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**LEGAL AND RELIGIOUS REGULATION: INTERACTION, CONTRADICTIONS  
AND RESPONSIBILITY OF THE SUBJECTS OF SOCIAL RELATIONS**

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**Introduction:** the article offers an analysis of the characteristics inherent in legal and religious regulation of social relations. A special attention is given to social, religious and legal responsibilities as the social relations regulators. The authors carried out a comparative analysis of religious orthodox and legal responsibilities based on their characteristics, principles, and functions. The article explores contradictions between legal and religious orthodox regulation of social relations. The authors define the social nature of the contradictions and analyze the current legislation regarding the problems caused by them. The right to freedom of conscience, the right to sexual freedom, the application of assisted reproductive technologies are analyzed in comparison with the requirements of Orthodox religion. **Purpose:** to define the interaction between legal and religious regulation in terms of religious and legal responsibility, to identify the social nature of contradictions between legal and religious orthodox regulation of social relations, to reveal the reasons for the contradictions, as well as the ways to balance them. **Methods:** the authors applied the comparative method to analyze and compare the requirements which religious and legal norms contain. The formal legal method was used to carry out a structural analysis of legal and religions norms, to single out their primary and secondary characteristics. The categories of dialectics enabled the authors to identify the essential features of contradictions between legal and religious norms. **Results:** the reasons for contradictions between legal and religious regulation have been detected and the ways and means of their elimination have been defined, which involve the development of new moral norms and principles and updating the current legislation in compliance with the requirements of religious norms firmly established in society. The authors have identified the common characteristics of religious orthodox and legal responsibilities by interpreting them as an integral social phenomenon having positive and negative aspects of realization. **Conclusion:** there is an interaction between legal and religious orthodox regulation due to the common goals, functions, and results. They are also linked by the function of legitimation which religious norms can perform with regard to

legal ones. Religious and legal responsibilities also share common goals and moral stances reflected in the principles of justice and humanism, as well as the functions of regulation, reestablishment, retribution, education, and prevention. There are positive and negative aspects of both legal and religious responsibilities realization. The reasons for contradictions between religious and legal norms are caused by the following factors: the uneven development and changing of legal and religious norms, the lack of radical ways to change the existing religious rules of behavior in religious regulation; peculiar features of the legal norms content. Religious norms use obligations and prohibitions to a greater extent than permissions, whereas the democratization of society indicates the extension of the permission sphere in legal regulation of social relations, as well as the imperfection of both legal and religious norms, and also the contradictions which social relations contain.

Keywords: legal regulation; religious orthodox regulation; social relations; system of normative regulation; contradictions; reasons for contradictions; legal responsibility; social and religious responsibility

### Information in Russian

## **ПРАВОВОЕ И РЕЛИГИОЗНОЕ РЕГУЛИРОВАНИЕ: ВЗАИМОДЕЙСТВИЕ, ПРОТИВОРЕЧИЯ И ОТВЕТСТВЕННОСТЬ СУБЪЕКТОВ ОБЩЕСТВЕННЫХ ОТНОШЕНИЙ**

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**Введение:** в статье анализируются характеристики правового и религиозного регулирования общественных отношений. Особое внимание уделяется социальной, религиозной и юридической ответственности как регуляторам общественных отношений. Проводится сравнительный анализ религиозно-православной и юридической ответственности на основе их признаков, принципов и функций. Исследуются противоречия, существующие между религиозно-православным и правовым регулированием общественных отношений. Авторы определяют социальную природу этих противоречий, анализируют действующее законодательство по проблемам существующих противоречий, а также права на свободу совести, сексуальную свободу, применения вспомогательных репродуктивных технологий в сравнении с требованиями православной религии. **Цель:** определить взаимодействие правового и религиозного регулирования на основе религиозной и юридической ответственности, выявить социальную природу противоречий между правовым и религиозно-православным регулированием общественных отношений, раскрыть причины этих противоречий, а также способы их нейтрализации. **Методология:** авторами применялся сравнительный метод, заключающийся в анализе и сопоставлении требований, содержащихся в религиозных и

правовых нормах. С использованием формально-юридического метода проводился структурный анализ правовых и религиозных норм, вычленились их признаки и характеристики, определялось основное и второстепенное. Категории диалектики позволили авторам определить сущностные характеристики противоречий между юридическими и религиозными нормами. **Результаты:** были выявлены причины противоречий между правовым и религиозным регулированием, пути и средства их устранения, которые состоят в разработке новых моральных норм и принципов и совершенствовании действующего законодательства, приведении его в соответствие с требованиями религиозных норм, которые прочно утвердились в обществе. Авторы определили общие свойства религиозно-православной и юридической ответственности исходя из их понимания как целостного социального явления, обладающего позитивным и негативными аспектами реализации. **Выводы:** взаимодействие правового регулирования и религиозно-православного регулирования обусловлено общностью их целей, функций, результатов; также их связывает функция легитимации, которую религиозные нормы могут выполнять по отношению к правовым нормам. Религиозную и юридическую ответственность объединяют общие моральные установки, которые отражены в принципах справедливости и гуманизма, а также функции регулирования, восстановления, кары, воспитания, предупреждения и наличие общих целей. Как юридическая, так и религиозная ответственность обладают позитивным и негативным аспектом реализации. Причины противоречий между нормами религии обусловлены следующими факторами: неравномерным развитием и изменением правовых и религиозных норм, отсутствием у религиозного регулирования радикальных способов изменения существующих религиозных правил поведения; особенностями содержания самих правовых норм. Нормы религии в большей степени связаны с требованиями обязанностей и запретов, а в меньшей – дозволения. Однако демократизация общества свидетельствует о расширении сферы дозволения в правовом регулировании общественных отношений; о несовершенстве как религиозных, так и правовых норм, а также о противоречиях, существующих в общественных отношениях.

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Ключевые слова: правовое регулирование; религиозно-православное регулирование; социальные отношения; система нормативного регулирования; противоречия; причины противоречий; юридическая ответственность; социальная и религиозная ответственность

### Introduction

Russian society is currently undergoing a complicated period. On the one hand, the democratic processes and the expansion of rights and freedoms provide citizens with more opportunities for self-development and realization of their needs. On the other hand, there are some negative trends that have not been overcome over the last decades. Such negative phenomena as breach of duty, abuse of law, different types of offense and a low level of legal culture have become widespread while a continuous increase in the number of normative legal acts does not result in quality – in the establishment of orderly social relations and reduction of the crime rate and the number of other offenses. At the same time, the society is facing a spiritual crisis as the old socialist ideology has ceased to exist and a new one has not been created yet. Moreover, the Western values that have been forcibly inculcated turned out to be alien to Russian mentality. There is a moral and spiritual crisis in the society, the crisis of the general culture as a whole and the legal cul-

ture, in particular. Can it be one of the reasons for low efficiency of legal regulation of social relations? We believe the answer to this question is positive. The cult of money, the perception of a person as the means for achieving certain goals are common in the society. It is clear that the law is incapable of coping with its main task, which is the regulation of social relations. Efficient regulation is possible only when there is a concurrent influence of different regulators on social relations. At the same time, legal norms themselves must be filled with a moral content, reflect the generally accepted religious attitudes and correspond to the universal values. While developing the rules of behavior, the legislator should correlate them with the religious and moral norms and minimize possible contradictions between the legal and religious norms.

Legal responsibility is an essential component of the system for legal regulation of social relations. The study of legal responsibility should not be limited to its preventive and punitive functions in order to meet the existing social relations and global

changes that have taken place over the last decades when the activity of mankind determines not only its present but the future of other generations. Therefore, social responsibility as a whole and legal and religious ones, in particular, should be considered the regulators of social relations and, above all, a responsibility for future actions and consequences. It is well known that the law is not only a measure of freedom but also a measure of responsibility. Being a constituent part of the regulation system, the latter is bound to perform a regulatory function. Legal scholars should change the existing stereotypes of thinking, which define legal responsibility as a consequence of an offense, and study it as an instrument for regulating the behavior of the participants of social relations and in correlation with other types of social responsibility.

The purposes of regulation can be achieved only if the interaction of legal and religious responsibilities is provided. Thus, it is crucial for research in this field to focus on the comparison of the characteristics of legal and religious responsibilities and to determine their interconnection and interaction. At the same time, the process of legal and religious regulation itself is not free of contradictions and their reasons should be revealed and thoroughly studied.

### **On the Notion of Legal and Religious Regulation**

Social relations have needed regulation starting from the very moment of their appearance, which coincides with the emergence of human society. The regulation was carried out in different ways at different stages of its development. The system of social regulation has been getting more complex as the human society developed due to the complicated processes of the interaction between the individual and society. The regulation of social relation is carried out by means of providing rights, permissions, and incentives as well as assigning responsibilities and prohibitions, while the social norm is the standard of behavior for the subjects of social relations. This standard determines whether certain actions are permitted or prohibited, approved and encouraged or punished.

Normativity penetrates all spheres of social life and is based on the need for the establishment of the public order. The subjects of social relations are limited by the requirements imposed on them. The requirements are formulized in social norms and transformed into the internal impulsive motive in the subjects' minds. Social norms are the standards and patterns of behavior for the subjects of social relations that they follow in the process of their interaction.

However, the existing social regulators fail to cope with the ordering of social relations at a certain stage of the human society development, which is one of the triggers for the emergence of the state and law. It should be noted that this is only one of the reasons as the emergence of the state and the law is not within the research object.

Corporate, ethical, religious and moral norms are incapable of regulating many social relations. There is a need for a social regulator – the law aimed at mediating the relationships between people from the standpoint of “lawful and unlawful, legal and illegal action” [8, p. 14]. Understanding the law as a regulator of social relations has become axiomatic for the legal science and is present in the works of both Russian and international scholars [22; 39; 56].

Several characteristics of legal regulation can be identified as follows: it is a form of social regulation; it is the regulation exercised by the state or sanctioned by it; it is performed with the help of legal norms, other legal means and a special mechanism. The above mentioned characteristics of legal regulation are described with some terminological differences in scientific literature and course books [8, 11]. At the same time, the law is not the only regulator of social relations since they can be most effectively regulated only when the interaction of different types of social norms is provided. The combination of different means of social relations regulation creates a single mechanism. Along with that, some relationships are directly regulated by social norms while others are subject to indirect influence. Therefore, it is important to differentiate between the notions of regulation and influence

considering the fact that legal regulation is the main form of legal influence on social relations.

Religious regulation of social relations is carried out concurrently with legal regulation. One of the purposes of both legal and religious norms is to create a state of orderliness in social relations and prevent offenses and other social deviations. What is more, qualitative and systemic regulation of social relations is possible only under the condition of a close interaction of various social regulators. Norms of the law are “doomed” to rejection, non-compliance or their execution based only on conformity to the law but not respect unless they are filled with universal human values, religious or moral content and do not contradict the orthodox canons. We do not underestimate the role of other religions in our research. However, we believe that detection and analysis of contradictions that exist between legal and religious orthodox regulation is gaining a particular importance. Religion and law have the features of interaction, unity, differences; that is, they are in a complex process of correlation. It is worth mentioning that legal and other social norms have similar processes and characteristics, which is noted by both Russian and international scientists [15; 60].

Up to the present moment, legal scientists have been offering various definitions of law; and there is also no unity of views on the notion of “religion”. The word “religion” itself is found both in the Slavic and other European languages. Etymological dictionaries say that it was borrowed from the Latin language. The Latin word “*religiō*” was identified with conscience, piety, godliness and the word “religious” meant a pious believer [26, p. 109]. Nowadays, religion is understood as a form of social conscience, a worldview system and behavior associated with certain cult actions or behavior based on belief in one or several gods [20, p. 16].

The definitions of religion as a “perverse, fantastic reflection of natural and social forces that prevail over the human being”, which were imposed by the communist ideology, belong to the past [1, p. 438]. It is noted in the atheistic literature of the Soviet period that “religion distorts real rela-

tions existing in nature and society, disorients people in their cognition and transformation of the world, fixes and perpetuates the man’s dependence on natural and social forces” [1, p. 439]. The roots of the soviet atheistic approach date back to Marx and Engels who believed that “all religion is nothing but the fantastical reflection in men’s minds of those external forces which control their daily life” and called religion “the opium of the people” [10, p. 328]. It is noteworthy that according to some researchers “a religion is a unified system of beliefs and practices relative to sacred things, that is to say, things set apart and forbidden – beliefs and practices that unite all those who adhere to them in one single moral community called the Church” [37, p. 40]. In this case, the definition is neutral and does not have any emotional or other “coloring”. Other researchers define religion as a system of symbols [38]. For instance, they point out that religion is a system of symbols aimed at establishing motivations and order in the behavior of the society’s members [38, p. 42].

