



Human and the State in the Mirror of Philosophical of Law of Western European Civilization

Panishchev Alexey Leonidovich^{1,2}

¹Philosophical Sciences, Theology Department, Slavic-Greek-Latin Academy, Moscow, Russia

²Financial University Under the Government of the Russian Federation, Kursk Branch, Kursk, Russia

Email address:

Alexeip1980@mail.ru

To cite this article:

Panishchev Alexey Leonidovich. Human and the State in the Mirror of Philosophical of Law of Western European Civilization. *Frontiers*. Vol. 1, No. 4, 2021, pp. 49-53. doi: 10.11648/j.frontiers.20210104.11

Received: September 27, 2021; **Accepted:** October 20, 2021; **Published:** November 17, 2021

Abstract: This article is devoted to the study of the relationship between human nature and the state as a form of its expression. At the same time, the analysis of this topic took place in the historical and philosophical plane, which reflected some aspects of the evolution of philosophical and legal thought. The emphasis was placed on Western European philosophy, because in one article it is impossible to comprehensively analyze the philosophical understanding of the relationship between man and the state in different cultural traditions. The author pays special attention to natural law, emphasizing its direct derivation from human nature. An anthropological crisis can lead to the degeneration of natural law, which will predispose states to disintegration. Separately, it should be emphasized that at the beginning of the XXI century there was a threat to the existence of the state as a form and mode of human existence. States are actually being replaced by financial multinational companies, which in their essence are not designed to comprehensively solve problems of an anthropological nature. To counteract the crisis phenomena, it is necessary that spiritual values be taken into account in state policy, which is a form of state self-care, since it is impossible to preserve national unity without a developed culture.

Keywords: Person, State, Natural Law

1. Introduction

At the beginning of the 21st century, the topic of state sovereignty turned out to be actual and controversial. Formally, each state on the political map of the world is sovereign, but in reality, factual sovereignty has become a rarity. Against the background of the close integration of various states, it is very difficult not to cross the line beyond which it becomes a dependent or even fictitious entity. As a result, the state loses its ability to maintain a live connection with national cultures and loses its anthropological meaning. The French researcher J. Attali writes directly about the high probability of the collapse and death of a state that cannot withstand competition with international corporations controlled by private individuals [2]. Meanwhile, the death of states is not just striking episodes in the history of mankind, such processes, as a rule, are accompanied by millions of victims, as well as the spiritual death of people, which is much more terrible than physical death. So, at the beginning of the new era, the population of Rome exceeded a million people and this city was the largest metropolis, larger than the legendary Babylon,

but after the collapse of the Western Roman Empire in 476, the population decreased so much that in the 6th century it numbered about thirty thousand people. For the most successful protection of the state, it is important to understand how, in the process of the development of philosophical and legal thought, the state was understood in the context of the realization of human existence. Thus, the motives for writing this work are associated with the desire to protect the state as the value of the anthropological series, and the goal is to study the process of development of philosophical and legal thought in the direction of analyzing the anthropological meaning of state and law.

2. Philosophical Anthropology and Philosophy of Law in the History of Western European Society

2.1. Philosophical Anthropology and State-legal Thought in Antiquity

The development of a philosophical understanding of the

state in Western European philosophy has ancient roots, going back to antiquity, when the state – in the modern sense – did not yet exist. The polis in Ancient Greece or the Ancient Roman Federation (up to the period of the republic) were only the initial stages of state building. Nevertheless, the thinkers of the Ancient World wondered about the meaning of such forms of social structure. Usually, the semantic content of the state worldview was determined by the religious picture of the world. The cities of ancient civilizations, be it Sumer or Greece, were built in accordance with the ideas about the structure of divine cities. Accordingly, the ethical requirements for the inhabitants of the city were distinguished by high standards; crime within the city walls was considered not just an act of one person against another, but also sacrilege. When studying Plato's philosophical concept, it becomes obvious that his understanding of the state was determined by an idealistic approach. A real state should correspond to its idea and the people who live in it, it is necessary to arrange their existence in accordance with the ideas. In other words, the idea of a person, dwelling in an intelligible world, must be embodied in an individual who realizes his being in a sensible world. Plato thought it was most likely to achieve such a match in an ideal state. Of course, for the society of the 21st century, the model of the state that Plato proposed as ideal is unlikely to be acceptable, but for that time it looked like progress in the philosophical understanding of the essence of the state. Its ethical component, determined by the thought of the perfection of ideas, which must be matched, subsequently became the background for the development of a Christian understanding of the essence and purpose of the state.

