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Rule of law as a political and legal ideal in the Anglo-Saxon legal tradition

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Abstract. The article gives a critical analysis of the rule of law concept in the Anglo-Saxon political and legal tradition. The main criticism concerns its conceptual weakness, isolation from the real economic and political processes dominating in the society. The concept, once widely used both in the legal and political spheres, has become a kind of “buzzword” without clearly defined content. The lack of understanding of the rule of law concept among the public and inability of the scientific community to give any generally accepted explanation of the essence of this concept is ultimately expressed in failure of the population to follow some reasonable norms of behavior. In such a situation, even moral norms surrender to the policy of force and pursuit of selfish interests. The lack of theoretical rigor in the use of the rule of law concept is the reason that ultimately led some critical scientists in the West to question the relevance of the study of various conceptual approaches to it. The rule of law concept, previously presented as the main solution to many modern problems, such as poverty, corruption, terrorism, etc., is currently experiencing a severe crisis. The author concludes that understanding of this socio-cultural phenomenon may be reached not through examining liberal values but through investigating socio-economic development of society.

Key words: rule of law, common law, public authority, principle of legality, principle of equality, human rights and freedoms, independence of the judiciary

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Верховенство права как политический и правовой идеал в англосаксонской правовой традиции

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Аннотация. Проводится критический анализ идеи верховенства права в англосаксонской политико-правовой традиции. Основная критика касается ее концептуальной слабости, оторванности от реальных экономических и политических процессов, доминирующих в обществе. Идея, некогда широко используемая как в юридической, так и в политической сферах, стала своего рода «модным словечком» без четко определенного содержания. Отсутствие понимания идеи верховенства права в массах, неспособность научного сообщества дать какое-либо общепринятое объяснение сущности этой идеи в конечном счете выражается в неспособности населения следовать хоть каким-то разумным нормам поведения. В такой ситуации даже нравственные нормы уступают место политике силы и преследованию корыстных интересов. Именно отсутствие теоретической строгости в использовании идеи верховенства права в конечном итоге привело к тому, что часть критически настроенных ученых на Западе поставила под сомнение актуальность исследования различных концептуальных подходов к ней. Идея верховенства права, ранее представленная как основное решение множества современных проблем, таких как бедность, коррупция, терроризм и т.д. в настоящий момент переживает тяжелейший кризис. Автор приходит к выводу о том, что для прогрессивного понимания данного социокультурного феномена необходимы исследования, мерилom которых стали бы не либеральные ценности, а уровень социально-экономического развития общества.

Ключевые слова: верховенство права, общее право, публичная власть, принцип законности, принцип равенства, права и свободы человека, независимость судебной власти

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Introduction

The rule of law concept in the contemporary neoliberal paradigm, like the idea of democracy in general, has developed into a “brand” for Western countries. This “brand” is expressed to a large extent in the algorithm of desirable behavior of a state both within its borders and in the international arena. In modern social sciences, it is commonly regarded as an unconditional political and legal value of any “civilized” society, a kind of indicator of the democratic development of modern states. It is accepted to assert with confidence that strengthening of the rule of law at the national level proves the civil and democratic character of states, or at least their movement along these lines (Marochkin, 2014:17).

The rule of law is described as a “value” of Western States forming the “civilizational core” of the world capitalist system, along with other political and legal phenomena and institutions (human rights, democracy, principles of humanism, representative government, etc.). They are, in fact, specific products of the Age of Enlightenment which have been

appropriated in the form of the moral and political content of this historical period by Western civilization. Other civilizations may be deprived of this content since it is the unique asset of the West. Apparently, the clash of civilizations turns out to be a confrontation between the West and the backwardness, i.e., the other civilizations (Huntington, 2004:3, 15, 70, 216). In such a situation, it is believed that only the West can give an adequate interpretation of the rule of law.

In this regard, one can talk about so called “legal imperialism” emerged after World War II, which was largely based on the maxim that “force is right”, as well as “claims to the supremacy of US legal norms, American exceptionalism and the unique global role of the United States” (Jessop, 2019:504).

