

**ПОЛИТИЧЕСКИЕ И ПРАВОВЫЕ ОЖИДАНИЯ В РУССКОЯЗЫЧНОЙ  
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**POLITICAL AND LEGAL EXPECTATIONS IN RUSSIAN SPEAKING  
EMIGRATION IN 20-th CENTURY**

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**АННОТАЦИЯ**

Философско-правовая мысль русскоязычной эмиграции претерпела значительные изменения за время ее ассимиляции. Исследование путей развития правовой мысли позволяет увидеть и пути развития мировосприятия «ушедшей России». Отсюда появляется возможность выстраивания взаимоотношений с учетом картины мировосприятия. Тем самым снижается риск конфликтов во взаимоотношениях, полагает автор, приглашая читателей к осмыслению этой темы.

**ABSTRACT**

The legal philosophic thought of Russian-speaking emigration has been undergone significant changes during its assimilation. Studying the ways of development of legal thought allows us to comprehend the ways of development of world view of “bygone Russia”, as well. So, we get an opportunity to adjust social relations taking into account the picture of world view. Thus,

the risk of conflicts in our relations can be essentially reduced, supposes the author of the article, inviting the readers to consider of that topic.

**Ключевые слова:** философия права; правовая мысль; гражданское общество; социально-политическая мысль; правовая политика.

**Key words:** philosophy of law; legal thought; civil society; social and political thought; legal policy.

The revolution and the civil war in Russia caused an unpredictable and forced emigration of different layers or groups of its population. Some of emigrants had shared, as a whole, the necessity of the occurred revolution in their country, but did not share the brutal methods of suppression of dissent. Others thought of the occurred catastrophe as of absurdity, and had taken it as temporary phenomenon, and they were expecting, that – now someone would come to reason and would restore the order in their homeland, then they could return home. The thirds considered the occurred to be “God’s punishment” for the wrong life, and thus they expected even more evil, if the people would not make conclusions out of coming of “foreign element” to the power in the country, which had followed the “foreign ideas”... Different views and expectations of the emigrants brought different attitude to the idea of organization of power and to the mechanism of managing the population, till they gradually had crystallized as some observations, visions, generalizations, growing into doctrines, concepts. The further concentration of legal and state thought brings to the development of its main directions. Because of the lack of place, out of many directions let us consider at least of three of them, the characteristics of which, we hope, would allow us to get a general notion for understanding by the Russian speaking emigrants the post-revolutionary processes in our country.

### ***Religious and legal conceptions of N.A. Berdyaev.***

Truly genuine political and legal views were developed by Nicolas A. Berdyaev (1874-1948), one of the most significant philosophers and religious thinkers of old Russia. His views on the society, state and law were described in such works as “New religious awareness and the public” (1907), “Philosophy of

inequality” (1918), “About the destination of man”, “About slavery and freedom of a man” (1939), “The realm of spirit and the realm of Caesar” (1947), “The destiny of Russia” et al.

For the basis of his concept Berdyaev takes freedom and religious and moral idea. Reading his thoughts, written more than half century ago, we can agree, that till now “We live in a time when men neither love nor seek the truth. In ever greater measure, truth is being replaced by the will to power, by what is useful or valuable to, special interests! This lack of love for the truth appears not only in nihilistic or sceptic attitudes toward it, but in substituting for it some sort of faith or dogmatic doctrine in whose name falsehood is permitted, falsehood which is considered not evil, but good”.<sup>[3]</sup>

