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CRITICAL INTERPRETATION OF PRACTICAL AND LEGAL CONCLUSIONS ON THE LACK OF FREE WILL AND MORAL RESPONSIBILITY

The article analyzes the concepts of moral responsibility and free will in their close relationship and looks into their essential characteristics and influence on the legal system. Logical inconsistency of the conclusions on moral inadmissibility of the functioning of criminal law and legal proceedings in case of no free will and hence moral responsibility is proved. Some alternative non-moral approaches to substantiation of legal institutions in a world without moral responsibility are outlined. The former consider that philosophy makes it possible to address the question of why man should be responsible for his actions. Legal systems are mainly supported by the thesis that free will is the social basis for imposing responsibility on man for his behavior. Freedom is the main personal social implication for criminal responsibility. An attempt is made to substantiate the illegitimacy of the conclusions regarding the internal contradiction in the functioning of legal systems in a world without moral responsibility. It is shown that not all legal systems are based on moral principles, especially in a world where moral responsibility is not expected in principle. Therefore, in the world lacking moral responsibility no guilt and accusations of injustice are unlawful.

Key words: *analytical philosophy; free will; moral responsibility; legal system; retributive function; justice.*

Statement of a problem and analysis of the recent publications. The issue of the existence of free will and moral responsibility which is assumed to be closely related to the former, has been acquiring ever greater topicality in modern analytical philosophy. Moral responsibility, in its turn, is the basis of classical legal systems with their retributive function which lies in fair retribution for actions. The authors of this paper neither speculate on causality and casualty, nor insist on truth of determinism or indeterminism and nor deal with the controversy between compatibilists and incompatibilists. These issues are covered in numerous works, different in quality, polarity of views, the level of originality and academic value. The main task is to attempt to focus on a less visible (but no less important at that) aspect of the problem in the discussion of free will and moral responsibility. The article addresses only issues of appropriateness of the conclusion on the moral aspect of legal responsibility, specifically logical inconsistency of conclusions regarding moral inadmissibility of the functioning of criminal law and legal proceedings in case of no free will and hence moral responsibility.

The analysis of literature shows that freedom is a polysemous concept which transformations captured the attention of I. Kant, G. Hegel, J.-P. Sartre, K. Jaspers et al. Modern exploration of the basic characteristics of freedom was undertaken by V. Vasiliev [2016], O. Kvasha [2012], I. Ratynska [2015] and others. The following philosophers

leading the discussion about the above concepts are worth mentioning: D. Nelkin [2004], D. Pereboom [2001; 2016], J. Fisher [1997; 2002], and G. Strawson [2013]. Their works offer contemporary alternative views of compatibilism and incompatibilism.

"The issue of determinism, causality, free will, necessity and chance as well as their connection with responsibility has no unified solution in criminal law, similarly to no unity of views concerning the essence of these concepts in philosophy. The fundamental and complex problem of the relationship of these concepts due to the complexity and multiplicity of approaches to its solution requires theoretical interpretation at every stage of human development. All stages of the development of civilization had their own interpretations of free will as well as necessity, causality and determinism, which depended on ideological and cultural specifics of respective historical periods" [Kvasha, 2012: 5].

The above philosophical and legal categories are represented in the works by A. Bekboev, V. Blikhar, M. Bulatov, V. Markov, V. Molodchenko, E. Prychepii and others. Despite a wide exploration spectrum of the issues of free will and moral responsibility, there is no comprehensive analysis of these concepts in domestic literature. There is therefore an objective necessity for further re-evaluation of these categories, which will contribute to their better understanding.

The aim of the article is an attempt to substantiate the

illegitimacy of the conclusions on the internal contradiction in the functioning of legal systems in a world without moral responsibility. The authors will try to point out the illegitimacy of moral accusation in the absence of moral responsibility and outline some alternative non-moral approaches to justification of legal institutions in a world without moral responsibility.

Presenting the main points and material. There is a very popular opinion which essence is that if there is no free will, people are not responsible for their actions, so we should not blame people for their crimes and keep them in prison because this is unfair. However, this view implicitly contains a logical contradiction. Despite the above, this thesis is constantly asserted and presented in various discussions and academic disputes. Philosophical mainstream intuition indicates that there is no moral responsibility in the absence of free will, and it turns out that we keep innocent people in prisons, which is unacceptable. This moral intuition unreasonably leads to a moral dilemma for society, where the given dilemma is simply meaningless. "There arises an issue of identifying some criteria for a person's moral choice. In our opinion, such criteria should be good and evil, truth and error, the beautiful and the ugly - the categories that are directly related to the understanding of the value-conceptual universe of man" [Molodchenko, 2010: 181].

