

MAX WEBER'S THEORY OF LAW EDUCATION AND POLITICAL VIEWS OF RELIGION

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Abstract. *In order to better evaluate Weber's most popular views on the economic ethics of religion, by comparison and due to the interaction of the opposites and sets of views expressed in them, in this work, the discipline of human rights will also be analysed, which will closely identify Weber's asceticism about the spirit of normative Protestantism and the ethics of capitalism and law school and education. The purpose of the research is to establish and identify the ideas expressed by Weber regarding the value scope of social classes, layers and typology of religion, by analysing them – conventionally, but specifically – through the doctrine of lex nature and education impact in school of sociology. Additionally, the purpose of the present work is to answer what is the general structure of Weber's philosophical thoughts and views on school of law, to find and identify in it the asceticism of the sociology of religion, interspersed with the theory of conflict and domination. But the relevance of the research is rooted in the fact that the methods of Weber's scientific approach are used to analyse the state's institutional and orderly system-theoretical dependence from the bureaucratized forms of public authority and this impact in knowledge.*

Keywords: *Canon law, conventional norms, ideal norm, law education, law school, legal norm, legal phenomenon, school of sociology, sociology of law, sociology of religion.*

Sources, background of the law and the school of religion

The state, as an institution of law, and the connection between religion and the Christian doctrine of pre condemnation, by its very nature excludes the possibility that the state could support religion by showing intolerance, as it happens in various aspects of human rights, where there is wide pluralism and man is the absolute embodiment of these rights. Where the divine rights cultivated by the Christian faith, which in reality manifested as infallibility of the church, merge or completely disappear in front of man as a phenomenon of creation, and if it is presumed that man is absolute and unique, then his rights are also unquestionable and as absolute as the man himself (Koenig, 2010).

However, the church denies this idea, because it recognizes only divine authority in everything, including laws, because they have emerged from God, for example, such sources as the Old Testament, the books of Moses, etc. The spirit

of canon law and its substance clearly speak of it. Therefore, the state, when analysed from the point of view of the doctrine of Christian texts, cannot be 'doomed' because it is itself a form of perfection and true embodiment of the social environment of the society.

The Christian society, from a perspective of the Christian scriptures, which also constitute the main sources of customary law, such as the 10 Commandments, is eternally sinful and condemned and therefore seeks forgiveness of eternal sin. The complex situation is created by the fact that, in the end, the final judgement is made neither in this life nor with the legal methods used by the state. This would be absurd from the point of view of legal principles because it would mean that the guilt of a person is presumed from birth, and also the guilt can be redeemed (compensated) only in a specific, truly sacred way – through a religious institute intended for the forgiveness of sins. This guilt is omnipresent even though there is no such form of presumption of guilt in law, it would be an abstract and utopian idea even for the most fanatical advocates of legal absolutism (Koenig, 2010).

On the other hand, and as Sigmund Freud (Whitebook, 2017) aptly points out in the "*Civilization and Its Discontents*" (Freud, 1929), it is the church with its Christian dogmatic which directly calls for this premise of eternal sin and confession of guilt, so that man becomes obedient to the commandment and responsible regarding the universal moral law. To a certain extent, it is precisely the law, which frees from this culture of guilt and upbringing, as opposed to the 'salvation of soul', placing them on both sides of the pact of 'international reconciliation', where the law deals with purely ethical questions because they are inseparable, namely, questions of guilt in the past, where the reality is relative but determinable, or of guilt in the future, where, as they say, everything is relative, but ignorance and fear, no matter how absurd, follow a transcendent commandment, as well as profane law (Weber, 1949).

Despite attempts to for this abstract doom and the status of eternal sin, thus the imperfection of law, the reflection comes up against the role of religion in the legally constituting and undoubtedly primary document of the state – the constitution, similarly as for the church – to the source of its religion, the Bible. The only difference is that while the clauses established in the constitution do not directly and individually affect matters of faith, morality and conscience, the judgements contained in the texts of the holy scriptures and values, such as in the Bible (Old Testament and New Testament), are the source of law and morality both (condition of what is good, what is happiness and what is the right action). For example, in the context of comparative international constitutional law, this religious aspect is quite well established in the constitutions of different countries, including Latvia (see, for example, '*God bless Latvia*' contained in the preamble to the Constitution of the Republic of Latvia (Satversmes Sapulce, 1922), as well as Article 6 of the Constitution and the 1st Amendment of the Bill of Rights of the United States of America (1st United States Congress, 1789) and II

amendment of *Bill of Rights* of the United Kingdom) (UK Parliament, 1689). Moreover, the social and legal aspect of religion can also be seen in other main documents of the state, the ceremonial laws, and customs, such as national anthem, oath, which despite being symbolic are an essential condition for the existence of the state.