Estimating his own approach to the social problems, Berdyaev wrote: “Russian revolution has been neither political nor social phenomenon, it is above all else – phenomenon of spiritual and religious order. And we cannot heal and revive Russia only by the political means”...<sup>[2,7-8]</sup> In the work “The realm of spirit and the realm of Caesar”, and in the collection “The destiny of Russia” Berdyaev mentioned reciprocal contradictions between social strivings and visions about organization of society in Russia. The Russian spirit, in the opinion of Berdyaev, “in the middle culture, had always been ready to surrender to the power of Germanism, German philosophy and science”. The same thing in the statehood, in his view, “in its essence - middle and relative. The Russian spirit desires the Holy state in the absolute and is ready to endure the bestial state in the relative... That is why the Holy Russia as its reverse side always had the bestial Russia”...<sup>[2,47]</sup> However, in our opinion, he could not succeed (or did not want to) in seeing the world by “Russian eyes”. Like many other Russian speaking thinkers of pre-revolutionary and post-revolutionary time, he based his views on the false premise that the Russian idea had been the messianic one, in its Christian understanding. From the science of logic it is known, that if the premise was false, then the conclusions would be false, as well. That is why the views of Berdyaev, though presented very colorful, we can say, “hang in the air”, not having roots in the Russian self-consciousness.

This inner battle in Berdyaev occurred through his whole life. Once he confirmed: “The main contradiction of my opinion about social life is connected with combination within me of two elements – aristocratic understanding of personality, freedom and creativity and socialistic requirement of affirmation of dignity of each human being, the very last of humans and realization of his right to life. It is at the same time the confrontation of the falling in love with the upper world, with the altitude and compassion with the lower world, with the suffering world. And it is eternal contradiction. To me Nietzsche and Leo Tolstoy are equally close. I do highly esteem K. Marx, but ...K. Leontyev, as well... When the tyranny of egalitarianism insults my understanding of individual’s dignity, my love for freedom and creativity, then I rebel against it and am ready to express my revolt in an extreme form. But when the defenders of social inequality shamelessly defend their privileges, when capitalism oppresses the working masses, turning a man into a thing, then I do rebel, too. In both cases I deny the grounds of modern world”. Berdyaev suggests fundamentally new classification of human rights. He marked especially spiritual rights: freedom of spirit, conscience, thought, speech. It is an obligation of any state – to accept and defend freedom of an individual “from the society, which is limitless in its claims”. As long as the law is freedom, and the state is – violence, so the state and personality are in a steady confrontation and fighting against each other.

According to A.Yu. Chadje, Berdyaev leads us also to a new comprehension of national processes, understanding of the past, present and future of his folk; he brings us to understanding of history, clearness of historical consciousness, on which, in his words, depends the future of the nation. The ability of a human being, of nation to such a self-analysis and self-knowledge reflects the culture of feelings and reveals the cultural level of the nation. A. Yu. Chadje notes two circumstances, which might be the ground of modern ethnic-cultural and national processes as well. First: Under conditions of modern world crisis and intensifying globalization we can find many different arguments, as a rule - economic and political ones. Meanwhile, not less significant role have the problems of spiritual life of nations. In this aspect, the relationship between the national and humanity in modern conditions draws attention.

It seems, that in great demand are such worldviews, which are refracted in the plane of correlation of actively discussed different kinds of identity: ethnic, regional, national and religious. The second statement is connected with the first and is preconditioned by the necessity to perform the Russian national policy, aimed at the saving of ethnic-cultural and ethnic-confessional diversity in the country. In fact, any ethnic unity is without alternative and has value in itself... The solution of this problem depends on the direction of spontaneous complex nonlinear system – Russian poly-confessional society.

***Monarchic theories of Russian speaking emigrants: political and legal views of I.A. Ilyin, I.L. Solonevich.***

Creative heritage of I.A. Ilyin is enormous. It counts more than 40 books and booklets, some hundreds of articles, more than one hundred of lectures and a great number of letters. The views of I. Ilyin might be characterized as a kind of transition from the views of Berdyaev in direction of greater detailing of the ways out of the occurred situation, in other words – the theoretical consideration gets the applied nature, what can be seen even from the titles of his works on philosophy of state and law. Among the works on theoretical jurisprudence should be mentioned “Definition of Law and Force”, “About the essence of legal consciousness”, “Our Tasks”, “About Monarchy and Republic”, “About resistance to evil by force”.