The institutions of law ideologically selected by the supporters of the “clash and dialogue of civilizations” are portrayed as values that are not subject to criticism. At the same time, other institutions, which in real history have played considerable role in the development of certain civilizations, are being forgotten. For example, the rule of law concept arose, historically changed, and took various forms precisely as a result of well-known events, conflicts, and other social processes. In the course of history, this concept has appeared post factum in certain sections of public consciousness as a value, which is closely related to the culture of society, reflecting its state and exerting influence on it. Therefore, the interaction of the rule of law and the culture of society is subject to a comprehensive study.

These processes should not be “obscured” by the teleology of history, starting from the eternal “values” and aimed at their “objectification” in the life of society. However, if the rule of law is considered a distinctive institutional feature of the Western civilization, then why do not we extend these features to colonial policy, oppression of women, racial segregation, and many other institutions that really existed (or still exist) in the history of the West? No doubt that Western civilization could not be what it is now without all of those.

The rule of law concept penetrated deeply into Anglo-European thought and since the 17th century slowly but gradually gained strength, representing an extremely attractive vision of the political structure of society. “No matter – wrote the modern English historian Morgan – how rigorous the enforcement [of legislation] was – and in the 18th century its relentlessness was often obvious, – the ‘rule of law’ was still considered to be a public weal” (Morgan, 2010:72). The rule of law was perceived as a state of society, where “the transition from royal sovereignty of divine origin to national sovereignty was carried out” (Agamben, 1998:163). However, the new idea had to “not just reproduce moral teachings, but to form the soul” (Tawney, 2023:205). Such an approach was kept even with the onset of the industrial transformation period.

The rule of law concept was certainly progressive for that time. Its institutionalization was associated with the destruction of many mythical and sacred ideas in the political and legal sphere (Hübner, 1985), which did not protect it from creating a halo of new myths around it. Thus, the rule of law concept earlier belonged to the “myths” of classical theories about democracy, and then became a myth of political groups that call themselves “democrats”. However, history has often demonstrated how entire civilizations plunged into a severe crisis when the dominant minority began to believe in myths that they had nested in the minds of the masses in order to manipulate people.

Paradoxically, the rule of law concept developed and institutionalized in an acute social struggle and was often sacrificed. However, like any guiding idea, it had to come to the stage of “degeneration” or “transformation”.

The opinions of Western lawyers on the meaning and content of the rule of law are very diverse. Despite this, most of them boil down to the inference that the rule of law concept is a particular social construct that is a product of liberal political and legal doctrines. This construct supposes that all, or almost all, citizens¹ agree to recognize the law as one of the highest values and to act toward its protection, while the state power remains “depersonalized”, ensuring “the rule of law, not people”. In this context, the rule of law is established in society not only by “good laws” taken by parliaments or “fair decisions” taken by adjudicatory bodies but is also predetermined by the idea of permanent and well-organized unity of citizens toward protection of their rights that prevails in the public legal consciousness.

At the same time, the current global economic crisis, the increased number of armed conflicts in the world, growing social inequality, as well as problems related to environmental and food security, reasonably bring humankind back to the issue of the rule of law, the purpose of such an idea and its applied functions. The reason is that the theses about the rule of law, civil society, and human rights often hide something directly opposite to these concepts². It has long been said that “much of what we consider to be supportive of us actually undermines our being” (Fry, 2020:71). The idea, once taken for granted, is now questioned almost daily (Stiglitz, 2019:3), and “what was then a reason for applause, now often turns out to be a reason for criticism” (Tawney, 2023:169).