In modern secular literature, religion is neutrally defined as a special form of a worldview that functions as a social regulator. Besides, developed religions, as a rule, comprise three elements: dogmatics, ethics, and religious norms. According to R. B. Golovkin, religion is a complex system that includes faith, that is, the religious conscience; religious relations; religious cults; religious norms and a religious organization itself [4, p. 281]. Religious norms represent a special kind of social norms set by different creeds and confessions. They regulate the conduction of religious services, the rules of behavior that guide the believers (keeping fasts, prayers, etc.) as well as the internal relation of the individual to God, to himself, to other people, and the world around. They have an external form of expression as they are formalized and fixed in sacred books, for instance, in the Bible, as well as in their commentaries, acts issued by church community governing bodies or high ranked church officials.

If we turn to the content of religious norms, we will see that they regulate the individual’s relations

with himself and other people. They accumulate human wisdom, the experience of mutual co-existence cultivated over centuries. Naturally, the nations that confess the same religion have different content of divine norms.

Religious attitudes are set forth in sacred books, for example, in the Gita, the Bible, and the Koran. Religion has the property of normativity, which is known to be not only legal but also religious. The rules of the human community life set out in the religious normative sources are obligatory for believers to follow [31, p. 109]. These norms have a logic structure similar to that of legal norms. The disposition of a religious norm is often more clearly expressed. Thus, one of the commandments says, "Do not kill", this is a rule of behavior. Article 105 of the Criminal Code of the Russian Federation defines murder is the intentional causing of death of another person. However, the rule itself says the following: "Intentional causing of death is prohibited". It is derived logically. The commandments are formulated in such a way that there is no need to apply any logical formulas that we use to derive a rule of behavior from a text of a normative legal act.

Researchers argue that both religious and legal norms cannot be defined without taking into consideration historical, cultural and other social factors [34, 30]. Considering that they are caused by similar factors, they inevitably have similar requirements for the behavior of social relations participants.

Religious norms regulate social relations with the help of a social mechanism that accumulates such phenomena as religious norms, norms of a church organization, canon law, religious attitudes, cult actions, events and facts which bring religious relations into action. Religious conscience plays a special role in the mechanism of religious regulation, since apart from regulating external interaction between people, religion also deals with the individual's attitude to himself.

The main characteristics of religious regulation can be specified as follows: firstly, it is a type of social regulatory influence and is based on faith and belief in God's justice and omnipotence; secondly, religious regulation is carried out within the framework of religious communities; thirdly, it is real-

ized through social and religious means (religious norms, relationships, etc.); fourthly, it is a type of non-state regulation and is aimed at protecting both the believer and people around him.

### **Social and Legal Responsibilities as Regulators of Social Relations**

Both legal and religious responsibilities serve as important regulators of social relations and are the structural elements of the normative regulation system. Notions of the phenomena need to be defined prior to proceeding with the problems of possible contradictions between religious and legal responsibilities.

Responsibility is a mandatory attributive element of society that results from normativity and the need for regulation of social relations. As society develops, the social responsibility system and its subsystem of legal responsibility are becoming more complex. Religious responsibility has also undergone the process of adding complexity as the civilization developed, although it was not so rapid compared to that of the legal responsibility system. Despite the importance of the notion of "legal responsibility", there is no definition of it neither in the modern legislation nor in the normative legal acts that became inoperative. If we look at the etymology of the word "responsibility" given in Ozhigov's Dictionary of the Russian Language, we will see that responsibility is defined by the derivative "responsible" and as "vested with rights and duties to realize the activity" [17, p. 390].

In the German language, there are several words for the notion "responsibility": "Verantwortung", "Verantwortlichkeit", and "Haftung". The first one refers to responsibility for unlawful behavior; the second one implies responsibility for actions that a subject can take in the future. The third word is used to indicate responsibility without guilt in the civil law [58, p. 29; 58, p. 37]. It is clear that scientific definitions and notions cannot be based only on the etymological meaning of one or other word. However, it must be taken into account along with other characteristics when formulating corresponding scientific abstractions.

Considering the above mentioned etymological meanings of the word "responsibility", social responsibility can refer to both the future and past behavior of the individual, but at the same time, it

has an integral character, which finds its confirmation in scientific literature [35; 59; 60].

In philosophical literature, legal responsibility is subdivided into positive and negative ones. A well-known French philosopher Paul Ricoeur connects positive responsibility with the feeling of responsibility for the future actions. [56, p. 112]. As early as in 1919, the idea of the ethics of responsibility (Verantwortungsethik) was suggested by a German sociologist Max Weber. According to Weber such ethics is based on a number of principles. It raises the issue of responsibility for actions; and as “the ethics of conviction and the ethics of responsibility are not absolute opposites, they are complementary to one another, and only in combination do they produce the true human being” [61, p. 505]. Max Weber wrote about responsibility in relation to politics. He paid special attention to what kind of people should carry it out – responsible ones.

Scientific and technological advance led to the development of views on responsibility. At the end of the last century, Hans Jonas considered the principle of the individual’s responsibility from another standpoint – he took into account atomic energy, the environment, the conservation of biological species, and other planetary-scale problems. He raised the question of responsibility for the preservation of mankind, and the responsibility itself was regarded as a global problem of modern times [45; 46]. Responsibility for the human race and for the planet should become a principle of the third millennium. This is the responsibility for the environment and today’s world as well as for what the world will be like after us. Actually, responsibility in such an aspect prompts us to think about how humanity should develop so that the present and the future generations survive. “The global community has to learn to think in global interconnections”. There are some inevitable questions of how to build the life of civilization and what basic principle has to be followed in order to create harmonious conditions for coexistence. Profits should not become the highest consideration. It is not an aim but rather a result, and “the knowledge society must replace the business society” [46, p. 301].

Social responsibility is a dialectic interrelation between the individual and society, within the framework of which mutual rights and obligations are realized and the requirements of social norms,

moral and ethical principles are observed. Negative responsibility occurs only as a result of a social deviation (deviant behavior) and is associated with censure, condemnation and bearing the unfavorable consequences provided for by the sanction of the violated norm. At the same time, social responsibility is a multifaceted phenomenon that includes psychological, cultural and moral aspects. It depends on the society’s development level, its mentality and value priorities. However, social responsibility itself is a value aspect of the existing culture. It is not solely related to obligations because it is also based on the opportunities for personal development and fulfillment of the subject.

The multifaceted nature of social responsibility is conditioned by the fact that it is based on freedom and is the expression of freedom. However, as is well known, an absolute freedom does not exist. Thus, responsibility is the limitation of the subject with certain requirements imposed on him by society. It is known that social responsibility does not exist in its pure form. It is always expressed in certain specific types such as legal, corporate, moral, religious, political, and so on. Legal and religious responsibilities correlate with social responsibility as specific and generic notions. Social responsibility is a generic notion while legal responsibility is a specific one. A similar statement applies to religious responsibility.

Legal responsibility must be studied in interconnection with social responsibility. At the same, this notion should contain legal specifics, as the notion of social responsibility is defined in philosophical and sociological literature on the basis of generalization of moral, political, corporate and other non-judicial types of responsibility. On the other hand, legal scholars analyze legal responsibility without taking into consideration the peculiar features of the generic notion of social responsibility. The roots of this approach go back to certain historic traditions, since for a long time legal responsibility was studied only as a consequence of offense.

However, sociological research indicates that citizens themselves understand legal responsibility in its positive aspect. We have carried out a survey of three hundred citizens regarding their awareness of responsibility, their perception of legal norms and responsibility for future actions. Thus, to the question “What can restrain a person from

committing an offense in the future?”, 73.4 % of the respondents replied: knowledge of law, respect to law. More than 89 % of the respondents compare their behavior to criminal and legal and other bans. At that, legal scholars and practitioners, following the scientific traditions and schools, replied in half of the cases (41 %) that norms of forbidding spheres of law do not regulate behavior of a subject. There emerges an interesting situation when the addressees of legal norms consider themselves positively responsible for the future behavior, but half of legal scholars do not think so. A part of legal experts and practitioners think that the bans are observed due to usual behavior – 43 %; motives of respect to law and high consciousness – 24.5 %. Apart from that, the citizens (80.2 %) state that they bear legal responsibility before the state, in particular, positive responsibility for the future actions, and 50 % of citizens stated that the state is responsible before them. The controlling question “Do you deem yourself legally responsible for your future behavior?”, 84 % of the respondents answered positively.

This survey confirms many theoretical provisions regarding legal responsibility as a form of social responsibility.

At present, the relations of responsibility are in a crisis state, which is due to the complex processes going on in the society. Modern society is experiencing a crisis associated with a paradigm shift, when “commodity – money – commodity” paradigm recedes into the background, and a person and his labor should no more serve as a means of achieving the goal. Education and the development of a person, his knowledge and responsibility should be the goal. Knowledge should not be formed on the basis of soullessness, but on the individual’s awareness and understanding of responsibility for the future development of both himself and others. Knowledge and education will have the key meaning in such a society. However, used irresponsibly, they can harm society instead of developing it. A man must remain a man, a personality, a subject and not become a means of achieving goals. There are trends to replace capital, which used to be a decisive factor for the development of both a specific enterprise and society, with “human capital”,

which determines the future development. In other words, a man saves a man and the civilization as a whole.

Even the most pragmatic economists are re-considering their position that the main task of an enterprise is to make profit, and the maximum profit is the company’s best contribution to its own development, to the development of society, a particular state or the world economy. European representatives of both social sciences and economics from Aristotle to Adam Smith recognized ethical aspects in economy and politics. There is a misconception that ethical behavior in the economy is not economic. However, the practice of social development has shown that responsibility and ethics in economic relations are a contribution to the future, whereas obtaining maximum profits at a certain stage of development can lead to a crisis and significant losses in the future. Social responsibility is closely connected with ethics. Therefore, the statements “to act ethically” and “to act responsibly” are synonymous in their essence. Without ethics and responsibility, the modern world can turn into a soulless world devoid of values and relevant reference points and come to a spiritual crisis, which will result in the state and economic crisis. Many researchers rightly point out that a cultural crisis arises from a moral crisis and a lack of spirituality [36; 51; 52]

Kant wrote, “A human is responsible for the humanity on his behalf” [5, p. 478]. Any deeds of a subject could be classified as finished and those that he is going to perform in the future. In the scientific literature, devoted to religious, moral, social, and legal problems, the notion of responsibility is viewed from the position of two aspects: responsibility for past deeds (behavior), which violated social norms; and responsibility for future deeds. Accordingly, these aspects are called retrospective and positive (perspective). Not all scholars agree with legal responsibility’s possessing a positive aspect of realization. For example, O. E. Leyst, while criticizing the concept of positive legal responsibility, noted that “legal science, as all social sciences, cannot use philosophical notions and categories in the “final form” without the specifics of the subject of the science” [11, p. 536]. It is possible to agree partially with this statement.

Philosophical categories may not take into account the peculiarities of a certain science, but the main features and qualities, peculiar for social responsibility, are reflected in legal responsibility. In this case, we speak of a very important characteristic and feature.

At present, the limits of liberty are expanded in our freedom, with appearance of new subjective rights and legal interests; still, the connection between society, personality, and state, as well as set requirements and responsibility, should grow. Social responsibility is a measure of liberty. It is based on liberty, but, on the other hand, liberty is limited with its help – due to making a subject act within the liberty. “Consciousness – liberty – choice” – this Locke’s triad is a description of a situation of a clever (responsible) existence of a human. There could be no unlimited or absolute liberty, and liberty without social responsibility transforms into chaos.

A well-known sociologist Emile Durkheim pointed out that irresponsible behavior is based on the absence of normative structure, anomie [37, p. 49]. Other international researchers emphasize that social responsibility has both positive and negative aspects [61; 62]. This poses the question for the Russian law experts who tend to see it as an instrument of deterrence and punishment rather than a behavior regulator. Why is the function of legal responsibility narrowed down this way? Legal responsibility is social by its nature and has characteristics inherent in the generic phenomenon.

Responsibility of society and personality has a social nature, which is caused by the character of public relations, a person’s qualities, his place in the existing system of relations, and peculiar features of society. The statement that a person is a totality of social relations has not lost its value to this day. The theory of social character of personality helps to understand the genesis, functions, and reasons for downfall of various types of society. It helps to understand which motives of behavior are popular with most people and support the social system, and which ones ruin it.

The study of positive legal responsibility is not an exclusively theoretical abstraction or a cer-

tain rudiment of the socialist ideology – as the opponents of this concept want to show it. It is a result of reflection of social responsibility and a certain stage of our society’s development in the scientific knowledge. This phenomenon had existed before scholars began studying it. Positive legal responsibility is predetermined by the very nature of human society and the necessity for regulating and protecting the existing values and social relations.