The main statements of I.A. Ilyin’s theory of state and law (1882-1954) are based on the orthodox world view and on the understanding of nature, man, state and law on that ground. For Ilyin, the law belongs to the same “top of mind”, as revelation, kindness, beauty, truth. He always confirmed the objective significance of the law. So also the existence of a state has not only substantive-bodily but spiritual-mental/psychic character. “Because a state is an organized unification of spiritually solidarity people, who understand in their thought their spiritual solidarity, accept it in patriotic love and support it by unselfish will”. In its essence, in its main idea, ‘the state is a union of spiritually co-belonged people, tribes and nations... having one single objective and the highest goal... and only free and willing acceptance of that goal makes a person truly a citizen [5,110] The state is such a phenomenon, which is

not only “useful”, but spiritual-legal and spiritually necessary” as well, serving the highest values. “The highest purpose and the very and unchangeable task of the state is to guard and organize spiritual life of those people, who belong to the given politic union” [6]. Political activity of citizens should be defined by their solidarity, on which the state is based. Politics and patriotism are inseparable: “the state is a positive legal form of homeland”; and “the Fatherland forms/constitutes the essential content of politics”. In the opinion of Ilyin, wrong are both – that, who reduces the state to the violence, sword and horror/terror, and that, who turns the teaching of Christ to anarchism, nonresistance and sentimental hypocrisy. On the contrary, the true politician has all the grounds to recognize himself, according to his purpose and spirit, as Christian: because “the Caesar’s” and “the Lord’s” form under normal legal conscience a living unity”. The sphere of politics, in the opinion of Ilyin, begins there, where all want one and the same thing, and in such a manner, that either it will be possessed by everybody, at once, or it will belong to no one, at once...[6,280-281]

Out of two forms of government – monarchy and republic – Ilyin preferred the first one, which could appear in a kind of unlimited and constitutional monarchy. He saw the monarchy as representation of the Lord’s will, and the monarch – as the elect of God. In the characteristics of the monarchy by Ilyin a lot of qualities, known from the other orthodox characteristics, both of the form of government itself and of the governor. For instance, the monarch forms the state apparatus taking into account personal qualities of his subjects, who love and esteem the monarch; the monarch himself, endowed with the power by the Lord, should possess all the Man’s dignities and perform connection of the ruler with the people, on the basis of patriarchal; politics should be performed with the purpose of unification of all the state power into one organic whole; reforms, in the needs of the people should be based on traditions.

According to the words of Ilyin, a typical for republican legal conscience dissolution of personal principle and power in the collective is opposed by embodiment of the power of the state and people in monarch; the cult of equality and equation – by the cult of true and fair rank; utilitarian-rational perception of Supreme

power – by its religious and mystical contemplation; acceptance of the state as free equal conglomerate of agreed individuals – by acceptance of the state as a great family, united by blood and ancestors; pathos of election of the most convenient and pleasing, under occurring conditions, – by the pathos of faithfulness; the cult of independence – by the cult of honor; cult of personal success and career by the merit of service; the element of competition – by the element of solidarity; the pathos of agreement by the pathos of law; coordination, election – by subordination, appointment; perception of the state as a corporation – by perception of the state as an establishment/institution; a view on human's will as on something higher than the fortune and nature – by the acceptance of one's destiny and of nature as guided by Providence [6].

I.A. Ilyin very reasonably saw not only in the republican but also in the monarchic way of the soul or legal conscience their risks. However, the indigenous disadvantage of republican form of public power, in his opinion, is that it comes from the pathos of denial of eternal and last religious and organic foundations of people's sense of justice. What the positive sides of both forms concerns, then when the republicans refuse all the advantages of monarchic state of the soul into the monarchic way of the soul, when it is on the proper level, may quite fit all the advantages of republicanism as well, including the love for the freedom [ibid]. Ilyin hoped, that 'new Russian people' would be elected very soon, then the Russia would restore during a couple of years; if not, - then the Russia would go out of revolutionary disaster into the long period of post-revolutionary demoralization, all sorts of decay and international dependence [4,118-119]. The situation, which might be observed till now...