Prof. O.Höffe (hereinafter – Hoffe) in contrast to Weber's culture of civil disobedience (resistance) in everything where it is necessary to obey a person, the law or God, identifies one form of justice – God's or Biblical justice, and it is a prerequisite for the existence of law and for justice there is no need for Weber's idea of *sovereignty*, because since the Greek times it includes also elements incorporated in the law, such as peace and happiness (Hoffe, 2006). Further illustrating Weber's idea of domination and civil disobedience, Hoffe concludes that, in Christian legal thought, right to resist is thoroughly questioned. Hoffe writes that Sophocles's play "*Antigone*" rather advocates the right to resist, while Socrates considers it unjust to resist an unjust punishment if he has previously been in principle with his community. In Christianity, the right to resist arises from the conflict between the requirement to obey God-appointed superiors (pope, bishops), meaning to obey God, more than man or the state (ruler) (Hoffe, 2006).

By creating the architecture of church law, Weber asks questions and seeks answers that relate to the genesis of value and law and the characteristics of 'association'. In other words, did the phenomenon of the origin of law begin with the emergence of the social consciousness of society and the usurpation of the power of some authority over it, but later resulted in the strengthening of the individual's autonomous rights, in the absolute element and form of human rights? But, as theologians point out, law perhaps has a dimension of Christian values, which manifests itself in the form of divine verticality through the fact that the basic moral legitimation of law can be found in religious texts and its first and main cause is God (*ius Divinum*) as its primary source, and which proves that there is a successive *homo religiosus* in the light of *imago Dei* (man as the image of God). The above mentioned would indicate that law, despite its general nature, should be legitimate and generally recognized. According to Weber, a sociologist of civilization, the element of recognition is common for both law and religion, and it is a prerequisite of their existence, because it is based on the idea of religion and on moral principles. On the other hand, the *lex* (law) does not have such a 'craving' for moral and religious precepts at all, because its task is not to 'speak' and argue in the language of morality and religion (Weber, 1949).

The basis of human rights, as stated by Matthias Koenig, denotes absolute rights, the validity of which cannot be justified by referring to the traditions, customs, or laws of a certain or particular society that have formed historically, but which can be declared as legitimate demands of *all* people. The universality of human rights, as evidence of natural rights, is contrasted with the particularism of cultural and religious traditions. In the classical school of natural law, it is

argued that natural law is part of a comprehensive system of rules about the rights and obligations through which man shows his nature – whether it is characterized by the image of man as God or by reason and free will (Maritain, 1951; Finnis, 1998).

Another way – which is directly related to schools of Kant, Locke, and Rousseau – of justifying universally applicable human rights therefore does not start with the objective nature of man, but with the subjective, non-religious, cognitive abilities of man and the principles of the legitimate legal system derived from them. The most influential argument of this contract theory, as opposed to the religious contract with God, was formulated by the American philosopher John Rawls (1975). In “*Theory of Justice*”, which was certainly directed against the once prevailing utilitarianism of Anglo-Saxon moral and legal philosophy, Rawls defines justice as ‘*Fairness*’. The core of his modern argumentation, similar as to religious beliefs, is a hypothetical construction of a situation of choice (initial state), in which individuals, due to rational self-interest, agree on the principles of the social system, while just like in Biblical mysticism, at the same time being ‘*behind the veil of ignorance*’, and therefore not knowing their specific social position (Rawls, 1971).

Jürgen Habermas, in his theory of discussion, similarly to Rawls, when examining the institutional form of the obligations of human rights and national sovereignty, primarily considers the national constitutional state and the civic institute of the national state as the constitutional will of society. Namely, in his view, the application of human rights, the same as religion, goes beyond the borders of a nation state and points to a world citizenship in the process of being born, just like the Christian idea of ‘*God's children*’, however their universal applicability would be legitimate only if human rights were also connected at the global level with a democratic legal system, which is not yet possible, while in a Christian-minded world it is no longer possible (Habermas, 1996; Merkel & Croissant, 2000).