Social responsibility is impossible without the subject’s liabilities, which could be based on various social norms; but this liability should be realized in behavior, which corresponds to the requirements of social norms. Violation of the requirements of a social norm is an act of irresponsible behavior of the public relations subject, which leads to the liability to be subject to various measures of public constraint. Social responsibility is indivisible, but it possesses various forms of realization, which are predetermined by the philosophic law of integrity and struggle of contradictions. Commonness of the forms of realization of social responsibility is in the fact that they are provided by a social norm, possess equal preconditions (freedom of will), and are reflected in socially significant behavior of the subject. However, behavior can be different: approved by society, i. e., corresponding to the requirements of social norms, or conflict, which contradicts the social norms. Nevertheless, there are interconnections even between these characteristics of a subject’s behavior. Thus, socially useful or socially acceptable behavior can exist only when there is a behavior condemned by society, and vice versa. Contradicting characteristics of such behavior are predetermined by the philosophic law of integrity and struggle of contradictions. At that, both the first and the second variants of behavior are fixed (modeled) in the social norm, therefore, voluntary and mandatory forms of realization of social responsibility are established.

It could be noted that views on the voluntary form of realization of social responsibility presented in philosophic literature are correct by and large, but any of its attributes is shown as the main one

and the emphasis in determining the social responsibility is made on it. The essential feature of the voluntary form of realization of positive responsibility is seen by the scholars as: free will; socially useful behavior; interconnection with society; liabilities; requirements, etc. It seems that a lot of these features characterize the voluntary form of realization of social responsibility.

Surely, social responsibility reflects the connections between society and personality, but is not limited by them. These connections are based on mutual obligations, rights, and interests, which are expressed in the approved behavior. At that, any right or liability should correspond to the will and consciousness of the subject, based on which the subject has developed internal psychological attitude and motives of the goal. At that, it takes place at a certain emotional background. Besides, the subject's behavior is evaluated by the society, which leads to approval or bonuses.

Negative or mandatory form of realization of social responsibility is based on a range of features. The main one is the liability to take measures of public influence established by the social norm. The next attribute of the negative social responsibility is its being based on public constraint, which is expressed in the society's evaluating the deed and taking the consequences that are provided for by the sanction of the social norm.

In view of the above, we believe that social responsibility is a dialectical interconnection between a person and society. It is characterized by mutual rights and obligations for observation of social norms, their execution that is approved, encouragement, and in case of irresponsible behavior that does not correspond to these norms, this liability involves restrictions provided for by the sanction of the social norm.

Social and legal responsibilities have similar foundations, common functions and principles, reflecting the connections between a person and society, and seek the same goals. At the same time, legal responsibility is characterized by specific attributes, based on which it could be distinguished from other types of social responsibility. Firstly, legal responsibility is guaranteed by the state. Secondly, it is realized only in the processual form.

Fourthly, its consequences are approval with encouragement or denouncement with realization of the measures envisaged by the sanction of the violated norm. These features, which distinguish legal responsibility among other types of social responsibility, do not contradict general features of social responsibility.

The interests of prevention of offenses and other social deviations predetermine the study of the mechanism of the behavior formation that is approved and encouraged by society. It is known that one of the characteristics of civil society is mutual responsibility of the individual and the state, responsibility of separate subjects before each other, collective, mutual responsibility, etc. In its turn, social responsibility is one of the most important components of civil society and free individuals with equal rights and obligations. "Being predetermined by state and law, it receives political and legal peculiarities and forms" [27, p. 14], but it does not lose its main attributes and characteristics.

The scholars who stick to the concept of negative legal responsibility point out the impossibility to unify such contradictory aspects, sides, and forms, as they exclude each other. At that, it is possible to apply the main principle of dialectics to legal responsibility and study the phenomena of social life based on the law of the unity and struggle of contradictions. Legal responsibility, together with other forms of social responsibility, is indivisible. It includes responsibility for the past and future behavior. Stating the opposite – legal responsibility's lacking the positive (voluntary) form of realization – means to recognize it not as a form of social responsibility but as a special "unsocial form", which leads to its exclusion from the system of social relations regulation.

Regulation of legal responsibility takes place on the basis of various legal means: bans, obligation and permits. At that, the norm of law is a model of possible or proper, as well as responsible behavior. According to this model, we determine how legality and illegality, as well as legal responsibility, are formalized with the help of legal norms, being established and set by them. "Establishment of the statutory (shared responsibility) responsibility

takes place before the fact of legal or illegal behavior" [25, p. 80]. "Statutory responsibility is objectively determined, set by the law, and protected by the state necessity (obligation) of conscious and voluntary execution of legal prescriptions by the members of legal relations. It performs the constructive and regulatory function, is a model (construction) of responsible and proper behavior" [25, p. 81]. Positive and negative aspects of realization of legal responsibility are subjects' attitude to shared (statutory) responsibility. At that, this attitude does not exist in the subject's psychology, it is expressed in the subjects' behavior. It should be emphasized that legal responsibility is integral but it has various forms (aspects) of realization. "The law is not just the measure of legal freedom but the measure of legal responsibility. These are correlation categories. Responsibility is the same objective necessity as freedom" [13, p. 23].

The normative foundation of legal responsibility is set out in the norm of law, and its deep foundation consists in the subject's inclusion into public relations and its connections, requirements established. In the legal norm, these requirements are only formalized; they start to acquire the character of the general obligation, authoritativeness, and state coercion.

### **Religious Responsibility as a Regulator of Social Relations**

Despite of the numerous studies regarding the notion of "legal responsibility", researchers have not treated the notion of "religious responsibility" in much detail yet. However, the existing studies recognize that there is a positive religious responsibility. The issue of religious responsibility is examined in the book of the Patriarch of Moscow and All Russia Kirill "Freedom and Responsibility: In Search of Harmony. The Human Rights and Dignity of the Individual". He emphasizes that responsibility is the feeling of "moral duty to God, society, and yourself" [9, p. 6].

A moral duty in front of God is identified with the notion of responsibility. However, at the same time, the rights and freedoms of the individual and citizen connected primarily with his legal, moral and religious responsibility are not neglected. A religious feeling of responsibility is a value manifestation of spirituality. The believer bears responsibility to God for his piety and sin, for his life and attitude to people and things around him that is

based on faith in the Day of Judgment when people will answer for their sins before the Most High: "It will be the same for priest as for people, for the master as for his servant... they have disobeyed the laws, violated the statutes and broken the everlasting covenant. Therefore, a curse consumes the earth; its people must bear their guilt. Therefore, earth's inhabitants are burned up, and very few are left... The earth is broken up, the earth is split asunder, the earth is violently shaken... for its transgression is heavy upon it". The believer comprehends that he is the creator of his destiny as God granted him with the right to choose and relative freedom. It depends on the person himself whether he will get into paradise or hell. In this respect, the Apostle Peter's warning is significant: "...be prepared to give an answer to everyone who asks you to give the reason for the hope that you have. But do this with gentleness and respect". The messages of orthodox saints contain both hatred of the sin and love for one's neighbor and God's creations in general. A responsible believer realizes that his deeds and actions will be examined at the Day of Judgment after his death. The New Testament says, "Then I saw a great white throne and him who was seated on it. The earth and the heavens fled from his presence, and there was no place for them. And I saw the dead, great and small, standing before the throne, and books were opened. Another book was opened, which is the book of life. The dead were judged according to what they had done as recorded in the books. The sea gave up the dead that were in it, and death and Hades gave up the dead that were in them, and each person was judged according to what they had done". The subject's internal understanding of religious responsibility is of major importance for his spiritual life. According to Christian teaching, a man has the freedom whether to accept Christ or not. The freedom is in the choice of whether to follow the commandments or not. Blessed Augustine said, "God became a man for man to become God", which means to take responsibility not only for yourself but also for those around you. The believer has a feeling of responsibility for his actions as well as for the actions of other people; he realizes the meaning of the cross which he has to bear. Religious responsibility opens up the prospects that are beyond limited earthly existence. In this case, responsibility not only limits the believer but also enables him

to understand the meaning of life, true values and spiritual development, which eventually is expressed in his behavior and attitude both to himself and to others. A feeling of religious responsibility leads a person to a different level that is not limited to consumption and acquisition. According to Carl Jung, the Apostle Paul is a confirmation of this, as he was a wandering weaver whose meaning of life lay in the psychological certainty that he was God's messenger and was responsible to him [29, p. 81]. We can see understanding of social significance of one's own behavior and the assessment of one's own actions in the Apostle Paul's life. Such understanding is defined by science as a positive aspect of responsibility, but in this case, it is a religious one. And given that the requirements of many moral and religious norms coincide, it is also true for moral responsibility. At the same time, both objective and subjective characteristics of religious responsibility are essential because the subject's internal attitude toward the word and himself must be expressed in his behavior. Religious positive responsibility exists in the unity of its objective and subjective characteristics. Moreover, religious responsibility imposes requirements not only on external behavior, but also on the inner world of the subject.

When comparing legal and religious positive responsibilities, the former manifests itself externally in the subject's legitimate behavior that can be deserved, socially active, habitual, conformist or marginal. The existence of internal characteristics of positive legal responsibility is noted in the legal literature. They include positive mental attitude, different types of motivation, and the struggle of motives. However, only the external side is necessary to qualify an act as unlawful or lawful. The internal side is important only for preventing offenses, in particular, when it comes to marginal behavior that is on the edge of offense or the abuse of law. Thus, from a legal point of view, the behavior is considered responsible if it refers to any kind of lawful behavior. Religious positive responsibility imposes requirements not only on the external side, but also on the inner world of the individual and his motives. It exists in the unity of objective and positive subjective characteristics.

There are positive and negative aspects in all kinds of social responsibility. Following the logic that proceeds from general to particular, we come to the conclusion that religious responsibility also has a positive aspect. Religious responsibility is grounded in faith and God's justice and constitutes a duty of the believer to follow the norms and traditions, to be sinless, to compare his inner world and behavior with their requirements. In case the requirements of religious norms are violated, the individual has a voluntary obligation to confess and suffer certain limitations caused by the sin.

Negative religious responsibility is based on irresponsible behavior associated with the disappearance of religious spirituality feelings and is considered to be a sin. According to the existing norms, the believer must confess his sins to God [18, p. 128].

A positive aspect of religious responsibility is based on the canons which commit the believer to live in accordance with religious commandments. These are some of the canons: "Each of you must respect your mother and father. Do not steal, do not lie, do not deceive one another. Do not defraud or rob your neighbor. Do not pervert justice. Judge your neighbor fairly. Do not hate a fellow Israelite. Do not seek revenge or bear a grudge. Love your neighbor as yourself. Stand up in the presence of the aged, show respect for the elderly and revere your God. When a foreigner resides among you in your land, do not mistreat them. Do not use dishonest standards when measuring length, weight or quantity. Do not deny justice to your poor people in their lawsuits. Have nothing to do with a false charge and do not put an innocent or honest person to death, for I will not acquit the guilty".

A positive form of the realization of religious responsibility is a voluntary obligation to comply with the requirements of religious norms. There is no state coercion in it. The believer's perception of himself as an individual introduced to moral and religious values arises from religious responsibility. At the same time, cult activity plays an important role in preparing believers for social life and strengthening their feeling of unity and satisfaction as it allows them to maintain their traditions, get together for the rituals and fulfill obedience.

Religious relationships are rather diverse, and organizational or cult responsibilities can be determined from their nature. Cult responsibility is based on the obligation to adhere to the rituals, ceremonies, and worship services. The content of such responsibility also includes the relationships that develop among people when participating in religious rituals and worships.

Organizational responsibility, in its turn, is aimed at the regulation of interchurch and inter-confessional relations as well as relations inside a religious organization. It is based on various provisions, regulations, and statutes that determine the procedure for selecting governing bodies. Moreover, they regulate the rights and duties of religious organizations themselves as well as those of their members, collegiate and sole governing bodies. Religious responsibility covers a rather broad sphere of believers' social life.

Religion should be considered as a factor of social stability and social change that depends on the church's responsibility to God. The cruelty and inhumanity of the Inquisition in Europe in the middle and later ages are well known. Therefore, Pope John Paul II offered a public repentance for the sins committed in the name of the Catholic Church and asked forgiveness for:

- the lack of tolerance toward followers of other religions, the use of violence, triggering religious wars, the cruelty of the Inquisition;
- the divisions among Christians;
- contempt and hostility toward the Jewish people;
- sins against human dignity as well as against entire races, nations, and women;
- sins violating human rights and social justice<sup>1</sup>.