If we assume a world without free will, where moral responsibility is also absent, then moral reproach for injustice of confinement of innocent people is leveled because in a world without free will no one is responsible for his actions. In fact, we blame people in a world where they abolished guilt as a category by repealing free will as a necessary fundamental component of moral responsibility.

If this is asserted, we can talk about double standards, which carriers we are becoming because in one and the same world we exclude moral responsibility and the possibility of being guilty for some people, let us call them "innocent criminals", while we leave moral responsibility for others, let us call them "unfair judges". Art from double standards, it is also logically inconsistent, even logically erroneous and absolutely illegal. Then why is there a moral aspect to confinement if moral responsibility is abolished by the fact of lack of free will in the world where this society exists? There arise the following questions: in what respect the personal interest of a thief is, for example, higher and more legitimate than the interest of society in its security, and why the interest of members of this criminal group in the absence of moral responsibility in the world can be realized whereas the interest of society in its own security cannot. There is no difference whatsoever in a world where the concept of "good" has no ontological basis. Then, in a world without moral responsibility, the criterion of admissibility of the operation of courts and prisons will be compliance with justice, that is with requirements of moral responsibility which is not expected in the same world. According to J. Fisher, "The cases of weak will do not depend on truth of causal determinism or causal indeterminism" [Fisher, 2002: 201].

For illustration purposes, let us build a simple syllogism which will demonstrate the "logic" of such an approach: 1. In a world where there is no free will, people are not morally responsible for their actions. 2. Criminals live in a world without free will. It can be then concluded that criminals should not be punished because they are not responsible for their actions. Any punishment is unfair,

therefore unacceptable. The conclusion is nevertheless illogical because it contains a hidden premise - judges and prison staff live in a world where moral responsibility exists, so we proceed from the fact that they are responsible for unfair conviction and punishment of innocent people. However, the premise is erroneous, since judges and prison staff exist in the same world as criminals. They exist in a world without free will and moral responsibility. Then why don't we morally condemn criminals whose crimes are directed against obviously innocent people in such world, but morally condemn judges whose verdicts are directed against innocent criminals? All people in this world cannot be guilty as there is no moral responsibility. One should therefore be consistent.

There arises an absurd situation - in a world without free will and moral responsibility, someone accuses society of condemning innocent criminals, accuses of condemning the guiltless in a world where there is no guilt whatsoever. There is no guilt in such world, so nobody is ever guilty but people influenced by sentiment, under axiological inertia, transfer their views from a world where free will that makes for moral responsibility is supposed to exist, to a world where there is neither free will nor moral responsibility, which results in an absurd situation. People are inattentive to their thoughts and reasoning as their mind is blurred with their own value attitudes. Those who assert the inadmissibility of the functioning of penitentiary systems, proceeding from injustice of punishment in the absence of free will and moral responsibility, split the world, implicitly admitting moral responsibility for some people in this world, and they should be condemned for unfair condemnation of innocent criminals, while the other, criminals, are at the same time morally irresponsible. Such view appears erroneous. In a world without free will and moral responsibility, there can be no guilt for anyone, including those who condemn the innocent. In such world, crimes are committed against the innocent; they are committed by the innocent against other innocent, and punishment of crimes of the innocent is no reason for accusation. What is meant here is total innocence. If no one can be guilty in a world without moral responsibility, then society itself, which punishes innocent people, cannot be guilty. There is no guilt as a moral category.

In a world without moral responsibility, no one is morally responsible to anyone. It is then extremely strange to accuse judges of condemning "innocent" perpetrators, to accuse them from the position of the moral category of "justice", to accuse them in a world where it is absent because there is no moral responsibility for lack of free will. A moral claim to court on answerability of an innocent person in a world without moral responsibility is not valid. It turns out that people who accuse of logical inconsistency those who deny free will and moral responsibility fall into a logical contradiction themselves when they try to indicate an imaginary logical contradiction between the lack of moral responsibility and the operation of justice and penitentiary systems. We have therefore to recognize that incrimination of logical incompatibility between the lack of moral responsibility and legal practices is a manifestation of logical inconsistency.