On the other hand, Weber views the ambivalence of human rights as a change brought by the Modern era, as compared to the civilizations of the Axial era (Eisenstadt, 2000) and points to the paradoxical consequences of the institutionalization of human rights – a rationalized state apparatus and legal system (Bielefeldt, 1998). Koenig concludes that, by considering the dominance of the global human rights discourse, in addition to the rapid decline of the proportion of religion, it is the right time for a critical reflection of the role and place of human rights in society. It can help keep the symbolic form of human rights open to new and more detailed versions, different justifications and understanding between cultures. It makes the incompleteness of the institutionalization of human rights conscious and thus promotes the renewal of their emancipatory promise (Koenig, 2010).

Several other philosophers have already mentioned *homo religiosus* as a method of research phenomenology, such as Edmund Husserl, modern times' representatives Martin Heidegger and Jean-Paul Sartre, who mention as a contrast to *homo religiosus* the existence of *homo saecularis*, who lives in the present without any remainder, the only difference between these two is, that contrary to a sworn secularist, *homo religiosus* does not allow himself to be blinded by the fleeting brilliance of the present moment, because he remains in the shadow of the *ulpa Dei Maxima* (God's wrath), thus turning every moment of his life into a reflection of eternity, which is brilliantly paraphrased by Immanuel Kant in his work "The Metaphysics of Ethics", thus creating the so-called highest moral criteria (Kant, 1996; Williams & Bengtsson, 2020).

Similarly, comparable would be social and religious norms, where the former are secular and practical to the extent possible, as opposed to the objective rational values expressed in religious texts as a source of law.

For example, Romans, when coming to conclusion, that ethical elements can be found in every legal system, defined law as the art of good and just (*ars boni et aequi*), therefore law is associated with the art of morality and virtue. It is precisely the idea of Roman law, which is expressed in the Institutions, part 3 of the codification *Corpus Iuris Civilis* of the Eastern Roman Emperor Justinian I, and which is based on the idea that all men are born free and therefore have the *lex nature* prerogative to be free, that discredits through times biblical moral principles, not to mention the existence of a single national morality.

On the other hand, in the early Middle Ages, this fundamental idea, interpreted by theologian and scholastic Thomas Aquinas (*Sanctus Thomas Aquinas*), transformed into a dimension of biblical values, creating ideal law in an ideal state that is under the authority of the church (similar to Plato's utopian state), but with the rise of humanist ideas and their spread in Western Europe, the same law became more specific and evolved into subjective (natural) human rights, even providing for respect for human dignity.

As Otfried Hoffe (2006) points out in his work "Justice", in the legislative giant *Corpus Iuris Civilis* (collection of civil, non-ecclesiastical law), which is the most important compilation of Western law, at the beginning of the prominent Digests all legal claims are formulated in form of three basic principles. For centuries they were associated with the Roman jurist Ulpian (Domitius Ulpianus) (Britannica, 2022). The aforementioned corresponds well with the legal tradition started by the Romans, namely, the great jurist Ulpian expresses a seemingly eternal truth at the very beginning of the Digests in *Corpus Iuris Civilis*: "*Juris praecepta sunt haec: honeste vivere, alterum non laedere, suum cuique tribuere*" or "The precepts of the law are these: to live honestly, to injure no one, and to give every man his due" (Hoffe, 2006), which is completely incompatible with Christian values, the biblical view, especially the Old Testament, and the idea expressed by Weber about the *Protestant type and the spirit of capital* (Kalbergs,

2010) as a social dilemma, because it is denied both by the religious approach of the infinite and eternal humility and by capitalism's equally eternal servitude to property or material values.