It is noteworthy that the most popular international rankings, such as The World Justice Project Rule of Law Index, The Heritage Foundation Index of Economic Freedom, Transparency International Corruption Perceptions Index, and Worldwide Governance Indicators, share a common approach to the rule of law concept as the “rule of private owners’ rights”. The target audience of these socio-legal surveys is neither government agencies nor ordinary citizens, but large investors. To a certain extent, these indices are able to influence investment strategies in favor of a particular state. They are based on a “*neoliberal approach*”, in which, perhaps, the only significant measure is the degree of private property rights protection, and not the standard of the population living, public order, or the social well-being of the majority. Such “ratings of bourgeois democracies” are more like beauty contests than the results of serious empirical research. Therefore, it seems essential to analyze such indicators with caution, since they cannot reflect reliable information on the political and legal reality. The issue of trust in law as such and its critical reassessment arises simultaneously with the decline in the role of the rule of law formal indicators around the world.

John Locke believes that “the great and chief end therefore, of men uniting into commonwealths, and putting themselves under Government, is the preservation of their property” (Locke, 1924:180). After all, if one assumes that the rule of law is “the rule of private owners’ rights”, then trust in law would be much the same as the trust of the population in business. Paradoxically, the highest level of trust in business is shown by the population of countries that until recently were contrasted with Western democracies – China, Indonesia, and India. At the same time, the level of entrepreneurs’ credibility in the USA, which is the cradle of the rule of law concept, is below 50%³.

¹ This refers to the citizens of states that have chosen liberal (bourgeois) democracy as a form of government.
² Chinese writer Lu Xun wrote: “I opened a history book. All over each page were the words “humanity”, “justice”, “virtue” ... and suddenly, between the lines, I saw that the only word that really captured the entire book was “cannibalism” (Grinberg & Novikov, 1977:8).

³ Edelman trust barometer. Global Report 2022. Available at: https://www.edelman.com/sites/g/files/aatuss191/files/2022-01/2022%20Edelman%20Trust%20Barometer%20Global%20Report_Final.pdf [Accessed 17th July 2023].

In turn, the falling trust in business leads to the devaluation of trust in the government. As Joseph Stiglitz (2013) fairly observes: “When the social contract is broken, when the public trust in government fades, this gives way to general disillusionment, social breach and a host of other equally negative phenomena. Today the extent of discredit of the United States and many other democracies is increasing” (Stiglitz, 2013).

Stiglitz notes: “Growing inequality, combined with a flawed system of campaign finance, risks turning America’s legal system into a travesty of justice. Some may still call it ‘the rule of law’, but in today’s America the proud claim of ‘justice for all’ is being replaced by the more modest claim of ‘justice for those who can afford it’. And the number of people who can afford it is rapidly diminishing” (Stiglitz, 2013). Meanwhile, the laws that improve the position of the poor are not at all what they appear to be (i.e., real social justice), but rather represent certain instruments for keeping “the poor obedient in the conditions of their powerlessness” (Cain & Hunt, 1979:74). The American judicial system – which massively deprives people of freedom or housing despite the absence of debts – provides “justice for all”, but only as long as these people are rich and white (Stiglitz, 2016:3).

Therefore, the “rule of law” has become a desired result rather than a fact. This happened not only because no state, no matter how liberal and democratic it may be, “treats all citizens as equal before the law”, but also because social inequality affects the application of the law: the law may be very predictable for the privileged class and at the same time remains completely disorderly for the less well-off (Holmes, 2003:21–22; Stepan & Linz, 2011:841–856). Thus, two radically different understandings of the rule of law concept exist, depending on the social status: the understanding by the elites and by the rest of the population.

The situation with democratization and the “export” of the rule of law to other countries also causes concern in the academic community. According to the NAVCO Harvard project, the world has faced 622 attempts to overthrow the ruling regime over the past 100 years. “Only 35% (220) of them were successful, with violence involved in 70 attempts. 60% of coups ended in transition from one authoritarian regime to another or in elite reshuffle without a change of course. Thus, most coups were initiated by underprivileged elite that tried to reach a more favorable position for its clan through the change of power. In 40% of cases, democratization is observed, but it is difficult to assess whether it works towards the interests of the majority of population” (Chenoweth & Shay, 2020). In fact, this is the result which Maurice Cornforth (1946) called “a perfect expression of expansionist strivings of American big business”.

