the cult, that is, from the liturgical and ritual essence of religion [6, p. 166]. This is exactly the spiritual leaven that stimulates legal creativity.

Spirituality is often confused with positive moral qualities and the intensity of the emotional state. The concept of grace does not exist for such a limited intellectual mind; without grace, all discussion of spirituality is meaningless. The sober and pragmatic jurists of antiquity, despite their priestly ministry, did not pretend to bear witness to the world of holiness. Still, they had a convincing command of language capable of showing such testimony. Where lawmaking creates an idol, God is forgotten. The process of right-making creates the illusion of belonging to an eternity of omnipotence, immortality, a creator in one's own creations. Thus freedom of creation, freedom in general, leads to the denial of the highest Truth.

The lawyers of antiquity, legislators, and rule-makers considered himself not only the creator of his own world but also a servant of the Gods, executing what was commanded from on high. From a higher truth position, we cannot find the new, the "original" in any of the truly great jurists. However, jurists cannot be embarrassed by such a situation because this "secondary character" concerns God's word.

Roman law is regarded as the pinnacle of spiritual creation. Official science holds it highly, stressing its technical, instrumental perfection. However, the opinion that Roman private law is "the perfect type of law" should be understood in a limited way, in a certain sense fair only for the civil law sphere. It is perfect in the vital domestic sphere, in the realm of the down-to-earth individual, egoistic interests. In religion, another level is the sacral-spiritual comprehension of being (life). Faith, conditionally speaking, from the beginning, pulled right to the top, set the bar high, did not let it become bogged down at once (at the exact moment).

It is not a mistake to believe that law was born in an environment of prayer-ascetic understanding and the conditions of primitive religion.

Lawyers are described as creators, initiators of normative lawmaking. However, there is also a religious understanding of the Creator. It is easy for a jurist to confuse the concept and realize himself to be a God in a world constructed by creative imagination. Evil begins when a person closes in on his pride, conforms himself to a deity, and the lawmaker acts without purifying himself, without striving to change his spiritual guidance.

Creative talent is the great gift of God with which human beings are endowed according to the plan for the world. This gift of human beings, like many other blessings, attempts to use it for self-improvement, self-exaltation, opposing himself to the Creator. The actual creation of man can manifest itself only in co-creation with God, in the energy, in the unity of the two wills – the Creator and his creatures. Human creativity is unreliable and even harmful to the world outside the connection with the Creator.

There is a danger of becoming a solitary Creator or a closed caste: lawmakers cultivate the idea from which, at one time, Christianity emerged, which adopted the great idea of the Blessed Trinity provided by the Gospel. The creative element's insularity conceals the danger of tyrannical self-assertion. This hazard Christianity recognized at once. Tempted by self-restraint, the legislator behaves tyrannically concerning his formations: self-assertive in general is despotic toward the environment because he needs someone else's broken will, for it is doubly tempting to overcome the choice by an objective regularity.

Even primitive religion (mythology) provided a symbolic example of transcending backward inertia, the gravity of earthly life, appealing to human beings to rise in spirit.

Indeed, with the advent of Christianity, everything changed. No religion, especially an archaic one, holds a person as high as Christianity. However, it also requires a lot of effort. The human being is a complete microcosm. Designed in the image, in the likeness of God, he is called to become the leader of divine action, to unite the whole world with God.

Both religion and law are united in the asserted necessity of a certain footing, especially when the corresponding difficulties arise, trouble ensues. People need to feel a point of support above the depths of the abyss. It is crucial for believers to feel this stillness of sanctity over our misery and pity. This fulcrum can be the law [1, p. 122–126].

There are many points of reference, for example: in law, sanction, and religion, the fear of God, awe at the gaze that sees everything from a heavenly height. However, this is no ordinary human fear but a painful sense of one's insignificant conformity to the demands and expectations of the Highest. It is not by chance that Scripture notes, "The fear of the Lord is the beginning of wisdom" [Psalm 110:9]. This is also the prevention of unlawful actions and the best one.