In comparison, while Cicero (*Marci Tulli Ciceronis*) writes in his work “*On the Republic*” (“*De re publica*”) that the state or Republic must always and everywhere be placed in the first place – “*to place the good of the fatherland before all else*” (Cicero, 2009), then capitalism requires the idea of property (*dominium*) to be placed above everything and to serve only for it (in the name of increasing capital), but one must keep in mind that, speaking in parables, as it is stated by the introductory part of the Digests in *Corpus Iuris Civilis*, the ruler (the state) shall humbly bow before God, that is, before the Pope, because the final settlement (...) will be made only on the day of reckoning. With such a motto, the collapse of the ancient world began, and also began the ‘*quiet revolution*’, where the state no longer holds its power and power is not its only goal anymore, because the state begins to obey in every aspect its guardian – the church, which according to the idea of the church is capable of exempting from God's punishment the sinful and therefore infinitely guilty citizen, nation or even a ruler. It also creates a division between the early medieval approach and the renaissance way of thinking, or such was the huge social convergence of the time, because, for example, the ancient Greeks have no religion, instead there are various cults, but the ‘sacred’ (*hieros*) world is separated from the ‘profane’ (*hosiosos*) world. In other words, God has his world, but man's world is in his own hands, i.e., ‘political’ life is completely ‘*desacralized*’ (Siebeck, 1994).

In his views, Weber goes even further and considers that modern political technology is characterized by the fact that religion itself is also transformed and as a result the capitalistic ‘*spirit*’ is formed, that is, through brutal dualism the main objective of the corpus of law is incorporated – to look at the body, soul, and spirit (*corpus, animus, spiritus*). Because it cannot be any other way when talking about the state affairs – this opinion of Weber is further developed by prof. M. Foucault (Michel Foucault) (Macey, 1994), where he proposes a cult of the ethical continuity (doom) of the church, an imperfect (therefore, immoral) person and equally imperfect and punishable actions resulting from the idea of sin, which follows the command: “*Go get slaughtered, and we promise you a long and pleasant life*” (the central motto of the medieval church and the state in the fight against decline of obedience), in contrast to the ‘*rule of law*’, a concept established by Albert Dickey of the Enlightenment: the basis of legality and justice is precisely the sinful person. Moreover, in search for a legal state concept (*Rechtsstaat*), religion was noticeably replaced with other paradigms. For example, Viennese doctor Johann Peter Frank in his 1779 essay “*A System of Complete Medical Police*” (Lesky, 1976) no longer sees the presence of religion and God in the state affairs, as he writes: “*The general object of police science is public order*” (Šuvajevs, 1999).

By referring to Shakespeare's Hamlet, Weber calls such public order a 'prison'. According to him, this ensures formation of individuals who "*become nervous and soft if this order is disturbed for a moment, and helpless if they are taken out of their complete adaptation to this order*". On the other hand, national socialist Roland Freisler, considering Weber's 'ruthless insight into the realities of life', after Weber's death, in the 1930s, found a generally accepted definition and it reads as follows: "*A state governed by the rule of law is an organized form of national life that embraces all national life forces to ensure the right to life internally and externally*" (Weber, 1919).

It is clear that the church and religion are generally ignored and its quintessence is lost, but it took several hundred years before some of the most prominent critics of the unity of church and state from the early Renaissance and decadence, Thomas Hobbes with his brutal ethics, and John Locke, by seeing the essence of happiness in the state affairs (law), could arrive to such a remarkable 'forgetfulness' of church and religion in the field of state and law.

However, returning to the systematic aspect of the church, when looking at the socio-legal issues of religion and views based on human rights, where everyone can be an atheist or a believer in regard to their personal beliefs, but in the common public legal space they all certainly meet some sort of religious ceremony, then it must be concluded that the influence of religion is felt in traditions, as well in law, which is based on the values derived from them. This is especially evident in the culture of the Western Europe and in the deeply rooted traditions these nations, and in general everywhere where the beliefs of the Christian faith prevail.

Calvinism and social school of law

A culture based on religious values and a culture based on human rights beliefs are formed. In the background of the traditions of the Christian worldview, purely religious holidays are widely accepted and celebrated in the form of positive norms – official holidays celebrate several thousand-year-old events that are purely religious in nature and have no connection with the secular world at all (birth of the prophet, resurrection); an official anthem of religious content is sung, which even contains an indication of how it is an official prayer (in the case of the National Anthem of Latvia – the solemn prayer of the people, Law on the National Anthem of Latvia (Saeima, 1998), Article 2). Thus solemn (symbolic) oaths are taken (e.g., on the Bible or on the constitution) and, finally, these religious texts and manifestos stemming from them are carefully enshrined at the constitutional level in an otherwise profane world, and as a result atheistic beliefs and traditions remain in the minority against such a background. Besides, for example, the institution of the oath is a purely moral paradigm, an ethical standard for a certain

action, it is not an ordinary material legal norm, since its origins are purely religious, symbolic, and ceremonial.