Materials and Methods

The methodological basis of the thesis involves the application of the dialectical cognition method with the use of historical, formal, comparative, and systemic methods of analysis of legal and social phenomena.

The dialectical method provides a basis for the elucidation of the subject of the research, setting and realizing the purpose thereof, upon compliance with the principles of scholarly knowledge (objectivity, comprehensiveness, historicism, unity of theory and practice).

The comparative method helps to identify the peculiarities of Anglo-Saxon and continental approaches to understanding the rule of law and the peculiarities of its dynamics.

The use of the historical method of research facilitates the analysis of the historical setting of political and legal decision-making in certain historical periods. The study of the subject involves the use of the axiological method, which helps to reveal the social value of recognizing the rule of law as a mechanism for governing society.

The linguistic method contributes to identify the peculiarities of interpretation of the rule of law in different countries.

Rule of law in neoliberal paradigm

Liberalism adapted to the historical context and smoothly developed certain ideas, many of which were flexible enough to be used by the new liberals. For the most part, the change in liberal ideas took place within liberalism itself, without any outside influence. This development was also true of the key idea of liberalism – the concept of the rule of law.

The ideological sources of the modern concept of the rule of law in the Anglo-Saxon legal system were represented by particular theological and rationalist threads of the natural law theory. The theological field based on the doctrines of Calvinism substantiated the view of law as a supernatural entity beyond state control. Social theorist Jeremy Rifkin believes that “the vast majority of Americans have what could be called a quasi-religious attitude to business. Their Calvinistic belief in the market and hatred of the big state, up to equating it with godless socialism, does not allow them to see corporate greed, allowing business to succeed, creating a form of socialism for the elite and pauperism for the ordinary people” (Rifkin, 2011:143).

The rationalist strand attempted to prove the existence of some abstract ideal that defined the content of legal norms, as well as the restrictions of legislative practice. The influence of these trends on the political and legal life in the Anglo-Saxon legal system led to the rule of law being viewed as both a political ideal and a legal principle.

Undoubtedly, the approach to the rule of law concept in civil law should be distinguished from the treatment of the rule of law in the common law legal family. In the USA and the UK, the “due legal procedure” has become a cornerstone of its realization. This is why, for instance, American statehood is conceivable without the Presidential Administration, the Department of State, or the Congress, but its functioning is much in doubt without the US Supreme Court, since this would cause a major social crisis. Thus, researchers around the world who recognize the discursive differences between the concepts of “law-bound state” and “rule of law” note that the “law-bound state” concept focuses on the nature of a state and originated owing to written constitutions, while the “rule of law” originated in courtrooms and demands that all officials treat any person with respect for his/her dignity, complying with the principle of equality, and that anyone has an opportunity to appeal against any judgments in independent and impartial courts (Bekisheva, 2017:19). This is the principal reason why legal science faced the process of “autonomization” of the law supremacy concept a long time ago.

Nevertheless, the danger latently inherent in the *neoliberal interpretation* of the rule of law lies in its anti-historical character. When *neoliberals* address the issues of justice, rights, and freedom, they assume that liberal thought is a collection of their own cumulative ideas about political philosophy. Thus, it is assumed that legal scholars should treat their doctrines as analytical philosophical arguments that essentially summarize the entire liberal view of the state and law. This approach is most likely flawed. The main problem here lies

again in the lack of critical and historical awareness of this being the only form of philosophical and liberal thought, which has deep historical roots. The concept of the rule of law is certainly based on the idea of “universal justice”; however, it is time to explore this phenomenon in terms of its dialectical development. For instance, some scholars note that “feudal lords were talking of rule of law, even though they oppressed the peasants working for them; the same is true of slaveholders in the South who recaptured runaway slaves as prescribed by the law” (Foner, 2015:36).

It does not mean that the rule of law concept has long lost its social value, but rather that a deeper understanding of its essence is needed through critical reflection, since “there is nothing “sacred” for the science, and nothing is protected from critical analysis” (Kelle et al, 1988:49). Otherwise, one remains within the framework of legal fetishism.