2.2. Philosophical Anthropology and State-legal Thought in Middle Ages

In the Middle Ages, the understanding of the essence of the state was refracted through the Christian worldview, and therefore, it was seen in a spiritual and moral meaning. It is noteworthy that Thomas Aquinas considered justified the uprising of the people against the kings, if the reign of such clearly contradicts the norms of Christian morality. The positive (state) law, ideally, should correspond to the eternal law, which is determined by the Divine commandments.

2.3. Philosophical Anthropology and State-legal Thought in Philosophy of Russian

It should be noted that the perception of the state in the transcendental sense of this word is characteristic of Russian philosophy as a whole, to one degree or another based on the religious component of Russian culture. Russian philosophy of law, one way or another, was based on the values of Christian culture. This is evident in the works of F. M. Dostoevsky, V. S. Solovyova, I. A. Ilyina, A. N. Berdyaeva, S. L. Frank. Although there was a positivist approach to understanding law and the state (for example, in the works of KD Kavelin, BN Chicherin), it was also not alien to Christian morality.

2.4. Philosophical Anthropology and State-legal Thought in Modern Time

In Western Europe in modern time, as the role of religion in the life of nations declined, states began to receive strictly scientific and more pragmatic assessments. If in the Christian understanding a person as such by nature carries the image of God in himself, then in the natural-scientific concept a person is often seen as the result of natural and social development, and moral norms were considered introduced into human society only in the course of its historical development, but initially not characteristic of him.... In the Concept of the Social Contract, religion no longer has a place and meaning. Thus, in "Two Treatises on Government" John Locke writes: "Since people are... by nature free, equal and independent, then no one can be removed from this state and subject to the political power of another without his own consent. The only way someone renounces their natural freedom and puts on the bonds of civil society is by agreeing with other people to unite in a community in order to live comfortably, safely and peacefully"[8]. In the last part of this statement, it is obvious that the thinker understood the purpose of the state not from the perspective of spiritual salvation, but in the context of ensuring a peaceful, prosperous and comfortable life in this physical world. In general, an earthly device for solving quite earthly problems. The conviction that the moral and mental qualities of a person are not theological, but anthropological in nature, provoked confidence in the endless possibilities of man. "The Enlightenment, as you know, was characterized by historical optimism based on belief in the ability of the human mind to create a more perfect world, to ensure human rights, to resolve the problem of human happiness" [3]. However, relatively quickly, this confidence was shaken and replaced by skepticism.

Of course, there were thinkers who believed that man was in the most moral state in the pre-state period, when he lived in unity with nature. This point of view was expressed, for example, in the works of J. J. Russo. Even the state in the teachings of Rousseau turned out to be a projection of those forms of being, primarily generic, which accompanied it as a given from the moment of birth. So, J.-J. Russo wrote: "The family is... the prototype of political societies, the ruler is the likeness of a father, the people are children..." [9]. At the same time, society did not strive for the natural state that this French philosopher idealized, so the prevailing opinion was that the state determines the nature of human development. The latter was seen as a "clean board" on which, under the supervision of state officials, knowledge was applied in accordance with his class affiliation and professional occupations. This distinguished the countries of Western Europe from Russia, where the state, in fact, did not engage in the education of the population, leaving it mostly illiterate, but left the opportunity for the Orthodox Church to engage in educational and educational activities. Hence, in Russian philosophy, the nature of man was primarily thought not in the natural-physical sense, but in the divine-spiritual. Therefore, the meaning of state laws was not to bring moral

norms to a person, but to preserve them, protect and develop them as originally, a priori existing in him.