The question arises, what are the sources of such a discipline of cultural law, a religious law, seen as a form of expression of traditions, which cannot be measured in the same way as pure canon law, and how such wide recognition can be found, even among people completely unrelated to faith? Furthermore, what is the basic source of the moral expression of these values – is it in Greek and Roman centuries-long philosophical reflections, widely known unwritten moral views of natural rights or religious texts, in the reflections of law (similarly, as a reflection of ideas in Plato's allegory of the cave), which form the legal opinion and consensus of the last millennia basic source codes?

Also Immanuel Kant (Kants, 2011), as a devout Protestant, when answering the question about the act of faith and law, as the key focus point of civilization, in dramatic and harsh language responds by at the same time marking a new period in the history of religion and law: “*Assuming that the just moral law is to be taken by man as a command from God, the just man may say: I want the God to exist!*” Man, no longer reverently bows his head before God's throne, but expresses, as Weber says, ‘*in act of power and command*’ the power of his will – the power to order and command Him (God) to exist. Neither St. Augustine nor Thomas Aquinas would have thought to assert such a thing; when speaking about God, they speak humbly and in a language of longing. On the other hand, Nietzsche, in response to Leibniz's (*Gottfried Wilhelm Leibniz*) so-called ‘*question of questions*’: “*Why is there something rather than nothing?*” puts a question at the centre of human history: “*Can a person live without God?*” and comes to an epiphany: “[..] *I want God not to exist, so that my existence belongs only to me [..]*”. Hence, the view of contingent things and their considerations, as John Locke, the founder of humanism, mentions with ‘*clear language*’ and ‘*common sense*’ language, leads to the principle of sufficient reason and the neo-Kantian Hegel's idea that ‘*reason*’ is, in his words, which ‘*by itself*’ determines all the necessary needs for certain rights formulated in laws.

In response to this, Weber concluded that in contrast to the Roman school of law, nor in any other culture in the world, except in the West, where pragmatism is rooted from the time of Thucydides and its prehistory is used, there is nothing that would indicate a rational legal theory. In other earlier civilizations, in the prehistory, there are no strict legal systems and forms of legal thinking that characterize Roman law and Western law, which is based on the former. Such a phenomenon as canon law is also known only in the West (Vēbers, 2004).

Thus, for example, Roman law was deeply rooted in the Catholic lands of Southern Europe and later also in the whole Western Europe. The rationalization of private law, if it is interpreted as the simplification of legal concepts and the division of legal material, reached its highest development in the Roman law of late antiquity and, on the contrary, was the least developed in the countries that

reached the highest degree of rationalization, including England, where the renaissance of Roman law failed (Vēbers, 2004).

Weber quite well captures the ‘*image of American culture*’ created by Benjamin Franklin, leader of the American independence movement – “*from cattle you get fat, from people – money*”, or as Weber says it in his work: “*The merchant may conduct himself without sin but cannot be pleasing to God.*” This translates well together with the statute transferred to the canon law on “*Deo placere vix potest*” (“*it is hardly possible to please God*”), which refers to the actions of merchants and, the same as the evangelical text about usury and other ‘misfortunes’ of law and morality, was considered real and therefore an important source of knowledge of socio-legal nature (Vēbers, 2004).

Calvinists, on the other hand, saw a form of ideal norm in the law, which is impossible to achieve, but must be constantly striven for (Journal of Law & Religion, 2006). Regarding Calvinism, we can also mention the views expressed by Thomas Aquinas (Fergus, 2009) in his work “*Summa Theologica*”, cognitive theory, and its religious character, which aims at the settlement and concreteness of the status of social law, but only by religion one may dictate the sceptre of state power (The Western Australian Jurist, C.Y. Lee). However, in Luther's teachings, we find the opposite – liberation from following the written letter of the law as a divine privilege of believers (Vēbers, 2004).