It is necessary to agree with Stiglitz that “the rule of international law – even in its truncated form – is as important for the global economy and politics as the rule of national law for domestic economies and politics” (Stiglitz, 2020:299). The attitude of nation states and the international community toward this principle vividly reveals two opposing trends: on the one hand, they proclaim the rule of law in inter-state affairs thus expanding the scope of this principle; on the other hand, one can see a pronounced desire to solve acute inter-state problems (recognition of sovereignty, spheres of influence, access to resources, etc.) not on the basis of law, but through political and military tools serving the selfish interests of individual states and transnational corporations.

It is important to note that the USA remains to date the longest-surviving constitutional republic. Many scholars attribute this to the fact that the US Founding Fathers tried to create a system of governance that would not function by ignoring human foibles but would use them to maintain political stability and ensure as much individual freedom as possible. Gordon S. Wood, an American historian and professor at Brown University (Rhode Island) notes that the Founding Fathers treated their mission from a practical position, with unsentimental acceptance of people for granted. They knew they were living in an epoch of commerce and self-interest. In fact, Wood (Wood, 2012) stresses that Americans honor the Founding Fathers of the American state for their realism and pragmatic acceptance of human nature through the prism of social Darwinism, where competition and natural selection are dominant in human relations. Nevertheless, the Founding Fathers can be called “ardent liberals, but very timid democrats” (Lindblom, 1978:183).

The natural law doctrine of the US Declaration of Independence is distinguished by an important difference from the classical Lockean interpretation: possession of private property, as a part of the triad of natural and inalienable human rights,⁴ has given way to the pursuit of happiness (Sogrin, 1983:91). There is no point in infusing anti-bourgeois content in the Jeffersonian interpretation, since at that time, it was characterized solely by a humanitarian and moderately egalitarian character. The Founding Fathers placed special emphasis on the “material interest” which was defined by Madison as “the urge for an immediate increase in property and wealth”⁵. They recognized and respected the power and inevitability of “material interests”. Material interest, as asserted by many of them,

⁴ Rights to life, freedom and private property.

⁵ James Madison. Letter from James Madison to James Monroe. June 10, 1787. From Teaching American History. Available at: <https://teachingamericanhistory.org/document/james-madison-to-james-monroe/> [Accessed 5th October 2023].

represents the closest bond one can have with another person. It is therefore the “only cementing bond” between the state and its people.

This approach was certainly progressive at the time of the Founding Fathers, because during the bourgeois revolutions, any competitive advantages of those who possessed them by birthright were withdrawn, and “formal equality” indeed represented an advanced institution. Hundreds of years later, the category of “formal equality” of all people under the law and before the court was logical to be transformed into a more advanced version.

Formally, everyone is equal in the market; therefore, in the Postmodern Epoch, “the sense of morality and justice is reduced to the terms of a business transaction” (Graeber, 2012:19), and every citizen is a kind of economic actor guided by “reasonable choice”. However, it is difficult to maintain this thought in mass consciousness for a long time, when objective circumstances such as pandemics, wars, economic crises, and the development of digital technologies return society to the path of priority of public interest over human rights, and mainly, over the freedom of economic activity and the right of private property. Thus, “the world built on a fundamentalist belief in markets and trickle-down economics” (Stiglitz, 2020:61) has collapsed. The fact is that “capital cannot indefinitely increase its economic advantages without undermining the political legitimacy of the state, which in normal conditions requires respect for the rule of law and public opinion” (Jessop, 2015).

It turned out that the bond between the market economy and individual freedom, postulated by liberals, was only of temporary nature. Neo-liberalism nevertheless restricts human freedom by subordinating political authority to economic power in the conditions when the latter has reached the highest degree of concentration. Modern society differs from the idealized English society of the 18th century where the economic power was distributed among farmers, artisans, merchants, and manufacturers. Today, transnational corporations and bank holdings do not represent democratic structures but are, rather, authoritarian institutions run by boards of directors legally accountable only to their shareholders. This is why the disciplines such as “neo-institutional economics”, “economic analysis of law”, etc., once popular in the West, remain within the walls of universities, as they do not work in real life.