In "The People's Monarchy" Ivan Solonevich (1891-1953) appears as a theoretician of monarchism, continuing the line of L.A. Tikhomirov and his contemporary I.A. Ilyin. "Only for Russia" [7,23], - with such words begins Solonevich his book and puts before himself three tasks: 1) to establish the facts; 2) to make, on the basis of those facts, a diagnosis; 3) to suggest a program of national revival of the Fatherland. His concerns and appeals had largely remained relevant in

our time. For instance: “every reasonable program, suggested for the certain people, should take into account just that very people, but not an abstract human being, endowed with the properties, which would be given to him at the will of the authors of that program”. At recent time we experience the strongest imposing, even violent introduction of western technologies of social development into the consciousness of Russian people, attempts to change its “code of civilization” by the substitution of orthodox values for other ones. Solonevich wrote: “Every people strive to establish its own culture, its own statehood, thus its own empire. If the people do not do this, it is not because it does not want to but because it cannot to”. Further, Solonevich considers not to be questioned the fact that an empire becomes the stronger, the more convenient all the peoples in it feel themselves. That surely reminds us Specificity of Russian idea is in that it had always exceeded “tribal”, that is ethnical frames, and at the end it had become a supranational idea. In other words, the most important difference of Russian nation is that the state constructed by it was equally convenient or inconvenient for all the peoples inhabited this state. “Political organization of Russian people on its bottoms was self-government and political organization of the people in its whole was autocracy”. This “exclusively and typically Russian phenomenon... this is not a dictatorship of aristocracy under the signboard of “enlightened absolutism”, it is not a dictatorship of capital, served with the sauce of “democracy”, not a dictatorship of bureaucracy, realized in the form of socialism, - it is a dictatorship of conscience, in particularly of orthodox conscience”. People’s conciliar monarchy – it was the most perfect form of the state system, which was known to the human’s history. And it was not a utopia, it was the fact”. Solonevich means that the Russian state can be only monarchic, because the autocracy is the most adequate for the mentality of Russian people, geographic and other conditions of Russia. On the question, why specifically monarchy and in what kind it should be, Solonevich himself answers: “it should be individual monarchic power, strong enough and independent, in order to: a) stand above the interests and struggle of parties, stratum, professions, territories and groups; b) at decisive moments of the history of the country to have a finally deciding vote and right to define the existence



of that moment”.

However, along with the monarch there should be a representation of the people, to represent the interests of all the strata of population of the country and of all its peoples. The presence of both forms of Supreme power guarantees from the outer invasion, from revolution that is from the inner conquest, and finally, from bureaucracy which bears in itself a terrible danger.

In the field of law Solonevich makes a difference between the law and legislation, noticing that in contrast to a western subject, the Russian man had never believed and will never believe in the dispensation of life on legal principles. The thirst for justice as the God's Truth, conscientiousness of Russian people is a distinctive feature of their legal consciousness and deeds/ actions. Law is an unwritten spiritual constitution of the Russians, reflecting their looking for justice, “the highest truth – justice all over the world”, kneaded on Christian Orthodoxy. The legislation, laws are the sources of law, established by the ruling class, and bearing in themselves the traces of bureaucratic state of Peter I and of dictatorship of Bolsheviks after 1917. In this connection, supposes Solonevich, the Russian law should be radically, factually anew re-developed in accordance with the God's Truth, it should be refined “from the influence of the Roman law and from those catholic and scholastic elements which had penetrated to us together with the French legal consciousness, to return to the principles of “Russian Truth” of Yaroslav, to the principles of service and tax instead of metaphysics of human's right. It is important to eliminate the split in the legal consciousness, which some of modern lawyers qualify derogatory as legal nihilism of Russians, and to establish a legal system, which would correspond both to the dominant of legal consciousness and to the history of our people. The Russian people will go out of the series of shocks even more powerful than it was earlier.