This proves the fact that religious responsibility extends to all members of the Church. It may be noted that the existing system of religious responsibility is classified into the general one, which extends to both laymen and clergymen, and the special one, which subjects are official members (ecclesiastics) of the Church. The list of church punishments is relatively small and includes the imposition of penance, excommunication, and repentance [17, p. 128]. Each of the punishments has its special features. For instance, excommunication varies in degree. Firstly, an excommunicated per-

son is deprived of the right to participate in the sacraments of the Church or any other cult ceremonies. Secondly, in exceptional cases, excommunication can mean the prohibition of performing the liturgy in temples and their sealing. Thirdly, the anathema can be proclaimed and an excommunicated person's name is written in the church's synodic (commemoration book) read this day. Fourthly, a small excommunication can be applied.

Other types of punishment consist in various kinds of repentance in the church. Its aim is to provide an opportunity to get free of the sin. The repentance assigned by the priest is called penance and includes such acts of piety as bows, prayers, keeping fasts, and so on.

There are special measures of religious responsibility for clergymen: a prohibition of service; a transfer to another parish; the imposition of penance; obedience in a monastery under the spiritual guidance of a supervisor; the deprivation of rank.

If we compare the systems of legal and religious responsibilities, we will see that the former is more complex. It includes the following kinds of legal responsibility: constitutional, administrative, criminal, civil, disciplinary, financial, etc. We observe how the system of legal responsibility is becoming more complex year by year, when the complementarity of the legal responsibility types contributes to increasing the effectiveness of the general functions implementation and serves as a system-forming factor [61].

This issue can be considered from a different perspective. The complexity of the religious responsibility system inevitably results in the increase of laws and other normative legal acts. However, this raises the question whether a continuous growth in the number of normative acts can improve regulation. Social relations can be brought under regulation but the necessary result may not be achieved. Legal norms need a moral component. Religious recognition and approval of normative legal acts is an effective prerequisite for the cultural and moral development of society. Laws will not bring positive results unless supported by the majority of society members. "Quid leges sine moribus vanae proficient?" says the Roman aphorism. "Of what avail are empty laws without (good) morals?!" Morality cannot exist without religion and vice versa. To answer this question, let us address the first article of the Universal Declaration of Human Rights: "All human beings are born free and

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<sup>1</sup> Izvestia. 2000. 13 March.

equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". The subjective right of the freedom of religion follows from the Universal Declaration. This right has a double meaning that implies both the freedom to practice religion or not to practice religion. There are both believers and atheists in society. Is internal commonality possible between them? We believe it is not only possible but also necessary. We can encounter situations in which non-believers behave according to ethical principles and show responsibility not only to themselves but also to people around them. Believers and non-believers should have responsibility to each other and mutual respect.

The responsibility for establishing the atmosphere of mutual respect between believers and atheists lies also on scientists. They should concentrate their efforts on substantiating moral and religious "filling" of legal norms rather than focusing on the rejection of the idea of the world creation contained in the Book of Genesis, as American philosopher of religion and theologian John Hick does. He believes that it reflects only the structures and principles of gnoseology characteristic of that time [44, p 284]. This solution of the problem fails to give positive results. One can proceed from the fact that scientists' thought activity is directed towards the Absolute, which serves as its basis. In this case, we should recognize Revelation as the initial principle of our cognitive activity and, consequently, such foundations of Christian knowledge as the doctrine of the creation of the world by God from nothing. The thesis of the conditionality of our cognition by the Absolute eventually leads to the movement of scientific search within the framework of religious consciousness. Morality, reason, faith and consciousness make it possible to develop science within certain frameworks and boundaries.

### **Functional Purpose of Legal and Religious Responsibilities**

It is important to consider the instrumental level of the issue of religious and legal responsibilities when each function serves to achieve a particular purpose. Thus, we have directly approached the functional purposes of religious and legal responsibilities that reveal their essence and social purpose.

If we compare religious responsibility to legal responsibility, the latter, as is well known, carries out regulatory, restorative, punitive, preventive and educational functions. We believe that religious responsibility also performs these functions, but with the help of other methods.

If we turn to the content of the regulatory function of legal responsibility, we can conclude that it is aimed at consolidating social relations and registration of their dynamics. The main ways of its implementation are formulating patterns of lawful behavior, fixing rights and obligations as well as taking incentive measures. The impact of the regulatory function of religious responsibility supplements the regulatory function of legal responsibility and manifests itself in the consciousness of the believer. The value reference points that it forms are worked out independently by each religious confession and transferred from one generation to another. Despite of being abstract and not very specific, religious values serve as an action program for subjects, and are associated with the ability to choose a particular behavior pattern. In this way, religious responsibility carries out its regulatory function. The internal communication of the individual with God represents a special value. The believer's aspirations are aimed at bridging the gap caused by the "original sin". This aspiration represents a distinctive motive that shapes behavior that is lawful both from the legal and religious perspective. It is expressed by such actions as visiting church services, performing prayers, keeping fasts, following the commandments, etc.

The regulatory function of religious responsibility and the regulatory function of legal responsibility are aimed at regulating social relations. They supplement each other in the system of normative regulation of social relations. Scientists point out that their effectiveness largely depends on the presence of a moral component in legal norms [41, 50, 69].

Purposes determine the existence of certain functions of religious and legal responsibilities. The purpose of the educational function of legal responsibility is to shape legal culture, citizens' legal consciousness, and respect for law. The purpose of the educational function of religious responsibility also correlates with that of legal responsibility. It inculcates love for a neighbor, respect for the commandments, and other moral values. "Keep sane and sober for your prayers.

Above all hold unfailing your love for one another, since love covers a multitude of sins. Practice hospitality ungrudgingly to one another. As each has received a gift, employ it for one another”.

The educational function of religious responsibility is directed primarily at the inner world of the man. The regulatory function puts external manifestations (behavior) to the forefront, whereas the educational function pays major attention to the individual’s value system. It can be noted that the educational impact of religious responsibility is similar in its purpose to the educational function of legal responsibility, which leads to their interaction. “However, the educational function of religious responsibility also has a specific purpose: cultivating the need for peace and love, compassion and tolerance for one’s neighbor, a caring attitude to those in need” [20, p. 8].

If we turn to the purpose of the preventive function of legal responsibility, it involves general and specific prevention, ensuring lawful behavior of the subjects of legal responsibility. In case of religious responsibility, the purpose of prevention is wider as it is focused on the prevention of sin and disgraceful behavior, the notion of “sin” not coinciding with the notion of “offense”.

Legal education is necessary to realize the preventive function of legal responsibility effectively. It is also true regarding the preventive function of religious responsibility. The knowledge of the religious commandments, which oblige a person to correct and improve his spiritual world, to give up revenge and love his enemies, becomes highly important. “Anger and fury are both of them abominable, and the sinful man shall be subject to them. He that seeketh to revenge himself, shall find vengeance from the Lord, and he will surely keep his sins in remembrance. Forgive thy neighbour if he hath hurt thee: and then shall thy sins be forgiven to thee when thou prayest... Refrain from strife, and thou shalt diminish thy sins: For a passionate man kindleth strife... If thou blow the spark, it shall burn as a fire...”

Punishment in both types of social responsibility (legal and religious) is conditioned by the need for education, prevention, and correction. In other words, it should not become a goal in itself and the punitive function is performed in order to support the effective implementation of the other responsibilities.

However, the punitive effect of religious responsibility has a number of specific features.

A person committing a sin acts against the will of God and incurs an inevitable retribution from God, who can tolerate for a long time and try to reason with the sinner before punishing him. The extreme measure of religious responsibility is destruction of a sinner by God (through illness, accidents, etc.), and believers perceive it as punishment. However, destruction is the most drastic measure caused by the individual’s dangerous behavior. It is performed in order to save the lives of others. Moreover, it is performed not by the action of God, but due to His connivance, which is the removal of protection from a person who becomes a victim of natural forces.

Destruction of a man is not the main means of God’s influence on people. It was inherent in the Old Testament when a man’s consciousness was not capable of perceiving the rules given by God to Moses. “Never again shall all flesh be cut off by the waters of the flood”. Therefore, Nikodim Milosh points out that “by using coercive measures against a member who has violated the church law, the Church seeks to induce him to change and improve himself so that he could reacquire the lost good through communication with the Church. Only in extreme cases does the Church completely deprive the sinner of its fellowship. The Church prevents the violation of order in the Church itself and the wide spreading of evil by condemning the crimes of individual members and keeping them with the power of law” [14, p. 151].

With regard to the functions of legal responsibility, it has already become axiomatic that punishment is not a goal in itself. It is implemented in order to achieve other purposes of legal responsibility: prevention, restoration, regulation, and so on. Without going into all aspects of the death penalty as a form of punishment, we would note that it has an exceptional nature and correction, education and prevention purposes are not achieved in its implementation. According to the general rule, the punitive functions of legal and religious responsibility are not goals in themselves, as they are necessary for the implementation of other more humanistic goals.

Both religious and legal responsibilities are aimed at restoring social relations, social justice, and order. If we look at the restoration function of legal responsibility, it can be noted that its realization begins with a fair conviction of a guilty person, which implies the restoration of justice in the minds of the victims and society.

The external aspects of the restoration functions are expressed in the compensation the damage, the compensation for losses, apology, and so on. Finally, these actions lead to the restoration of social relations and, in a broad sense, to the restoration of law and order, in general.

The restoration function is also implemented with the help of religious responsibility, although it is primarily aimed at the subject's inner world, at restoring the values proscribed by religion as well as positive motivation and attitude to oneself, others, and God. Furthermore, restoration is expressed in the subject's actions, which is confirmed in the Old Testament. "The Lord spoke to Moses, saying, "If anyone sins and commits a breach of faith against the Lord... if he has sinned and has realized his guilt and will restore what he took by robbery or what he got by oppression or the deposit that was committed to him or the lost thing that he found or anything about which he has sworn falsely, he shall restore it in full and shall add a fifth to it, and give it to him to whom it belongs... and he shall be forgiven for any of the things that one may do and thereby become guilty"". The restoration function is realized by means of repentance of sins and confession. A repentant person receives forgiveness during confession, and thereby restores the spiritual ties with God previously violated by his actions.

### **Principles of Legal and Religious Responsibilities**

Both legal and religious responsibilities are based on a number of common principles such as justice, humanism, inevitability, individualization, and guilt of an act. The existing system of legal responsibility principles is the result of social development. They reflect the essence of legal responsibility, the cultural reality of society and the prevailing ideas of good and evil, and fair retribution. The principles of legal responsibility can be set forth in a specific article of a normative legal act, be apparent from its content or predetermined by the spirit of the law. They can be derived from the existing doctrine and the meaning of the normative legal act. We can judge about a particular principle based on a set of norms or a set of articles. A characteristic feature of the legislative technique is that a principle cannot always be enshrined in a specific article of a law.

"Similarly, the principles of religious responsibility can be understood as the fundamental ideas enshrined in canon law and based on Holy Scripture. They remain unchanged for centuries and the Church activity is built on them" [20, p. 16]. These principles can also be defined as "the fundamental ideas expressing the essence, nature and purpose of religious responsibility" [20, p. 17].

Justice as a principle of legal responsibility can be conditionally called the "principle of principles", as it serves as a basis for all other principles. If we look back at the history of its emergence, the notion of justice appeared much earlier than the notions of individualization, humanism, guilt, and inevitability.

The principle of justice in legal responsibility and the principle of justice in religious responsibility are most closely connected with each other. This is due to the fact that justice is not a purely legal category. This category is more related to morality as it is connected with the notions of good and evil, punishment and retribution, rationality and conscientiousness as well as the recognition of universal human values. There are several concepts of justice in national and international science, but it is difficult to agree with some of them. Thus, Friedrich Hayek argues that the concept of justice is meaningless and empty since society is not able to be unjust or just. In his opinion, justice is a quasi-religious superstition that opens the way to totalitarianism [42, pp. 67–69]. The roots of these ideas lie in the extreme liberalism, fundamentalism and egoism, when the human "I" is put first to the detriment of the interests of other society members. In our opinion, the denial of justice is inhumane and does not comply with universal human values. The society inevitably encounters the distribution and redistribution of material values and the fundamentalism of Hayek [42] can be implemented only by authoritarian methods [49, p. 47]. Some international researchers completely deny the distributional aspect and put emphasis on material equality rather than on the formal one, which is not possible in principle [47].

Robert Nozick's theory of justice includes the following: the right to acquire property that has not previously been owned (the principle of just acquisition); the right of gift and the right of exchange

(the principle of justice in transfer); the obligation to restore something to its rightful owner if there is injustice in acquisition or transfer (the principle of rectification of injustice) [52]. In the meantime, liberals distort the idea of justice and make it alien to the Russian mentality. Is this not the reason why the Western values cannot take root in our society? In such theories, there is a clear divergence with the categories axiomatic for the Russian society – moral ideas of formal equality, concern for the welfare of the neighbor, and others. Some Western researchers even believe that the idea of justice is a humanistic pathos and does not have any rational basis, which ultimately leads to a vision of man as a means and not as a goal [54, p. 232].