The neoliberals, choosing between economic efficiency and social justice, gave preference to the latter, although it was Adam Smith who once warned about the fallaciousness of this approach: “Undoubtedly, no society can prosper and be happy if most of its members are poor and miserable. Besides, simple justice dictates that people who feed, clothe and shelter all the others should receive a due share of products of their own labor permitting them to eat, clothe and shelter themselves comfortably” (Smith, 1982:119).

Simultaneously with the economic obstacles to realizing the concept of the rule of law, there are certain sociological difficulties, since the rule of law concept is largely perceived at the level of religious consciousness, which fully approves a static approach that considers social order as an unchangeable thing that can only be accepted (Tawney, 2023:135).

Rule of law or rule of social justice?

The rule of law concept is a living and open notion, permanently self-renewing and, as the Western legal practice shows, is internally contradictory. Failing its comprehensive analysis, it would be difficult to adequately study the mechanisms of the state-legal system

in the “core capitalism” countries and their ideological impact on the development of political and legal processes in other countries.

If one moves away from formal approaches, then the “rule of law” today is a kind of “status quo”, a balance between public and private interests in economic relations. Paradoxically, the bourgeois democracies use this “liberal brand” with conservative aims. The idea of the rule of law has in fact taken the role of defense of the existing economic order, since the political and legal orders are secondary in this case. Formally, citizens may have many rights, but what is the use of them if people have no necessary material resources to exercise them. Colin Crouch (Crouch, 2004), a renowned English sociologist argues that “in most capitalist societies, the idea that legal and democratic rights are protected from the encroachment of the market is essentially a myth. Rich people and groups can afford employing the best lawyers and, in addition to their democratic rights, they have lobbying opportunities. However, no one entrenches upon the rhetorical slogans of equality before the law and before the ballot box”. In the USA, “the expensive justice system is open to the rich ones, and to the poor ones is inaccessible in matters of civil law and hostile in matters of criminal law as a hundred years ago” (Lindblom, 1978:278).

The form of political organization of society tends to correspond to the economic order or tries to change it within the available limits. Therefore, an economic order based on private property, wage labor relations, and profit-oriented market-mediated exchange looks quite appropriate or expedient to a political order based on the rule of law, equality before the law, and a sovereign state. This is why the recognition of the rule of law concept as a value should be based on the simultaneous recognition of the market as a basic value.

As long as there is no violent confrontation between the classes, the “status quo” can be maintained for a long time. If the social prerequisites that determine this “status quo” remain, the political system will be relatively effective in reducing the level of social tension and maintaining public order among the population. Robert Alan Dahl, a professor at Yale University, spoke most clearly about this: “What we describe as democratic ‘politics’ is just a husk. These are only external manifestations that represent superficial conflicts. Consensus on the strategy existing in a given society lies in a core of politics, before it, under it, around it, limiting and conditioning it. Without such a consensus, no democratic system will be able to survive endless undercompetitions” (Dahl, 1956:132–133).

This approach is also valid at the level of international relations. The possibility of establishing a world order based not on force, but on the law remained even during the years of acute confrontation between capitalism and socialism and the Cold War. Of course, in this case, it is necessary to recognize the servicing role of law. Its task is to consolidate and support a certain “status quo” in a legal form.

The rule of law concept in crowd psychology can act as a “defense mechanism”, since people tend to manipulate their perception of the situation so that their previous beliefs are not questioned. By their nature, people tend to be in a status quo situation, which politicians easily use for their own purposes, since avoiding the “status quo” always involves risk or requires additional efforts (Baddeley, 2017).

The stability of liberal democracies depends on self-restraint on the issue that political forces can make a matter of politics. If the necessary compromise within the power bloc and between the ruling and subordinate classes collapses, there is always a legal or factual opportunity to declare a state of emergency, suspend the rule of law, and limit the forms and methods of expressing political resistance.