When taking a closer look regarding the pact of recognition of religion and rights, it is appropriate to mention the insights expressed by Weber's contemporary, Francis Pieperi, the founder of modern Christian dogmatics, in his work “*Christliche Dogmatik*” (Mueller, 2003) or a summary of this work under the same title “*Christian Dogmatics*”, which was dedicated to the memory of Francis Pieperi by John Theodore Miller, a prominent professor of systematic theology at Concordia Seminary in St. Louis. Namely, in his work “*Sociology of Religion*” (Vēbers, 2004), Weber expresses the observation that the internal interests and the element of recognition of rights require ‘highest’ salvation benefits, which were not universal laws at all. Such a state as immersion in nirvana, when religious misery or religious dreams could develop into a popular cult, could not become an element of everyday law, because there is an obvious inequality in the qualification of religion, which was recognized even by the Calvinist doctrine of predestination with its particularity of grace. Weber points out that the most highly valued benefits of salvation – the ecstatic and visionary abilities of shamans, magicians, ascetics, and various God-inspired people – were not at all available to everyone, instead their acquisition is determined by ‘charisma’, which in some cases could be awakened, and as is also the case with churches both internally and in the political scene in total.

Special attention should be paid to the legality element of the law, the authority of its origin (the autocrat's inequality with the Protestant ethic), the definition of sin or its general description (*De Peccato in Generere*), will, guilt

and the socio-religious review of punishment. Weber points out that the church, as an institution, tries to organize the religiosity of the masses and to replace the qualifications of the virtuoso religious order with its own monopolized means of salvation. According to its nature and its own interests, the interests of the priests, as well as the officials of the state bureaucracy, the church must be a 'democratic' institution of salvation in the sense of universal accessibility, it must strive for universal grace, eternal atonement of guilt and punishment, and recognize the sufficient ethical value of all those, who are subject to its power. According to Weber, in this case, from a sociological point of view, one can see a complete parallel with the fight of the bureaucracy in the political sphere to the 'political fights of the aristocracy of the ranks' (Vēbers, 2004).

It can be pointed out that explaining the statements of the Bible as '*paragraphs of the book of laws*' is an old and relatively clear interpretation of the cultural tradition of Roman law, although not always casuistically accurate citation of the Bible, but more as a revelation of the legitimate source of moral law in the primordial scope of its existence, which leads to the same goal that gave rise to canon law. Notably, "*For the Reformers, the Commandment appears to be an ideal norm, while the Lutherans, on the other hand, find the Commandment oppressive as an unattainable norm.*" Lutherans condemned the reformers for '*slavish servitude to the law*'. Therefore, the Decalogue, as a codification of natural moral laws, remains the norm of human behaviour. From the average point of view of canon law, morality free from laws and rational asceticism oriented to the Commandment were also excluded; the Commandment remained as the structure and the *ideal norm*, but the law has only 'discrete' character (Vēbers, 2004).

The Convergence of Law and the School of Religion

Observance of such a principle "*extra ecclesiam nulla salus*" (Cyprian Letter 72.21) cannot be ensured by the state in its social reality. In other words, the inability of any state to ensure the functioning of the norm (both law and religion), because the mentioned principle literally means: "*(..) there is no salvation outside the church*". The state was unable to save the believers with it, but the concern for God's glory forced the church, a '*believers' Church*', to look for basis in legal norms, which, on the contrary, were created by heretics and unbelieving Romans or legal scholars until the early Middle Ages (Toteff, 2016).

Over time, it became impossible for the state to intervene in various matters, such as appointment and transfer of clerical positions, which, on the contrary, was described in detail by the norms of canon law. Thus, for example, the leader of the English revolution, Oliver Cromwell, together with John Brown, constituted the church as a socio-legal unit, or even an institutional body. He was an advocate for universal religious freedom, where the state has no resemblance to the church,

as had been accepted since the early decadence of Roman law. But his concept of 'holy parliament' – the separation of church and state because they (the people of faith) were pietists for positive religious motives and represented influence of that, similarly as *Roger Williams*, guided by the same considerations, advocated for unconditional, unrestricted religious toleration and the separation of church and state. (Vēbers, 2004).