Other researchers see a correlation between the distributional effect and the fact that some individuals value social benefits higher than others do. As a result, they come to a conclusion about the distribution of benefits in favor of those who value them higher. The individuals who value social benefits less, consequently, have less right for the distributional effect [32, 48, 55]. It should be emphasized that the authors of the above-mentioned idea represent the economic legal approach, which is based on the statement that the law is an instrument for distributing the scarce resources and maximizing profits and benefits from their use. This vision of justice is criticized and considered to be a marginal one even by Western scientists [50, p. 18].

The relative popularity of this understanding of justice in the United States is due to the fact that the American branch of legal realism criticized the “classical” trend in jurisprudence and gave top priority to discussing legal policy and the analysis of law from its external perspective. The classical positivistic trend was not denied in European countries, for example, in Germany. It was transformed into “the jurisprudence of interests” and the latter into “the jurisprudence of values”. However, this direction of thought in many respects repeated Savigny’s ideas that implied that legal science does not involve economic, moral and ethical considerations. At the same time, the representatives of the Kantian ethics faced a rather sharp criticism the economic trend in the understanding of justice and law [40, p. 295].

Justice reflects society’s conception of the existing values conditioned by the course of historical development. The history knows the principle of “talion”, class inequality, and cruel punishments that were more of a torment by their nature. Along with the development of social conscience, the notion of justice changed. Justice is the basis for humanism and the principles of the guilt, the individualization of legal responsibility, the definition of different corpus delicti, their differentiation according to severity. The principle of legal responsibility justice is also based on the inter-sectoral differentiation of legal responsibility.

The justice of legal responsibility is understood as the fundamental principle that has developed on the basis of the existing notions of ideals, values, criteria for compensation and the distribution of responsibility among the participants in an offense, and so on. It should be noted that the term “justice” is used in various normative legal acts. However, none of them offers the definition of its concept with the exception of the Criminal Code of the Russian Federation, Article 6 of which is entitled The Principle of Justice. However, it essentially refers to the principle of the individualization of punishment rather than the principle of justice. It seems that the legislator was right when they refused to give a legal definition of justice, since it is practically impossible to fit the category, which is legal and at the same time moral by its nature, into the strict framework of legal formalism.

Modern Russian legal science as a whole is based on the concept of legal positivism, but in any case, it becomes virtually impossible to explain the content of such concepts as “conscientiousness”, “reasonableness”, “justice”, which the national legislation currently operates with, on the basis of only formal structures. Martijn Hesselink analyzed the work of the Court of Justice of the European Union [43]. This practice is interesting because this court’s judicial decisions are guided by conceptions of justice in the civil law, in particular, by such criteria as honesty, inadmissibility of unjust enrichment, reasonableness of the terms of performing obligations, and so on. M. Hesselink came to the conclusion that the court applies the rules of unwritten law in making decisions. To a certain extent, in Russian jurisprudence the formalism has

some features of an integrative understanding of some issues, especially those related to the interpretation of legal principles [43].

When law is understood as an integrative phenomenon, there is a combination of positivist and natural legal approaches. Without going into the discussion of the directions of understanding the law, let us give a simple example when the laws of fascist Germany established the values alien to mankind. Can such formal law be called the law associated with justice? The answer is negative, which underlies the fact that there is a "higher law". Thus, if a law does not meet the criteria of the higher law, it is not a manifestation of the law and justice [40].

Justice is a mandatory characteristic of religious responsibility. The concept of the justice of religious responsibility developed over the centuries and is based on conscience and love for a neighbor. In religious texts and their interpretations, it is defined as the absence of involvement in a sin and the existence of righteousness, that is, internal justice in a person's consciousness. Justice is also found in divine justice and the presence of retribution for committing sinful deeds. The analysis of religious norms shows that the darkened state of one's soul is the source of sin. "For out of the heart come evil thoughts, murder, adultery, sexual immorality, theft, false witness, slander". The concept of "sin" is broader than the concept of "offense". It is God who determines the measure of punishment, and for a truly believing person it is more severe compared to a secular punishment. Every sin must be punished, but punishment must be just.

The requirement for just punishment is reflected in the Old Testament: "And I charged your judges at that time, "Hear the cases between your brothers, and judge righteously between a man and his brother or the alien who is with him. You shall not be partial in judgment. You shall hear the small and the great alike. You shall not be intimidated by anyone, for the judgment is God's"". And again: "Here shall come forth a shoot from the stump of Jesse, and a branch from his roots shall bear fruit. And the Spirit of the Lord shall rest upon him, the Spirit of wisdom and understanding, the Spirit of counsel and might, the Spirit of knowledge and the fear of the Lord. And his delight shall be in the fear of the Lord. He shall not judge by what his eyes see, or decide disputes by what his ears hear, but with righteousness he shall judge the poor, and decide with equity for the meek of the earth; and he

shall strike the earth with the rod of his mouth, and with the breath of his lips he shall kill the wicked".

The need to undergo just retribution reflects the relationship of legal responsibility and religion that complement each other and influence the development of social relations. The criteria of justice are embedded in religion, and over time they are enshrined in the system of legal responsibility. Religious texts show that justice is based on "wisdom", "truth", and "reason", which are the ethical and moral categories. The religious norms exhort believers to love their neighbors, to sacrifice in favor of the poor, to have pure motivations and thoughts.

The principle of humanism as well as the principle of justice belongs to the moral-legal categories and means, in the first place, the recognition of an individual as a person, the priority of his goodness. It is directly stated in the Basic Law of the Russian Federation: "Man, his rights and freedoms shall be the supreme value. The recognition, observance and protection of human and civil rights and freedoms shall be an obligation of the State" (Article 2). Another article of the Constitution of the Russian Federation states: "Nobody should be subjected to torture, violence, or other severe or humiliating treatment or punishment". The humanism of legal responsibility is multifaceted and extends its effect both to the person who committed the crime and to the victim. The constitutional restriction of the death penalty is fixed according to the criteria of humanism. Thus, "capital punishment until its complete abolition may be established by federal law as an exclusive form of punishment for particularly grave crimes against life". In its essence, humanism means a merciful and humane attitude towards all subjects of legal responsibility. Its manifestations include the prohibition of torture; the establishment of a system of privileges for certain categories of persons who committed offenses; exceptions from the general rules based on the specific characteristics of the subject of the offense. Moreover, mercy and humanity should underlie not only the establishment of legal responsibility but also its application. However, humanism does not mean forgiveness. It is closely connected with the inevitability of legal responsibility, but the inevitability of a humane kind. The principles of legal responsibility must not be considered in isolation but as part of a certain system and interrelationships.

The Christian religion associates humanism and humanness with the "love for a neighbor"

category. Consequently, the humane principles of religious responsibility are expressed in the rules of life that call for goodness and mercy as well as turn a person away from evil. The requirements of the religious responsibility principle of humanism include prohibition of cruelty, respect and mercy regardless of the severity of sin and respect for a repentant person. If necessary, it may involve a self-sacrifice. "Greater love has no one than this, that someone lay down his life for his friends". The idea of the Christian religion is the godlikeness of man and the elevation of his dignity to the level of Jesus Christ. First of all, this regards his spirituality and love for people. The very Sacrifice of Jesus, who suffered mortal torments for the atonement of the sins of all mankind, shows the idea of humanism.

The commandments contained in religious texts urge people to treat each other with love: "Above all, keep loving one another earnestly, since love covers a multitude of sins. As each has received a gift, use it to serve one another". Or "You shall love your neighbor as yourself. Love does no wrong to a neighbor; therefore love is the fulfilling of the law".

The principle of humanism is implemented through the requirements of the Church to show humanity to offenders and suspects. It is the principle of humanism that underlies the priest's duty to preserve the seal of confession. The Foundations of the Social Concept of the Russian Orthodox Church indicate that the Church "is called upon to care about the soul of a person who has contravened the law without becoming his judge. That is why it sees punishment as a means of internal purification of the sinner and not as revenge"<sup>1</sup>.

Humanism of religious and legal responsibility has common characteristics. First, they reflect the morality and humanism of legal responsibility that is largely based on the humanism of religious responsibility. Secondly, both principles are based on the criteria of mercy, forgiveness, love for mankind, and respect for human dignity.

### **Contradictions of Legal and Religious Regulation**

Law and religion interact closely but it does not mean that this is a conflict-free process. V. I. Nizhechek, who devoted several works to the

issues of law in the system of normative regulation of social relations, emphasizes the fact that "recognition of the complex character of normative regulation does not exclude specific contradictions that can arise between different types of social norms while regulating certain social relations" [16, p. 409]. It is important to examine the meaning of the word "contradiction" for the purpose of research. Ozhigov's Dictionary of the Russian Language defines a "contradiction" as "a situation when one (statement, thought, action) excludes another one, which is incompatible with it" [17, p. 552]. Philosophers understand contradiction as "a category of dialectics that expresses the internal source of any movement, the root of vitality, the principle of development" [2, p. 236]. It is important to clearly understand that contradictions are not a static, "frozen" phenomenon. They are in constant motion and cause the variability of social relations. Some contradictions disappear, others change. Thus, there is an ongoing process of new conflicts between legal and religious norms.

Let us consider the reasons of contradictions between legal and religious norms. Some authors see the reason of contradictions in formal certainty of legal norms. On the one hand, the presence of this characteristic in legal norms eliminates the possibility of their implementation in the absence of conditions specified in the hypothesis. On the other hand, similar rules of behavior must be implemented from the orthodoxy position. There are situations when legal norms are realized, however, it is done in contradiction with religious norms. Such situations are not exceptional. Contradictions between law and religion will inevitably arise throughout their joint action. There are many factors that cause the contradictions between specific norms of law and the norms of religion, and, to some extent, this is the natural state of their coexistence. It would be equally wrong to underestimate or, on the contrary, overestimate these contradictions and their impact on the joint development and alteration of legal and religious regulation of social relations.

According to V. I. Nizhechek, the main reason for contradictions between the law and religion is that they have different development patterns. "The process of the legal regulation development is characterized by a certain unevenness and sporadic nature. Changes are made to this process every time a new regulatory act is passed or an old one is repealed. Objective needs of social

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<sup>1</sup> *Osnovy sotsial'noy kontseptsii russkoy pravoslavnoy tserkvi* [Bases of Social Concept of the Russian Orthodox Church]. Moscow, Moscow Patriarchate's Department for External Church Relations Publ. 2008. P. 104.

development are considered (or at least must be considered) in a newly established legal norm, and the norm itself meets these needs (or must meet them)" [16, p. 339]. Religious regulation is more conservative. It is notable that in some cases, even if the process of the development of religious norms occurs, it is not characterized by gradualness and continuity. It should be emphasized that religious regulation does not have those radical ways to break free of the obsolete norms that are inherent in legal regulation. It does not adjust to the constantly changing social relations. Along with that, the Church cannot completely ignore current conditions and a dynamically changing world. It approves certain transformations. However, it is totally against some others or takes a neutral position regarding them. This position is also characteristic of the law. The alteration of social relations can lead to their provision in legal norms or to their prohibition in case they represent a danger to society. When the law fails to regulate social relations, it remains neutral to their existence. It is worth mentioning that the Assembly of Hierarchs of the Russian Orthodox Church approved The Bases of Social Concept of the Russian Orthodox Church in 2000, which reflects the attitude of the Russian Orthodox Church to the problems of modern society and the relationship between church and state.

The law-making process has its specific features that cause other contradictions between legal and religious norms. The reasons for these contradictions lie in different approaches, different methods of regulations, and in the specific character of assessment of subjects' behavior. V. I. Nizhechek points out that at a certain stage of the society's development there are situations when a religious requirement exists only in the consciousness of its members and is not set out in legal norms, as the introduction of new legal norms is not an automatic process and it is always conditioned by social consciousness. At the same time, the legislative process is rather complicated and lengthy [16, p. 343]. Special features of the norm-making process in law and religion will always cause certain contradictions between legal and religious regulation.

Other researchers, for instance, V. V. Klochkov, believe that the main reason for the difference between law and religion is the complexity and contradictoriness of life itself, the emergence of new tendencies in social development and an unequal level of people's religious and legal consciousness [6, p. 102].

In order to define the nature of the contradictions, we will consider the definition of the norm of law that is a "formally defined rule of behavior aimed at regulating social relations and mandatory for execution" by its addressees [12, p. 280; 15, p. 339]. Execution or non-execution of the rules of behavior is protected by the possibility of applying the measures of state coercion. A rule of behavior has a general character and cannot take into account all the nuances that can occur in a particular situation. In contrast, religious norms usually act as the principles of behavior. They are less categorical, which results in their practical application flexibility and the possibility to consider all the factors of behavior.