For example, the main tool for maintaining the rule of law in the United States is the US Supreme Court, which has repeatedly revised the hierarchy of natural rights through its judgments. A special place in this hierarchy has always been occupied by the private property right (including the right to own slaves before slavery was abolished). The US Supreme Court has long accentuated the priority of this right even in cases where the owner's interests definitely contradicted the proclaimed principles of organization of American society, such as equality of all people before the law and freedom of relocation.

However, this "status quo" is increasingly breached in favor of public interests since the law is moving towards "publification" at an enormous pace and the debate on human rights is not solving the growing problems of poverty, diseases, hunger, and wars.

In fact, the concept of the rule of law in the postmodern era has entered a phase of recession. Forecasts on the transformation of the rule of law concept are numerous today. However, they are mostly related to finding the tools to preserve this social value in its present form. Essentially everything around this idea is creating now an ideal of the future and "stamping the pattern of that future upon any recalcitrant objective facts" (Cornforth, 1946:42). However, the patterns identified in the course of studying the genesis of this idea suggest with reasonable certainty that "the rule of property rights" will sooner or later be transformed into "the rule of public interest" and that the central element in the realization of this idea will not be "due legal process" but, for instance, public scrutiny. Thomas Jefferson (1790) believed that "the law of the majority is the natural law for every society of men"; however, presently the concept of the rule of law stands guard over the interests of the exploiting minority in virtually any modern state.

Using the terminology of Wallerstein (Wallerstein, 2004), it can be noted that the historical realities of capitalist development show that the "core" capitalist countries are able to create their own periphery, at the same time destroying national economies by armed force or by subjugating them politically. This often happens under the plausible pretext of exporting "the right democracy" and the rule of law. The Eastern bloc countries were shifted to the periphery of the world system⁶ after their defeat in the Cold War. Another crisis of capitalism can only create objective conditions for the transition of society to a new, "post-liberal" stage of development. The period of global turbulence is generating worldwide protest sentiment as never before. Of course, these contradictions in society will create new regimes. Possibly, the new regimes will not be to the liking of neoliberals or social democrats, but it is these regimes that will once again attempt to reconcile the capitalist economic model and the democratic policy (Crouch, 2004:121), being a new stage between the "ruling of corporate interests" and the "supremacy of social justice". Humankind does not ask questions about economic and political organization until it is forced to do so by some urgent need. Such necessities took place in the 16th century, the beginning of the 19th and 20th centuries. These periods can be attributed to the "epochs of social disorientation" (Tawney, 1926:146).

The entire history of political institutions reveals the "fragility and vulnerability of democratic principles" (Held, 1987:15) and the lack of clear public understanding of the rule of law concept, while the scientific community's inability to provide any reasonable elucidation of this idea can ultimately end in the inability of the broad public to follow any reasonable norms of behavior. In such a situation, even the moral norms would give way

⁶ Peripheral capitalism is a form of capitalism typical for the Third World countries. Peripheral capitalism was formed on the basis of colonial countries, so it bears the features of a colony: it is a raw material appendage, a supplier of cheap labor, as well as a market for industrialized countries.

to power politics and the pursuit of vested interests. Professor Maltsev rightly argues that “rationalization of natural law over time has led to the need for its desacralization” (Maltsev, 2013).

Conclusion

It is obvious that the issue of desacralization of the rule of law concept has become quite acute today, in fact calling forth its complete scientific revision. After all, the idea of the rule of law, despite its invariable attractiveness for progressive public consciousness, cannot nevertheless be realized to the utmost in the absence of due socio-political, economic, and moral conditions. On the one hand, the rule of law concept is the peak and the level to which law-making and law-enforcement practice should rise. This idea is future-oriented and is extremely insufficiently implemented in the modern era. On the other hand, current trends in economic, political, technical, social, and cultural development, as well as social crises, leave no doubt that in the future, new conceptual approaches to the study of the rule of law concept, or even the rule of “post-law”, will arise, since this socio-cultural phenomenon does not necessarily have to be located only in the circle of liberal values and natural human rights.

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