However, it would be wrong to believe that if in Russia the foundations of the state are understood in a spiritual sense, then in Western European culture the state is viewed exclusively in a positivist, pragmatic context. Undoubtedly, the leading representatives of Western European philosophy have set a positivist understanding of the state. Immanuel Kant writes: "Just as in general the right has the external side of actions as its object, so does the strict right, that is. such, to which nothing ethical is mixed, does not require any other defining grounds for arbitrariness" [7]. Despite the fact that G. V. F. Hegel recognizes the spiritual foundations of the state and law, he also seeks to separate ethical categories from legal ones so strongly that the former lose their significant influence on the legal development of society. "In the state there is no love anymore, in it unity is recognized as a law...", the German philosopher asserts [4]. For Russian philosophy, based mainly on the traditional values of Orthodox Christianity, the removal of the category of love from public and state life is unthinkable, sometimes understood as a manifestation of blasphemy.

2.5. Philosophical Anthropology and State-legal Thought in Western Europe and the United States in XX Century: Prospects and Possible Contradictions

Some thinkers in Western Europe and the United States pay attention to the fact that the state cannot focus solely on the rational interests of citizens. Thus, the American scientist L. Fallers believes that the most complex and dangerous problems of the nation are addressed not to the economy, not to the military-industrial complex, not to politics, but to values that have an immaterial nature and are not directly tangible [15]. Therefore, in relation to the Western European tradition, it is impossible to unambiguously reduce the entire legal culture solely to compliance with the law and the principle of rational utility. A number of researchers from the USA and Western European countries note an interesting reality: when building a model of their behavior, a person focuses not so much on moral theories, but - in most cases - on their own beliefs, within which they choose a model of behavior [14]. At the same time, it is emphasized that not every action that does not violate the law can be considered worthy of human behavior. For example, a person passing by a child who fell unconscious into the water and drowned is, in fact, guilty of his death, since no assistance was provided by an eyewitness to the tragedy [14]. In the work of Mark Timmons "Conduct and Character: Readings in moral theory", in which this example is given, it is about the ethical component of the act. Thus, the scientific community, as a whole, recognizes that the state is based on the properties of human nature, and of an ethical nature. In Russian philosophy, ethical norms took, as a rule, a religious character, and in Western Europe they tended to a positivist understanding. One way or another, but it makes no sense to talk about the functioning of state legal norms outside of a person, his personality.

Meanwhile, the fact that in the philosophy of the Anglo-Saxon world there are thinkers who recognize the importance of human nature, and therefore natural law in the process of forming positive law, does not at all indicate a general trend. The latter is manifested, first of all, in how strong the influence of a particular doctrine on the representatives of the authorities of the leading countries of the world. If we turn to the ideology of neoconservatism (in this case, in fact, the doctrine of neo-fascism) Leo Strauss, then among the followers of his teachings we will see a long line of representatives of the political and financial top of the United States.

Leo Strauss notes that some scientists do not recognize natural law, in fact, they replace the concept of nature in the sense of human existence and the same concept - in the sense of natural-physical existence, or follow the "idol of the race" (according to Francis Bacon). L. Strauss associates rejection of natural law with ethical relativism. "It has always been known that at different times and in different countries there are different ideas about justice," he writes in his work "Natural Law and History" [13]. However, let us pay attention to the fact that part of the quotation, namely: "it was always known", does not always look like a correct technique in philosophy, since it is also possible to write: "it has always been known that ethical norms are universal". Moreover, this idea finds justification in the history of tribes and peoples, since in any civilization during its formation and peak of development, the norms of responsibility, chastity, kindness and masculinity are universal. Of course, ethnographers can find small tribes in remote corners of the world where these qualities are either degenerate or not formed as ethical categories. However, such tribes are very small in number and as social formations disintegrate and perish within a short time. As for the depressing environment and difficult conditions of their short life, it is unlikely that any of the followers of ethical relativism would want to be a full-fledged member of these tribes. It is noteworthy that many peoples who created states were distinguished by a heightened sense of justice, piety and responsibility. Ideas about justice, indeed, could differ, but this did not change the general essence: for an offense contrary to justice, there was a question about different levels of attitude towards immoral acts, about different degrees of responsibility for criminal acts, but not about justice itself.