It turns out that moral justice does not have to underpin legal practices as moral responsibility does not exist in the world. Then there remains a question of supporters of moral responsibility to their opponents. After all, in a world where there is no guilt, it is quite fair to pay no attention to justice, having taken as a basis any other non-retributory

principle, for example, public safety, expedience or compensatoriness principles. Thus, law without moral justice can basically function without contradictions whereas in a world without moral responsibility it simply must not be based on the moral category "justice". In fact, prison can be considered as quarantine zones rather than punitive, which protect society from criminals who can be treated as sick through no fault of theirs of course, but society has not to be blamed either for the fact that there is no other way to protect itself from them apart from protecting them from society. This is what the famous philosopher from the Cornell University Derk Pereboom proposes in his book "Life after Free Will". Its final chapters offer an idea of an extreme form of humanity, drawing a conclusion that all are innocent, so no one has to be punished. Saying that, there is an opposite point of view, namely: since all are innocent, anybody may be punished because no one is guilty anyway, so one may adhere to an idea of extreme anti-humanism. There is no logical contradiction even in the extreme forms of moral relativism and if we consider that our strongest moral convictions are mere consensus conventional advantages of taste, even this marginal position is completely legitimate and consistent in its internal axiomatics. "In short, I do not claim that free will is impossible. Nevertheless, considering that the only coherent theory asserting the existence of this free will does not inspire confidence in view of the best physical conceptions, we have to take seriously the prospect of being not free as regards moral responsibility, which is based on the conception of advantages. At the same time, I insist that the conception denying freedom does not prevent us from living ..." [Pereboom, 2001: 118].

If we consider any moral advantage as taste rather than a fact, no more than "I like"/"I dislike", there is a dilemma arising, why won't we do it the way we like to. In this case, the world famous Christian apologist William Craig is mistaken in his moral argument of proving the existence of God when he insists in his book "Reasonable Faith" that the absence of objective moral values (facts) inevitably leads to an internal contradiction in ethical and legal relations. Thus, with the help of subjective advantages of taste within a relativistic paradigm, we can build a non-contradictory system of ethical and legal relations which could be based on a completely logical and universal right to give preference to one's own taste and manifest it in the world since ethics is universal rather than a moral principle of justice.

Conclusions

Thus, opponents of those who deny moral responsibility may either try to justify moral responsibility through attempting to find arguments in favor of the existence of

free will, or admit that they dislike this view at the aesthetic level. Intellectual honesty and academic decency indicate that there is no internal contradiction in practical legal activity in the absence of moral responsibility because it does not need to be based on the principle of fair retribution since this moral principle implies moral responsibility which, as is known, is not expected in the world without moral responsibility. Based on the above, it is worth concluding that it is almost impossible not to fall into a logical contradiction in case of such illegitimate accusation. To avoid lapsing into illogicality and polemical "untidiness", we should not incriminate erroneous accusations of moral self-contradiction to legal systems in a world without moral responsibility. Not all legal systems are based on moral principles, and the more so in a world where moral responsibility is not expected in principle. Accusations of injustice are therefore unjustified in reference to a world where there is no guilt for lack of moral responsibility. It is unreasonable and illogical to blame the legal system for internal contradictoriness as it is not underpinned by the moral principle of justice when this legal system is in a world without moral responsibility as such.

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КРИТИЧНЕ ОСМИСЛЕННЯ ПРАКТИКО-ПРАВОВИХ ВИСНОВКІВ З ВІДСУТНОСТІ СВОБОДИ ВОЛІ І МОРАЛЬНОЇ ВІДПОВІДАЛЬНОСТІ

Актуальність статті обумовлена тим, що в сучасних умовах соціально-культурних та ідеологічних трансформацій українського суспільства посилюється вплив негативних чинників на формування соціально стійкої та

морально відповідальної особистості. Ключові поняття суспільної стратегії духовного виховання - "моральна відповідальність" та "свобода волі" - проаналізовані авторами з точки зору співвідношення моральних і неморальних підходів при обґрунтуванні правових інститутів в світі без моральної відповідальності.

Розглянуто сутнісні характеристики понять "моральна відповідальність" та "свобода волі", показано їх вплив на правову систему, контурно окреслено альтернативні неморальні підходи до обґрунтування правових інститутів в світі з релятивістською парадигмою етико-правових взаємовідносин. В основі побудови такого світу, стверджують автори, лежать не принципи моральної відповідальності та справедливості, що детермінуються "провиною-покаранням", а інші атрибутивні принципи, приміром, безпека суспільства, доцільність чи компенсаторність. Обґрунтовано, що внутрішнього протиріччя в практичній правовій діяльності при відсутності моральної відповідальності немає, адже їй не потрібно ґрунтуватися на принципі справедливості відплати, оскільки цей моральний принцип в світі без моральної відповідальності не працює.

Зроблено висновок, що для суспільств з правовими системами без моральної відповідальності звинувачення у внутрішній суперечності нелегітимні та неправомірні, оскільки вони є продуктом та відображенням самого суспільства, для якого цей принцип не актуальний.

Ключові слова: аналітична філософія; свобода волі; моральна відповідальність; правова система; ретрибутивна функція; справедливість.

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