Changes in legislation may result in contradictions as religious canons determine only the general direction of a person's will and the boundaries of his relationship to others. Religious laws and rules allow each individual to determine his moral aspirations according to the call of conscience. As a result, there are constant hesitations in complying with religious commandments. As a result, some individuals comply with them only formally, whereas others give all their energy and everything they have to serve God, and, therefore, to serve people. The introduction of any specific requirements will distort the principles of religious norms that assume the freedom of compliance with religious commandments. Religious precepts do not bind a person with instructions and do not imply compulsion. They guide his activity, give him moral support and the opportunity to make his own decisions. On the other hand, having achieved a sufficient level of development, the law creates the rules to determine the principles of social life. The specific rules contained in legal norms are protected from violations by means of state coercion.

Let us compare some characteristics of legal and religious norms. As an example, we will consider the prohibitions that both religious and legal norms contain. Since legal norms are more dynamic, the bans stipulated by them change quite often. The act that is considered criminal in terms of law today can be seen as an administrative or disciplinary misdemeanor tomorrow, and finally can stop being punishable at all. A reverse process is also possible. It happens when the act which is treated indifferently by law at present falls within the sphere of legal regulation and legal responsibility is established for committing it in the future.

Whereas religious norms and customs are not so dynamic and the bans they provide for are more stable. Remaining on the position of reality, it would be an error to believe that any changes in the legal regulation system, in particular, novelties in legislation, lead to instantaneous reconstruction of prohibitions in other parts of the nominal regulation system [16, p. 339]. Therefore, the interaction between prohibiting legal and religious norms can be very complicated and it does not exclude certain contradictions. For instance, the law offers precise and detailed rules that determine the principles of social life but it does not always provide a unified approach to court decisions. Court judgements depend completely on morality of judges, who issue completely different judicial decisions and pass completely different judgements in similar situations. Therefore, the law should not depend on subjective discretion of judges and should not provide the possibility to interpret the law in different ways. It should be authoritative and indisputable.

Definiteness is necessary to make successful application of law to all spheres of life possible. Organized order of law constitutes its positive character, whereas the punishment for a failure to comply with law expresses its compulsory character. Thus, law contradicts religion that calls for free execution of law without any compulsion and control of authorities. As a result of this contradiction, there is a need to separate religion from a close union with law. It happens when a religious person refuses to recognize the authority of public opinion and prefers the freedom of action in compliance with his or her moral beliefs. Such behavior often causes conflicts between a believer's religious consciousness and convictions of society. If society takes measures to implement its ethical requirements, it causes a protest of those individuals who disagree with these requirements. It is unbearably difficult for a believer to act against his moral beliefs. This results in a deep internal contradiction between his moral beliefs and legal requirements, which causes martyrdom of some individuals and hypocrisy of others.

It is well known that morality is the basis of law. However, law does not provide for all moral requirements. "People's notions about good and evil have changed so much from nation to nation, from century to century that they often contradicted one another" [10, p. 439]. As a result, law allows things that religious morality prohibits as its commandments are stricter. Due to these contradictions, regulatory and educational possibilities of law and religion decrease. As far as judicial decisions are

concerned, a judge's internal conflict can create difficulties for decision making.

The social development leads to the differentiation of law and morality but it cannot eliminate their interaction. Many researchers (both in ancient times and nowadays) believe that there are serious contradictions between law and Christianity that are expressed in absolute inconsistency of some legal and religious norms, and the idea of Christian love in the Sermon on the Mount of the Christ in fact denies the Old Testament (religious) laws, and actually any law. However, such a radical alteration in religious norms, which involves a change in standards, is an extremely rare phenomenon.

According to the Apostle Paul, faith justifies a person irrespective of the law. In this regard, V. N. Ponomareva believes that it concerns the objective law, the legal norms that are expressed in the law set by an external authority. Law can often be unfair and conflict the ideas and principles of the right, i. e. be unlawful [19, p. 36]. The Apostle Paul, who was a true proponent of natural right given to the man by birth and not of the positive law set by legal norms, declares that "when Gentiles, who do not have the law, by nature do what the law requires, they are a law to themselves, even though they do not have the law. They show that the work of the law is written on their hearts, while their conscience also bears witness, and their conflicting thoughts accuse or even excuse them". Furthermore, the Apostle Paul declares in the Epistle to the Romans that both the Romans and barbarians are people. By claiming that, he moves the center of gravity in the New Testament from the formal law cult to the subjective and natural law, which requirements people comply with due to their internal beliefs and not under compulsion. Personal conscience of the individual, his spiritual awareness and internal motive are placed above the formal law. The words of Christ confirm this: "Woe to you, scribes and Pharisees, hypocrites! For you clean the outside of the cup and the plate, but inside they are full of greed and self-indulgence. You blind Pharisee! First clean the inside of the cup and the plate, that the outside also may be clean. Woe to you, scribes and Pharisees, hypocrites! For you are like whitewashed tombs, which outwardly appear beautiful, but within are full of dead people's bones and all uncleanness. So you also outwardly appear righteous to others, but within you are full of hypocrisy and lawlessness".

The tendency to redirect the man towards the spiritual world, although not denying the legal law,

is strongly pronounced in the New Testament, which is proved in the First Epistle of Apostle Paul. It is suggested that all good deeds should be done secretly: “do not let your left hand know what your right hand is doing”, and then “your Father who sees in secret will reward you”. Spiritual work and internal incentive gain a special value meaning. The value of man is recognized. The Apostle Peter urges, “Do not let your adorning be external – the braiding of hair and the putting on of gold jewelry, or the clothing you wear – but let your adorning be the hidden person of the heart with the imperishable beauty of a gentle and quiet spirit, which in God’s sight is very precious”. The Christian idea of human equality despite an individual’s social status and life situation is proclaimed. Everybody is equal in the eyes of Christ “Which one of you who has a sheep, if it falls into a pit on the Sabbath, will not take hold of it and lift it out? Of how much more value is a man than a sheep”.

Thus, the New Testament reflects major tendencies regarding the law that are inherent in Christian culture, ethics, and religion. They involve the urge towards provision and protection of the rights and freedoms of an autonomous person; the idea that the state should not become a night watchman that only protects the rights of the individual. This approach is incompatible with the principle of love and public duty service, which corresponds to the postulates of Christianity. The state should be actively involved in organizing social life; it should improve quality of life of its citizens, stimulate their social activity, and satisfy their spiritual needs.

The state must not turn into a punitive mechanism as its role is to be actively involved in organizing social life, improving the living standards of its citizens, raising their social activity and satisfying their spiritual needs [33, p. 42]. Compliance with religious morality lies in the sphere of positive social responsibility of the individual [49, p. 41].

Nowadays we can witness a failure of the balanced interaction of social systems caused by the reforms in Russia. It is particularly true regarding the legal and moral systems. As a result, the society faces such problems as legal nihilism, disrespect of laws and their low efficiency, a lack of legal culture, as well as immature and often deformed feeling for law and order. The system of moral values has been destroyed in Russia due to disregard of moral and spiritual traditions. Unfortunately, the attention of politicians is focused mostly on solving material problems, whereas spiritual problems are often ignored. However, A. Salutski believes that underestimation of the importance of spiritual and

moral principles in any country can eventually turn into serious problems [21]. Crisis phenomena in the material sphere are secondary to a moral crisis. A moral crisis is much more dangerous than a drop in production. O. I. Tsybulevskaya points out that in Russia “no power was ever able to prevent a decline, to set the country back to its feet, to restore ruined statehood without appealing to high spiritual and moral goals” [24, p. 180]. She also believes that a “failure” in the moral sphere is especially pernicious because it influences the future of the country and the future of humanity [24, p. 48]. Therefore, it is difficult to overestimate the mission of the Church that consists in saving the humankind, improving spiritual, moral and material condition of the world around us. This mission is stated in the Bases of Social Concept of the Russian Orthodox Church.

A famous American scientist Harold J. Berman talks about a crisis of spirituality in the context of religion and law in his book “Faith and Order: The Reconciliation of Law and Religion”. He points out that religion has been traditionally considered a private matter, the way how the individual copes with his loneliness, whereas law is regarded as a public matter, a matter of social policy that is only indirectly connected with personal spiritual values. “Our whole culture seems to be facing a possibility of a nervous breakdown. One of the major symptoms of this threatening breakdown is a massive loss of confidence in law not only on the part of law-consumers but also on the part of law-makers and “law-distributors”” [3, p. 12]. The reason for this nihilism lies in the liberalism of official law and internal disillusionment, which lead to immorality in all spheres of human relations.

From the standpoint of liberal humanism, understanding of human rights does not always involve the category of moral responsibility. E. M. Kovshov notes that the worldview basis of this humanism is the notion about the absolute dignity of man, about the existence of universal human values that have to become the basis for a united world civilization [7, p. 82]. According to Metropolitan Ilarion, despite the moral rules common for all religions, for religious and nonreligious people (do not kill, do not steal, do not lie, etc.), universal human values include “many ideas that are controversial from the religious point of view but that are rooted in liberal and humanistic morality. The latter refers, in particular, to the statement about the right of every person to his or her own way of life, which goes so far as it does not harm others”<sup>1</sup>. In other words,

<sup>1</sup> Interview with the bishop Hilarion]. *Zdravyi smysl* – Common Sense. 2006. Issue 4. Pp. 34–36.

all-permissiveness is allowed from the standpoint of liberal ideology and the only boundary of personal freedom is a violation of other people's freedom. Religious commandments are aimed at overcoming the sin not only towards others, but also towards yourself. They do not give a person the right for spiritual and physical degradation. Thus, for instance, the Holy Scriptures calls to modesty and frugality: "The main necessities of life are water and bread, clothes and home that cover nudity. A life of the poor under a plank shelter is better than a luxurious feast in somebody else's homes. Be content with the little as you are with the big"; "Do not follow your base desires, but restrain your appetites. ...Do not revel in great luxury..." The main law defining the legal status of the participants of civil goods turnover in the Russian legislation is the Civil Code of the Russian Federation. It does not consider and does not restrict the issues of modesty and frugality. For example, by legitimizing the business as an independent activity that is carried out at the entrepreneur's own risk and aimed at making a profit in the manner prescribed by law, it does not limit the entrepreneur by any moral and ethical norms. It results in thirst for excessive luxury that is not conditioned by traditions. There is a tendency to show off luxury and permissiveness that discredits the image of the Russians in the eyes of the world public. As it is said in the Holy Scripture, "If you allow your soul to take pleasure in base desire, it will make you the laughingstock of your enemies".

The Bases of Social Concept of the Russian Orthodox Church consider the concept of sin established by the Orthodox moral norms to be broader than the idea of crime in the secular law. Thus, according to the Criminal Code of the Russian Federation "the commission of an act, or inaction, although formally containing the indicia of any act provided for by this Code, but which, by reason of its insignificance, does not represent a social danger" is not deemed a crime. Thoughts and intentions are not punished by the criminal law. Christianity does not allow sin even in thoughts: "Everyone who hates his brother is a murderer, and you know that no murderer has eternal life abiding in him". Or "everyone who looks at a woman with lustful intent has already committed adultery with her in his heart".

There are other examples of contradictions between law and religious morality. For instance, the Criminal Code of the Russian Federation refers "the killing by a mother of her newborn child during or immediately after childbirth" to murder with extenuating circumstances (Art. 106). It is believed that the woman's state of mind is traumatized and unstable, especially if the pregnancy was undesirable or the child is illegitimate. The Church finds no extenuating circumstances in such a murder. More-

over, an abortion (an intentional termination of pregnancy) is also considered a murder and a heavy sin. A fetus in a mother's womb develops as the God's creation: "you formed my inward parts; you knitted me together in my mother's womb... My frame was not hidden from you, when I was being made in secret, intricately woven in the depths of the earth. Your eyes saw my unformed substance". Canonical principles equate an abortion to killing and see it as a criminal encroachment on the life of a future human being. Moreover, the child's father who consents to the abortion also bears the responsibility for the sin of killing. The Bases of Social Concept of the Russian Orthodox Church state that the doctor performing an abortion commits a sin as well.

Let us look at legislative regulation of abortion. Article 56 of the Federal Law No 323-FZ "On the bases of healthcare provided to the citizens in the Russian Federation" states that "every woman alone makes a decision about motherhood"<sup>1</sup>.