One does not have to look far for an example, as in the resolution of the English Baptists of Amsterdam (1612 or 1613) the demand for freedom of conscience appeared for the first time as a defence of one's positive rights against the state. It reads: "*The magistrate is not to middle with religion or matters of conscience (..) because Christ is the King and lawgiver of the Church and conscience.*" (Schluchter, 2017)

During the Hellenistic era, in the Roman Empire, also in Islamic lands, religious tolerance prevailed for a long time, limited only by considerations of public order, which were based on laws, even if they were not always compatible with the texts of canon law. As, for example, Philipp Jakob Spener points out, it is about the fundamental rights of Christians, which were guaranteed by the apostles when they formed the first Christian congregations. Also, the Puritan opinion developed about the place of individual people in the church and about the legal sphere of their activity, which derives from *jure divino* and is therefore an inalienable and unshakeable right. Because no matter how ahistorical the positivist (philistine) critique of the idea of 'fundamental rights' may be, no matter how trivial it sounds, in the words of Spener, one must ultimately be grateful for everything, even what the fiercest modern 'reactionary' considers to be his individual freedoms and minimum rights (Spener, 2019).

The Arminian eristic position of the idea of extending state sovereignty to church affairs was represented by the monopoly of autonomously created state sovereignty, which corresponds with the political interests of the law of that time, which were pragmatically but tendentially rooted in the church law culture already during the Renaissance. In addition, an ardent follower of the idea of Arminianism, or prof. Jacob Arminius (*Arminius, 1560– 1609*) of Leiden, was the great philosopher of law and lawyer, dr.iur. Hugo Grotius (*Huig van Groot, 1583– 1645*), who in his work "*De iure belli ac pacis*" (1625) expresses, among other things, the idea that war is a crime if it is not a means of protecting law. It was Grotius who distinguished law from religion and emphasized the principles of natural law, which are immanent in the nature of man who is a social being (Švābe, Būmanis, & Dišlers, 1927).

It is also known that Nietzsche's supporters, based on fundamentally similar reasons, have attributed a positive ethical meaning to the idea of eternal return, leaving the church in the background, compared to the formation of the state. Erasmus (*Erasmus, 1466– 1536*), a Dutch humanist who declared the dogmatic 'law of mind', which is based on the characteristics of humanism and man as a

sovereign being, who can decide and determine his own rights, contrary to the church's divine law policy, points out that the collision is created exactly in this aspect of interaction between religion and law (Švābe, Būmanis, Dišlers, 1927).

It must be noted that the relationship between church and state in the first centuries was seen as ideal by the *Quakers*. This idea was strongly represented by Robert Barclay with his idea of “*Inward Light*”, because for them, as well as for many pietists, in terms of purity doubts were not created by the church as an institutional formation, because it drew its sources from the theological works tested for hundreds of years (Ensign, 1955).

However, within the framework of an unbelieving state or under the influence of ‘*under the cross*’ of an institutional church, other defenders of Christian values and rights, such as Calvinists *faute de mieux* (from Latin meaning – for lack of something better) were also forced to engage in the separation of church and state, similarly as it was done by the Catholic Church in analogous cases (Hoffmann, 1902). They considered that the rules of the church do not affect the civil society and its relations, but initially in the first formations of the congregations and later in the church, there was a living principle, which resulted from the fact that a prohibition was established to enter any, even business, relations with people excluded from the church. Puritan legal formalism leads to completely adequate consequences – complete trust in law, and the law not only as a norm, but also as a social need, or: “*In civil actions it is good to be as the many, in religious, to be as the best*” (Morgerism books, 2021).

The principle of Puritan opinion that “*Natural reason knows nothing about God*” was impossible to consistently implement in reality, because there was a living principle: “*Moral and perpetual statutes acknowledged by all Christians*”, as a result of which it was precisely the ethnos of the of cultures or peoples that preserved religious traditions in all its vastness, thus trying to close the gap that simple state power or domination dictated by the state apparatus could not provide (Barclay, 2002). Law, without doubt, also contains ethical provisions, through which, if one can say so, the Christian ethical-legal maxim and the embodiment of the moral spirit permeates the principle: “*Do unto others only as you would have them do to you*”, which is also a law of morale for any atheist (Kants, 2022).