***General characteristic of political and legal views of the “eurasianism” theory.***

Eurasianism as political and legal doctrine reflected the views of prominent scholars in different fields of science. Some of the main ideologists of this movement

were N.N. Alexeyev, G.V. Vernadskiy, L.N. Karsavin. The term “Eurasianism” had expressed the idea of scholars, who desired to provide *the Russia as a specific world, in which the fates of Europe and Asia had intertwined*. Therefore, especially for Russia the eurasianists took the main role in the resolution of conflict between the European and eastern cultures. In addition to the resolution of the global question about the role of Russia on the international arena, *the eurasianists tried to comprehend the state of affairs then existing within the USSR with the purpose: to explain the new soviet reality; to find out the ways to use soviet reality in the interests of eurasianists*. The revolution which occurred in Russia the eurasianists considered for the good, because it helped for Russia to get rid of influence from western ideals and opened “the way for a healthy element of the state”. Eurasianists had an opinion, that the following western ideals, beginning from the epoch of Peter I, - was the main negative feature of Russian’s politics. Because the use of comparative method is a wrong way to study the cultures. Each culture (civilization) is at its own stage of development. But, if the Europe declines to its dawn, then the culture of Russia, under support of eastern cultures, has just been gaining the strength.

The Russia, according to the eurasianists, is the center for integration both of European and Asian countries. In their evaluation of the role of eastern culture, which had come to the history of Russia with Mongol-Tartars, eurasianists fundamentally differ from European thinkers, who do not hide their contempt for the eastern culture. Just on the contrary, the eurasianists approved, that the influence of Mongol empire had strengthened Russian culture; allowed for Russian culture and Orthodoxy to be developed even during Mongolian yoke; had cultivated in Russian people the feeling of the continent and the desire to dominate; had established the grounds of Russian state; had cultivated for the Russian nation the instinct for expansion. Alongside with it, gradually evolving, the Russian culture organically combined in it European and eastern trends, and Russia turned to Eurasia. But after Peter I had become ruler progressive movement of development was disturbed, and unreasonable and excessive enthusiasm for European ideals had brought to the revolutions of 1917. The look at the situation, prevailing in Russia after the revolution, by the eurasianists is

rather unique, because that situation seems for them to be advantageous for establishment of the new state – Eurasia. Among the measures, which would be necessary for the transition to such a state, the eurasianists named: the establishment of the state where all the people could take part in the ruling of country (on different levels – local, national); elimination of principle of election of government and parliament and replace it with the principle of delegation of authority; formation of “ruling stratum”, the task for which should become the government of the country for the achievement of common good. In the opinions of some scholars, the conception of eurasianists had represented a combination of utopian ideas, the following of which later could bring to the establishment of a totalitarian state.

Considering all this mentioned above, we should pay attention to the uniqueness of circumstances, where the ideas of Russian speaking emigrants have been formed. They give for us a certain “view from aside”. Furthermore, we have to consider their critical orientation and nostalgia for the past political system. Nevertheless, such a “removed” view is for us undoubtedly valuable from the reason that it combines in itself the experience of comprehension of the essence of state and law through the prism of spirituality. The state system and legislation should have a spiritual and moral basis. The retreat from the norms of Christianity as we could see it on the example of our history during the soviet period, and as we see it on the example of the modern Europe, where the godless experience of Soviet Russia now has been reproduced, - is one of the main causes of plight of individuals in XX-th and in the beginning of XXI-st centuries. We suppose that the idea of establishment of the “state with ruling law”/Rechtsstaat, which dominates in the modern “civilized” world, without reliance on morality and spirituality could not be realized, because it is deprived the inner motivation to its realization.

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