According to the law, artificial termination of pregnancy is performed at the will of the woman if the gestational age is up to 12 weeks, terminations at the gestational age up to 22 weeks can be performed for social reasons and on the woman's consent. There is a contradiction between the law and religious morality. The Church believes that the justification of abortions poses a threat to human society and is a clear indicator of moral degradation. Therefore, its duty is to protect unborn children who are the most vulnerable and dependent human beings. At the same time, the duty of society is to protect the future of the mankind and its reproduction.

According to the Bases of Social Concept of the Russian Orthodox Church, the usage of contraceptives, which are abortive and terminate life in its very early stage, is also considered a sin. The Church does not equate to abortion other means of contraception that do not involve termination of conceived life, however, the deliberate refusal of childbirth on egoistic grounds is considered a definite sin.

### **Euthanasia and the Commandment "Thou shalt not kill"**

The commandment "Thou shalt not kill" prohibits euthanasia from the point of view of religious morality. The Church believes it is necessary to provide palliative help (anesthesia, nursing, social and psychological support) to terminally ill people, and it cannot recognize deliberate ending of the sick people's life morally acceptable even if it is performed on their consent. The term "euthanasia" is a derivative from Greek "eu" ("well") and "Thanatos" ("death"). This word combine incompatible notions and means "good death". Thus, the term

<sup>1</sup> Collection of Legislative Acts of the Russian Federation. 2011. Issue 48. Art. 6724.

itself contains a contradiction. The position of the Church is that death cannot be good as life is given from above. A sick person asks to speed up his death under depression that makes the person incapable of assessing his condition the right way. The Church sees euthanasia as a type of suicide and the actions of the medical personal as a murder. A person who commits suicide intentionally is not entitled to Christian burial and the liturgical prayer for the dead. That is an overview of the position of the Church. Let us study the legal regulation of this issue. In order to do so, let us consider the core of the notion of “euthanasia”.

There is passive and active euthanasia. Active euthanasia means that a doctor intervenes to deliberately accelerate his patient’s life at the request of the sick person (makes a lethal injection, removes life-support machines, etc.). From a legal point of view, it is difficult to determine the edge where euthanasia turns into murder. Passive euthanasia takes place when a doctor does not render medical assistance to a patient at his request and this accelerates the sick person’s life. Passive euthanasia is allowed in Australia, Switzerland and in some states of the USA (Oregon).

In Russia, the attitude towards euthanasia is stated in Federal Law No 323-FZ from 21.11.2011 “On the bases of healthcare provided to the citizens in the Russian Federation”: both active and passive euthanasia is forbidden. According to Article 45 of the above-mentioned law, the medical staff are prohibited from performing euthanasia, i. e., accelerating a patient’s death by any action (or inaction) or by any means at his request, including withdrawal of artificial measures to maintain a patient’s life. However, there are some contradictions between the articles of the law. More specifically, Articles 19–20 provide for the right of a citizen or his legal representative to refuse from medical treatment or to demand its withdrawal. In this regard, if a terminally ill patient is brought to the hospital and he refuses from medical intervention in writing, the doctors do not interfere and just let the patient pass away quietly. Thus, the same document prohibits and indirectly allows pure passive euthanasia. The doctor does not accelerate the patient’s death with medication, but at the same time, does not provide the necessary medical care to prolong life at the patient’s request. Thus, due to the contradictions in the law doctors are forced to choose whether to abide strictly by the law or to fulfill their professional duty and save the patient. In connection with this, the rights of patients are not properly protected

from possible misuse and abuse on the part of the medical staff.

### **Contradictions Caused by Sexual Freedom**

Let us examine other contradictions between law and religion, for instance, on issues regarding sexual freedom. Sexual freedom is an ethical, legal and moral category that is very complicated and difficult to discuss. However, it is impossible to come to the right solution without a discourse on this issue. The history of state and law of Russia knows many examples of legislative instability regarding sexual freedom that developed “according to the pattern: repression – liberalization and decriminalization – tightening and new repressions” [28, p. 144]. In order to carry out the axiological analysis of sexual freedom, some questions need to be addressed. Firstly, whether sexual freedom is a value or an anti-value. Secondly, whether it creates a threat to religious and cultural traditions. Thirdly, what consequences sexual freedom causes for marriage, family, and children. Fourthly, whether sexuality and sexual freedom are connected repressively with reproduction, that is, whether this issue should be considered as a social and political one [28, p. 146]. The answers to these questions are quite contradictory from the point of view of the Church and the so called “fighters for sexual freedom”.

The notion of “sexual freedom” can have different content that is often not revealed. For instance, the Declaration of Sexual Rights and Fundamental Freedoms points out that “sexual rights need the same recognition, compliance and protection as other political, civil, social, economic and cultural rights that have already been recognized by the international community, the multinational Russian people and enshrined in international documents on human rights and in the Constitution of the Russian Federation”<sup>1</sup>. The Declaration states that “every person has the right to sexual freedom and sexual inviolability and freedom to choose sexual orientation”. There are other regulations on this issue. Thus, the World Association for Sexual Health proclaimed the Declaration of Sexual Rights at its congress Valencia. It says that the sexual rights are fundamental and universal human rights and sexual freedom “involves an opportunity to express one’s sexual potential, but it

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<sup>1</sup> The Declaration of Sexual Rights and Fundamental Freedoms. Approved by the Russian Sexological Association “Culture and Health” on December 26, 2002. Available at: <http://www.liveinternet.ru/users/jackcolt/post43803781> (accessed 03.10.2017).

eliminates any forms of sexual coercion, exploitation and abuse at any time and in any situations”<sup>1</sup>. Articles 2 and 3 of the document declare “the right to freedom and safety of making decisions regarding one’s body for the sake of getting pleasure”. It also proclaims the right to respect regardless of sexual orientation.

The position of Orthodoxy on these issues is absolutely the opposite. The illustrative and tragic biblical story of the cities of Sodom and Gomorrah that were destroyed by God for unnatural sexual relations of their dwellers is well known. A. A. Ter-Akopov points out that our society is slowly getting used to homosexuality and other debauchery. Moreover, this sexual “culture” is penetrating schools. The rules of behavior enshrined in legal norms provide only for reaction to violence and (or) if such acts are committed against underaged persons. The legal norms of responsibility for non-violent sodomy, bestiality and other unnatural sexual relations have receded into the history of criminal law [23, p. 68]. In the current Russian legislation, only the Penal Code of the Russian Federation provides for disciplinary responsibility of prisoners serving a sentence for sodomy and lesbianism (Art. 116).

The position of the Church on these issues is definite. Such relations are deemed to be sinful and unnatural. “Sexual freedom declared by the supporters of free love represents a threat to religious and cultural traditions and contributes to the suppression of the spiritual and moral basis, reducing the man to the level of an animal guided only by instinct”<sup>2</sup>. Such relations are destructive for marriage, family, and children. They undermine morality and have a negative impact on the demographic situation.

### **Contradictions Caused by Reproductive Technologies**

Another contradiction between legal and religious norms is caused by the issues of reproductive technologies application that involves some or all the stages of conception and early development of embryos outside of the mother’s body. According to the Federal Law “On the bases of healthcare provided to the citizens in the Russian Federation” married or unmarried man and woman, as well as a single woman, have the right to use reproductive

technologies when there is a mutual informed voluntary consent to medical interference. It is possible that a surrogate mother carries and gives birth to a child under a contract between a surrogate mother (a woman who bears a foetus after a donor embryo transfer) and prospective parents whose gametes were used for fecundation (Art. 55). From the Church’s point of view, such approach to the reproduction of the human race does not agree with the Creator’s plan and is considered morally unacceptable. Moreover, surrogate motherhood is seen as unnatural and morally unjustified as it traumatizes both the woman bearing a child, whose maternal feeling is trampled upon, and the baby, who will experience a “crisis of self-consciousness” later on. However, the Church does not deny the necessity of medical assistance for infertility, considering artificial fertilization with gametes of the husband acceptable, as it does not contradict the integrity of the marriage union.

Due to the development of social relations and legal norms, new contradictions arise between law and religion. Nowadays, the ideas of juvenile justice that are alien to Russian mentality are being actively promoted in the country. Having studied the features of the juvenile justice practice in some Western countries, the Russian Orthodox Church came to the conclusion that the children’s rights are artificially opposed to the parents’ rights. The Church believes that such a system contradicts the biblical principles of family relations. The attitude of the Russian Orthodox Church to this issue is set forth in the Russian Orthodox Church’s Position on the Reform of Family Law and Issues of Juvenile Justice adopted by the Council of Bishops of the Russian Orthodox Church on February 4, 2013. It recommends parents to address their requests to specialized eparchial units in case their rights for upbringing children are violated or there is an unjustified intervention into the life of the family. The issues requiring consideration at the all-church level should be addressed to the Eparchial Commission for Family and Protection of Maternity and Childhood. It is important to emphasize that the idea of juvenile justice itself is alien to the mentality of Russian society and the forced introduction of Western values into the legal system can only cause harm to the existing social relations.

### **Conclusions**

1. The interaction of legal and religious orthodox regulation is expressed through the presence of common purposes, functions, and results. They are also connected by the function of legitimation,

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<sup>1</sup> The Declaration of Sexual Rights. Proclaimed at the World Congress of Sexology in Valencia on June 10, 1997. Available at: <http://monitoring.mhg.ru/sites/default/files/files/lgbt-final.pdf> (accessed 03.10.2017).

<sup>2</sup> *Osnovy sotsial’noy kontseptsii russkoy pravoslavnoy tserkvi*. P. 14.

which religious norms can perform with regard to legal norms. Religious and legal responsibilities share common moral guidelines reflected in the principles of justice and humanism. Furthermore, they are united by common purposes and functions: regulatory, restorative, punitive, preventive, and educational. Both legal and religious responsibilities have positive and negative aspects of implementation.

2. When viewed from a broad social perspective, religious and legal responsibilities (as integral social phenomena) represent the reference points for proper behavior that are objectively established in the system of norms as well as the criteria for their evaluation as a responsible or irresponsible action of the social relations subjects. It enables the individuals who have not yet committed an act significant from the position of religious or legal norms to assume the consequences of the act. This guides them to compliance with the requirements of religious and social norms.

3. In terms of the objects of influence, religious and orthodox responsibility is broader compared to the legal one, which focuses only on the external manifestation (behavior, action, activity), whereas religious responsibility regulates the inner world of the subject. Religious responsibility considers not only the subject's behavior to be responsible or irresponsible, but also his inner world. Regulating the subject's inner world and psychological attitude to the existing values, which largely coincide with the values enshrined in legal norms, religious responsibility supplements the effect of the regulatory and preventive functions of legal responsibility.

4. The norms of Christian Orthodoxy and legal norms are characterized by internal contradictions that can be evident in several ways. Firstly, legal norms have an imperative character that is secured by the compulsory power of the state, whereas religious norms are based on the freedom of execution without control and compulsion. Secondly, some legal and religious norms are absolutely incompatible: religious morality can prohibit what is allowed by law, and vice versa. Thirdly, religious commandments cover not only a person's behavior but also his inner world. Fourthly, the rights and freedoms of other people are the limit of personal freedom, whereas religious norms are aimed at eliminating sin not only towards others but also towards oneself.

5. The reasons for contradictions between religious and legal norms are conditioned by the following factors. Firstly, by the uneven development and alteration of legal and religious norms as well as by the absence of radical ways to change the existing religious rules of behavior. Secondly, by the

peculiarities of the legal norms content. Religious norms use obligations and prohibitions to a greater extent than permissions, whereas the democratization of society indicates the extension of the permission sphere in legal regulation of social relations. Thirdly, by the imperfection of both legal and religious norms as well as by the contradictions that exist in social relations.

6. The ways and the means to eliminate the contradictions are seen in the development of new moral norms and principles as well as the improvement of current legislation and bringing it in compliance with the requirements of religious norms that are well established in society.