The superhuman content of religion is understood to be immutable, for peace in the Christian tradition as a self-present property of the Creator's super-perfection and also the perfection of holiness.

The law is inherently conservative; it is stable. It is "perfect" to the extent that it does not change over time. Universal law considers all possible details and options to the satisfaction of all. Religion assists law. Law is a norm of behavior, a commonplace, something that everyone can fulfill, utilize, and implement.

Religion protects its canon by pointing to an ideal. In religion, too, the pursuit of holiness cannot be embodied in everyone at once, but it occurs that a man – the bearer of the ideal of holiness, the light of Truth, his spiritual fire – appears and helps the desperate realize that not everything is lost. The common law guarantees security for us, salvation from attacks, every kind of harm. Faith awaits salvation in eternal life.

Religion, like law, is characteristic of mass, universality, and social purposefulness. It does not follow from a certain presumption of the fulfillment of precepts by all. Both are against separation and isolation, a sense of hostility between those who constitute popular unity, struggling against the "hateful difference of the world". The view of the common superiority over the individual was a pillar of both religious and legal consciousness. Ancient human beings felt that they were part of the society in their land. It could not feel unity with all. The whole, at first sight, primitive and religious in its essential culture,

was aimed at nurturing and maintaining in a person a harmonious unity of the surrounding space with the inner one. Concluding, we recognize the existence, undoubtedly, the similarity of the oro-acoustic form of religion and ancient law, their oral culture [1, p. 27–128].

### **Conclusions**

1. The religious cult accustomed, instilled in people a respect for the law, a respectful attitude toward it.

2. Sacred law is, in addition, a whole complex of legal principles and institutions related to the ancient layer of Roman law; unwritten “sound”, was the basis for its subsequent improvement. All this taught people to appreciate the law, strengthen legal culture, and foster legal consciousness.

3. Religion was understood as a virtue in performing assigned duties, such as conscience, even doubts, appropriate mental trepidation, that is, the inner struggle, the moral struggle inherent in the person. As Cicero remarked, not discharging, but the tension of the soul, honest effort – this is what in the field of law one cannot engage in socially essential affairs, to appeal to the Gods.

4. Christianity influenced the law with its religious-mystical, philosophical, and emotional-moral visions. A number of fundamentally significant points should be noted. In fact, in ancient prehistoric times, religious beliefs generated law; subsequently, religion has been in close contact with jurisprudence and has had a beneficial influence on it. It is possible to distinguish the common: both the emergence and the stages of development, flourishing, exaltation, decline, and general direction from appropriate strict forms and procedures to more humane and milder; all this was inherent in the previous relationship.

5. Religions, similarly to rights, are characterized by massiveness, universality, social purposefulness is evident. It does not follow from a certain presumption of the fulfillment of precepts by all. Both are against separation and isolation, a sense of hostility between those who constitute the people’s unity struggles against the “hateful difference of the world”. The view of the common superiority over the individual was a pillar of both religious and legal consciousness.

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## **РЕЛІГІЯ І ПРАВО: ВЗАЄМОВПЛИВ І ВЗАЄМОЗВ'ЯЗОК**

### **Частина друга**

**Описано визнання неможливості зникнення феномену релігійності у суспільстві та очевидні факти впливу релігії на процеси становлення й розвитку права.**

**Аналіз багатьох історичних джерел дає переконливо твердити, що саме релігія є насправді духовною колискою права.**

**Обґрунтовано, що для ініціювання правового спілкування необхідні три речі: знання права (інтелектуальний елемент), діяльність (вольовий елемент), і – поза сумнівом – свідомість (духовний елемент). Зрештою, тільки духовне ідентифікує два перші.**

**Тільки духовна складова наповнює “юридичним світлом”, змістом, метою, духом закону, правовим зв'язком, гарантує їх від перетворення у кращому випадку на формальну схему, у гіршому – на кримінально правовий хаос, а саме право – не право.**

**Ключові слова: Бог, віра, релігія, право, суспільство, розум, справедливість, закон.**