In the context of the described phenomena, the decrease in the role of philosophy in its traditional understanding is noteworthy. The consumer society is not so much engaged in science and philosophy as they use their fruits. L. Strauss, describing the views of J. J. Rousseau, writes that if national philosophy divides peoples and functions only in certain closed communities, then "science or philosophy is essentially universal... inevitably weakens the power of national" philosophies "and, at the same time, citizens' devotion to a special way of life, or more community" [13]. Undoubtedly, science, in a sense of the word, is cosmopolitan, but in the light of the interconnection of military and industrial technologies, cosmopolitanism takes

on a conditional character.

These cosmopolitan attitudes are in fact aimed at the destruction of traditional cultures, at the decomposition of the very foundation of national states, the philosophy of which in the proposed system is discredited and exiled. For the United States, as a major geopolitical player on the world map, leading the globalization process, such concepts do not pose a particular threat: first, because they are controlled from within; secondly, by virtue of the well-grounded confidence of the US government in its military-political and financial might. It is no coincidence that in the United States, philosophy in the traditional sense of the word, in fact, has been replaced by the philosophy of science, political science and sociology. A modern scientist is required not so much a developed abstract thinking with its flight of thought, as the ability to meticulously and systematically collect and process information that would be considered useful for the ruling class. The abandonment of the norms of natural law opens up wide horizons for the weakening of nation states and the implementation of a policy of "double standards" in which humanity is divided into a privileged minority, initiated in the art of managing the populace; and the majority, blindly performing the functions offered to him from the outside. Rejection of the concept of "natural law" is a condition for building and substantiating an artificial system of manipulating collective consciousness, incorporating stereotypes and attitudes that are necessary for the ruling minority into the depths of its mentality.

Natural law in its essence is a complex of those norms around which, in their institutionalized form, ethnic groups are able to unite into a nation. The degeneration of the sense of natural law is a direct path to the disintegration of states. One should not think that states are already so stable that the disintegration of their peoples is unlikely. O. A. Ignatieva writes: "Now nations are more or less settled, but in order to maintain their unity, constant intervention from the state is required..." [6]. The weakening of the latter can become a prerequisite for serious interethnic conflicts, as a result of which, without a conscious attitude to natural law, such can degenerate, eventually leading to socio-anthropological regression and the death of states. Moreover, natural law is a component of human nature, therefore, with a weak expression of natural law, with its weak connection with positive law, an anthropological catastrophe is natural – the degeneration of a person in a spiritual and moral sense. Meanwhile, the conditions for human transformation already exist. P. S. Gurevich notes that "a person becomes the subject of archeology and ethnography, a kind of symbol of outdated forms of biological existence" [5]. Squeezing out the ethical component in the life of society deprives society of a human face and dooms it to disintegration. "The anthropological catastrophe gave rise to a special type of "humanoid creatures" characterized by the rejection of the metaphysical dimension..." [11]. Under such circumstances, he can easily and imperceptibly be replaced or substituted by some other anthropomorphic creatures generated as a result of scientific progress. It is no coincidence that S. S. Averintsev gave the

following description of the reality of the end of the twentieth century: "The world is losing its sense of exactingness... and trying to... dispel the sense of mystery by means of psychoanalysis and psychotherapy; a world that boasts that it has abolished all taboos, but at the same time very effectively re-taboo certain words and concepts – namely, those that express the "sophia" idea of virginity, purity, asceticism" [1].

Critics of the idea of natural law argue that "human humanity or rationality is acquired. The mind arises later than the elementary needs of the body. Reason arises in the process of satisfying these needs" [13]. If humanity as a derivative of human nature is absent, then it can be offered to society or incorporated into the collective consciousness in the form that will be appropriate for the ruling group of people. The crisis of the idea of natural law makes it possible to completely abandon philosophical anthropology as an independent branch of philosophy, because if there is no human nature, then it can be constructed through the methods of psychology, sociology, political science, finally, transplantology, cybernetics and genetic engineering. In this case, there is a recognition of the inconsistency of human nature as an independent being; Moreover, its replenishment is no longer carried out on the basis of spiritual development, but on the basis of the recognition of the power of those citizens who will construct it for specific, moreover, completely earthly tasks. As a result, a person turns out to be a controlled element, devoid of his human nature and subordinate not to positive law, as an objective derivative of natural law, but to a certain system, the essence of which is hidden from him.