Since Kant, there have been discussions about legality and compliance with what justice or, more broadly, morality requires, which, in that aspect, also coincides with Christian justice. Thus, it is not about compliance with positive law, positive legality, but rather moral legality. Ancient philosophy even discusses both aspects. Plato, for example, accepts compliance between personal and political justice, while Christian, as well as Islamic and Judaic, medieval times are much more interested in personal justice. Weber calls it more precisely as ‘*spirit of capital*’, moreover, the so-called rulers' manuals mainly talk about a righteous ruler, whose source is an authority-based and prophesied discourse about the transcendental origin of power. In any case, as Hoffe points out, starting

from Plato, Aristotle and until John Stuart Mill's writings “*On Liberty*”, the condition for the functioning of rights is as a search for exit from the tyranny of the majority, which Weber describes as the fear of unwanted submission to some group authority. When the legally constitutive morality of justice and law disappears, following the Augustine's idea about *de civitas dei*: “*Justice being taken away, then, what are kingdoms but great robberies?*”, and without finding the perspective of faith and morality for justice, the spiritual, as well as the worldly order of law and legality, and its pillars, would collapse (Hefe, 2009).

Thus, the place that Protestant teaching intended to give to the ‘*lex nature*’ (natural law) is shifting. The existence of ‘*general rules*’ and a moral code became fundamentally unavailable, because everyone has an individual right to a God-given conscience. The formalism of Puritan ethics is a clear consequence of trust in the law, since legal order is reduced to formal legality, in the same way that ‘truthfulness’ (*Redlichkeit*) or ‘righteousness’ (*Uprightnes*) for nations with a Puritan past does not mean the German ‘honesty’ (*Ehrlichkeit*) but something specific and completely different – formally and reflectively transformed consolidation of rights in the form of laws, as was carefully practised by the pioneers of Roman law from the times of Ulpian (Vēbers, 2004).

However, the Puritan understanding of ‘legality’ as a test of *choseness* without doubt created more important motives for positive action than the Jewish understanding of legality as keeping the commandments, because of internal and external ethical considerations and the relationship to tradition in observing social norms and determining legality was more like unscriptural law, a principle regarding the laws that are not based on the precepts of Judaism, and that everywhere else can be ‘*permitted what is forbidden*’ and the only positive and true law is the one that derives from the Old Testament for these two components of internal and external ethics.

Conclusions

Referring to the research which was made in 2022 and published in Socrates (Socrates, 2022) under the key “Legal Doctrine of Max Weber's Sociology of Religion” of approach, it can be concluded that the main theses and views are similar to this work.

Finally, when analyzing the institutional church, Weber describes the structure of canon law as a ‘shading’ of the sociology of religion. According to this approach, modern state is something like the papal curia, which can better prevent various conflicts with the help of priestly lordships or domination. This means that the church is an administration that is characterized by the following features, which, in addition, coincide with the features of the state: 1) differentiated administration rank, as an institutional and legal structure; 2) rationalization of cult and dogma, as a form of application of the norm; 3) claim

and universal domination, as claims of atheists about general law; 4) creation of a rational system and successive rule, as a set of human rights elements; 5) relationship of loyalty between those who serve and those who rule, as a sovereign who serves the social consensus of power and religion.

The comparison made in the central part of the work with the tradition of systematic schools of constitutional law in other countries shows Weber's already indicated, so-called, legitimate hierarchical and recognized features of religion and the similarity of the church, or historically, the similarity of the state with the ancient forms of church education administration existing throughout the ages. According to Weber, their recognition and legality lies in the wide diversity of culture and values and philosophical views, where human rights, as well as church law (canonical law), have the common and the different precisely in the broad dimension of the expression of freedom of law. If in the sociology of the religious school there is a "cult" of norms and obedience, as dictated by a collection of laws, where article follows article, then the asceticism of general ethical actions is relevant in the context of human rights, as opposed to the church's dogmatic maxims of sociology. Here, Weber's findings, with his constitutional and educational system experience, are no exception. Weber's guidelines for legal norms and knowledge follow the generally accepted scope of the idea of the core of the state, but Weber directly believes that they work best in the real life of society if they are incorporated with some help "as a commandment", through authorized orders and with the help of "dominion". Therefore, the transformation of Weber's ideas is vividly reflected in the overall legislative activity following the principle of "objective power" and the concept of "*leges imperfectae*", that is, to interpret everything that can be interpreted in the realities of social life, including world education.

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