It should not be assumed that the ruled majority must necessarily be impoverished. It is by no means necessary, especially since history gives examples when there is no clear direct relationship between the level of freedom in society and the material success of the population. Let's put it this way: in ancient Rome, slaves ate very well by modern standards (especially gladiators – in fact, public killers who serve for the sophisticated entertainment of the crowd). Ultimately, a consumer society does not have to be poor in order to be able to consume mass products, thereby fueling the power of the ruling class.

In such conditions, the state turns into a mechanism that is governed by sectarian methods that have nothing to do with the idea of protecting the honor and dignity of a person, promoting his spiritual growth. A citizen in such a system turns out to be only an executor of the functions assigned to him with disabilities in social mobility, especially in its vertical dimension.

3. Conclusions

Thus, it is appropriate to state as a conclusion: the weakening of the sovereignty of the state is an interconnected phenomenon with the destruction of human nature, which entails an inevitable anthropological collapse. Collective ties under conditions of human regression as a spiritual and moral being cannot be maintained, and the social organism will

disintegrate into conflicting prides [10]. In ensuring the relationship of the state with spiritual culture, humanity's concern for itself and for the state as a way and form of its existence. "The state is a necessary condition for human education, cultural progress" [12]. To preserve civil peace, the integrity of states, it is necessary to purposefully study natural law in order to correlate material law with it for the protection of human nature.

References

- [1] Averintsev S. S. Sophia-Logos. Dictionary. K.: Dukh I Litera, 2001. – 460 p.
- [2] Attali, J. Brief history of the future / J. Attali. - SPb.: Peter, 2014. – S. 288.
- [3] Blokhin, K. V. Leo Strauss and his neoconservative followers (to the problem of sources and genesis of neoconservatism) / K. V. Blokhin // Bulletin of the Peoples' Friendship University of Russia. Series: Political Science. – 2019. Vol. 21. No. 4. – P. 729–744.
- [4] Hegel, G. V. F. Philosophy of law / G. V. Hegel. – M.: "Thought", 1990. – S. 490.
- [5] Gurevich, P. S. The phenomenon of human deanthropologization / P. S. Gurevich // Questions of Philosophy. – 2009. – No. 3. – S. 19-28.
- [6] Ignatieva, O. A. Influence of interethnic communication on national identity and foreign policy of the state. Ignatieva // Concept: philosophy, religion, culture. – 2017 – No. 3. – P. 104-112.
- [7] Kant, I. Metaphysics of the beginning of the doctrine of law / I. Kant // Collected works. In 6 t. Vol. 4, part 2. – M.: Mysl, 1965. – 109-304 p.
- [8] Locke J. Two treatises on government "Book II, Chapter VIII, Paragraph 95. Collected works in 3 volumes. T. 3. M., 1988. S. 317-318. Jocke J. The Treatises of Civil Government. L., 1821. B. II. Ch. VIII. 95. – P. 269-270.
- [9] Rousseau, J.-J. Pedagogical works: in 2 volumes. T. 2. / J.-J. Rousseau. – M.: Pedagogika, 1981. – 336 p.
- [10] Panishchev, A. L. The problem of the destruction of statehood. Pride law of the animal world and the law of human society / A. L. Panishchev // Questions of cultural studies. – 2010. – No. 1. – S. 50-55.
- [11] Saykina, G. K. Social potential of human metaphysics: thesis abstract. Doctor of Philosophy. – Kazan. 2013. – 46 p.
- [12] Solovyov, V. S. Russia and the Universal Church. – Minsk.: Harvest, 1999. – 1600 p.
- [13] Strauss, L. Natural law and history / L. Strauss. – M.: Aquarius Publishers, 2007. – 312 p.
- [14] Timmons Mark. Conduct and Character: Readings in moral theory. 1990 by Wadsworth. – P. 17.
- [15] Fallers L. The Anthropology of the Nation-State. – Chicago, 1968.