### References

1. *Abdusamedov A. I., Aleynik R. M., Alieva B. A. et al. Ateisticheskiy slovar'; pod obshch. red. M. P. Novikova* [Atheistic Dictionary; ed. by M. P. Novikov]. Moscow, 1985. 512 p. (In Russ.).
2. *Al'tman V. A., Arzak'yants V. V., Arman I. P. et al. Kratkiy filosofskiy slovar'; pod red. M. Rozentalya and P. Yudina* [Short Philosophical Dictionary; ed. by M. Rozental and P. Yudin]. Moscow, 1951. 615 p. (In Russ.).
3. *Berman H. J. Vera i zakon: primirenje prava i religii* [Faith and Order: the Reconciliation of Law and Religion]. Moscow, 1999. 431 p. (In Russ.).
4. *Golovkin R. B. Pravovoe i moral'noe regulirovanie chastnoy zhizni v sovremennoy Rossii: dis. ... d-ra jurid. nauk* [Legal and Moral Regulation of Private Life in Modern Russia: Dr. jurid. sci. diss.]. Nizhny Novgorod, 2005. 516 p. (In Russ.).
5. *Kant I. Sochineniya* [Works: in 6 vols.]. Moscow, 1965. Vol. 4. 544 p. (In Russ.).
6. *Klochkov V. V. Religiya i pravo* [Religion and Law]. Moscow, 1978. 287 p. (In Russ.).
7. *Kovshov E. M. Ponimanie prav cheloveka v liberal'noy i religioznoy ideologii* [Understanding Human Rights in Liberal and Religious Ideology]. *Filosofiya tsennosti: religiya, pravo, moral' v sovremennoy Rossii: Materialy IV mezhdunarodnoy konferentsii (10–11 aprelya 2008 g.)* [Proceedings of IV International Conference: Philosophy of Values: Religion, Law, Morality in Modern Russia (April 10–11, 2008)]. Kurgan, 2009. Pp. 80–90. (In Russ.).
8. *Kulapov V. L., Mednaya Yu. V. Podnormativnoe pravovoe regulirovanie* [Norm-Based Legal Regulation]. Saratov, 2009. 200 p. (In Russ.).
9. *Kirill. Patriarch of Moscow and All Russia. Svoboda i otvetstvennost': v poiskakh garmonii. Prava cheloveka i dostoinstvo lichnosti* [Free-

- dom and Responsibility: in a Search for Harmony. Human Rights and Personal Dignity]. Moscow, 2008. 240 p. (In Russ.).
10. Marx K., Engels F. *Sochineniya* [Works: in 50 vols.]. Moscow, 1961. Vol. 20. 858 p. (In Russ.).
  11. Marchenko N. M., Leyst O. E. et al. *Obshchaya teoriya gosudarstva i prava. Akademicheskii kurs lektsiy; pod red. M. N. Marchenko* [General Theory of State and Law. Academic Course; ed. by M. N. Marchenko]. Moscow, 1998. Vol. 2. 640 p. (In Russ.).
  12. Matuzov N. I., Mal'ko A. V. *Teoriya gosudarstva i prava: Uchebnik* [Theory of State and Law: Textbook]. Moscow, 2009. 510 p. (In Russ.).
  13. Matuzov N. I. *Pravo kak mera svobody i otvetstvennosti lichnosti: Mezhevuz. sb. nauch. st.* [Law as a Measure of a Person's Freedom and Responsibility: Interuniversity Collection of Scientific Papers]. *Atrium. Ser. «Yurisprudentsiya»* – *Atrium. Ser. "Jurisprudence"*. 1999. Issue 1. Pp. 20–26. (In Russ.).
  14. Milosh N. *Pravila Svyatykh Apostolov i Svyatykh Ottsov s tolkovaniyami* [The Rules of the Holy Apostles and Holy Fathers with Interpretations]. Moscow, 1998. 210 p. (In Russ.).
  15. Nersesyants V. S. *Obshchaya teoriya prava i gosudarstva* [General Theory of Law and State]. Moscow, 2010. 560 p. (In Russ.).
  16. Nizhechek V. I. *Sovetskoe pravo v sisteme normativnogo regulirovaniya sotsial'nykh obshchestvennykh otnosheniy* [Soviet Law in the System of Normative Regulation of Social Public Relations]. Irkutsk, 1973. 455 p. (In Russ.).
  17. Ozhegov S. I. *Slovar' russkogo yazyka; pod red. N. Yu. Shvedovoy* [Dictionary of the Russian Language; ed. by N. Yu. Shvedova]. Moscow, 1985. 917 p. (In Russ.).
  18. Pavlov A. *Kurs tserkovnogo prava* [The Course on Church Law]. The Holy Trinity-St. Sergius Lavra, 1902. 539 p. (In Russ.).
  19. Ponomareva V. P. *Pravo i religiya v sisteme normativnogo regulirovaniya* [Law and Religion in the System of Normative Regulation]. *Pravo: istoriya, teoriya, praktika: sb. st. i materialov* [Law: History, Theory, Practice: Collection of articles and proceedings]. Briansk, 2007. Pp. 30–38. (In Russ.).
  20. Putilkin P. A. *Sootnoshenie pravovogo i religiozno-pravoslavnogo regulirovaniya obshchestvennykh otnosheniy: avtoref. dis. ... kand. jurid. nauk* [Correlation of Legal and Religious Orthodox Regulation of Public Relations: Synopsis of Cand. jurid. sci. diss.]. Kazan, 2013. 24 p. (In Russ.).
  21. Salutskiy A. *Za optimizm!* [For Optimism!]. *Parlamentskaya gazeta* – Parliamentary Newspaper. 2003. 10 January. (In Russ.).
  22. Syrykh V. M. *Teoriya gosudarstva i prava* [Theory of State and Law]. Moscow, 2012. 704 p. (In Russ.).
  23. Ter-Akopov A. A. *Khristianskie nachala i ikh razvitie v rossiyskom prave* [Christian Principles and Their Development in Russian Law]. *Rossiyskaya yustitsiya* – Russian Justitia. 2001. Issue 7. Pp. 64–69. (In Russ.).
  24. Tsybulevskaya O. I. *Nravstvennyye osnovaniya sovremennogo rossiyskogo prava; pod red. N. I. Matuzova* [Moral Bases of Modern Russian Law; ed. by N. I. Matuzov]. Saratov, 2004. 409 p. (In Russ.).
  25. Chernykh E. V. *O normativnom kharaktere yuridicheskoy otvetstvennosti* [On the Normative Character of Legal Responsibility]. *Voprosy teorii gosudarstva i prava* – Questions of Theory of State and Law. Saratov, 1998. Issue 1(10). Pp. 80–82. (In Russ.).
  26. Chernykh P. Ya. *Istoriko-etimologicheskii slovar' sovremennogo russkogo yazyka: v 2 t.* [Historical and Etymological Dictionary of the Modern Russian Language: in 2 vols.]. Moscow, 1999. Vol. 2. 624 p. (In Russ.).
  27. Shaburov A. S. *Politicheskie i pravovye aspekty sotsial'noy otvetstvennosti lichnosti: dis. ... dra jurid. nauk* [Political and Legal Aspects of Social Responsibility of a Person: Dr. jurid. sci. diss.]. Ekaterinburg, 1992. 402 p. (In Russ.).
  28. Shishmanov I. A. *Tsennosti i antitsenosti seksual'noy svobody s ugolovno-pravovoy tochki zreniya* [Values and Anti-Values of Sexual Freedom in Terms of Criminal Law]. *Filosofiya tsennostey: religiya, pravo, moral' v sovremennoy Rossii. Materialy IV mezhdunarodnoy konferentsii (10–11 aprelya 2008 g.)* [Philosophy of Values: Religion, Law, Morality in Modern Russia. Proceedings of IV International Conference (April 10–11, 2008)]. Kurgan, 2009. Pp. 141–149. (In Russ.).
  29. Jung C. G. *Arkhetip i simvol* [Archetype and Symbol]. Moscow, 1992. 208 p. (In Russ.).
  30. Beckford J. *Social Theory and Religion*. Cambridge, 2003. 370 p. (In Eng.).
  31. Bottoni R., Cristofori R. *Religious Rules, State Law, and Normative Pluralism – A Comparative Overview*. Berlin, 2016. 420 p. (In Eng.).
  32. Calabresi G. *The New Economics Analysis of Law: Scholarship, Sophistry, or Self-indulgence? Proceedings of the British Academy*. 1982. Vol. 68. Pp. 82–89. (In Eng.).

33. *Chambliss W., Zatz M.* Making Law: The State, the Law, and Structural Contradictions. Bloomington, 1993. 464 p. (In Eng.).
34. *Cohen Ch. L., Numbers R. L.* Gods in America: Religious Pluralism in the United States. New York, 2013. 420 p. (In Eng.).
35. *Dahn U., Gruel Zur K.* Gestaltung der Rechte gegen Rechtsverletzungen. *Zur Gestaltung der Rechte und Pflichten rechtlichen Verantwortlichkeit im Kampf gegen Rechtsverletzungen. Staat und Recht.* 1972. Issue 2. Pp. 206–216. (In Germ.)
36. *Dorff M. B.* Why welfare depends on fairness: A reply to Kaplow and Shavell. *Southern California Law Review.* 2002. Vol. 75. Pp. 847–900. (In Eng.).
37. *Durkheim E.* Sociologist of modernity; ed. by Mustafa Emirbayer. Oxford, 2003. 306 p. (In Eng.).
38. *Geertz C.* The Religion of Java. Chicago, 1960. 421 p. (In Eng.).
39. *Gerrad M. B.* What are Public-Private Partnerships, and How Do They Differ from Privatizations? *Finance & Development.* 2001. Vol. 38. Issue 3. Available at: <http://www.imf.org/external/pubind.htm> (accessed 10.10.2017). (In Eng.).
40. *Grunawalt R. K.* Conflicts of law and morality. New York, 1989. 338 p. (In Eng.).
41. *Hanegraaff W. J.* Defining Religion in spite of History. The Pragmatics of Defining Religion: Contexts, Concepts, and Contests; ed. by Jan G. Platvoet, Arie L. Molendiji. Leiden, Boston, Koln: Brill, 1999. Pp. 337–378. (In Eng.).
42. *Hayek F. A.* Law, Legislation and Liberty; A New Statement of the Liberal Principles and Political Economy. Vol. 2: The Mirage of Social Justice. London & New York, 2012. 656 p. (In Eng.).
43. *Hesselink M. W.* The General Principles of Civil Law: Their Nature, Roles and Legitimacy. Centre for the Study of European Contract Law Working Paper Series No. 2011-14. Available at: <http://ssrn.com/abstract=1932146> (accessed 10.10.2017). (In Eng.).
44. *Hick E.* Evil and God of Love. London, 1975. 389 p. (In Eng.).
45. *Jonas H.* Technik, Medizin und Ethik: zur Praxis des Prinzip Verantwortung. Frankfurt a. M., 1987. 324 p. (In Germ.).
46. *Jonas H.* Das Prinzip Verantwortung. Versuch einer Ethik für die technologische Zivilisation. Frankfurt a. M., 1984. 432 p. (In Germ.).
47. *Kaplow L., Shavell S.* Fairness versus Welfare. *Harvard Law Review.* 2001. Vol. 114. Pp. 990–991. (In Eng.).
48. *Klein N.* Shock Therapy: The Rise of Disaster Capitalism. New York, 2007. 656 p. (In Eng.).
49. *Lipinsky D. A.* Social Bases of Positive Responsibility. *Sententia. European Journal of Humanities and Social Sciences.* 2015. Issue 3. Pp. 41–49. (In Eng.).
50. *Lombardo S.* Regulatory competition in company law in the European Community. Prerequisites and limits. Frankfurt a. M., 2002. 236 p. (In Eng.).
51. *MacIntyre A.* After Virtue: A Study in Moral Theory. Indiana, 1981. 308 p. (In Eng.).
52. *Nozick R.* Anarchy, State and Utopia. New York, 1974. 430 p. (In Eng.).
53. *Nussbaum M. C.* Human functioning and social justice: in defense of Aristotelian essentialism. *Political Theory.* 2000. Vol. 20. Issue 2. Pp. 232–233. (In Eng.).
54. *Posner A. Richard.* Utilitarianism, Economics and Legal Theory. *Journal of Legal Studies.* 1979. Vol. 8. Pp. 103–140. (In Eng.).
55. *Richardson J. T.* The Social Construction of Legal Pluralism. *Democracy and Security.* 2011. Vol. 7. Issue 4. Pp. 390–405. (In Eng.).
56. *Ricoeur P.* Political and social essays; ed. by Stewart D. & Bien J. Athens, Ohio, 1974. 239 p. (In Eng.).
57. *Schmutzer R.* Probleme der Verantwortung aus arbeitsrechtlicher Sicht. *Staat und Recht.* 1973. Issue 3. Pp. 29–35. (In Germ.).
58. *Schneider W.* Zum Verhältnis von Haftung und Verantwortlichkeit. *Staat und Recht.* 1972. Issue 10–11. Pp. 37–45. (In Germ.).
59. *Spaak T.* Legal positivism, law's normativity, and the normative force of legal justification. *Ratio Juris.* December, 2003. Vol. 16. Issue 4. Pp. 469–485. (In Eng.).
60. *Stiller G.* Rechtliche Sanktionen Probleme ihrer Ausgestaltung und Anwendung. *Neue Justiz.* 1975. Issue 8. Pp. 219–237. (In Germ.).
61. *Weber M.* Politik als Beruf. Berlin, 1993. 661 p. (In Germ.).
62. *Weiler W.* Zur Kategorie Verantwortung. *Deutsche Zeitschrift Philosophie.* 1965. Issue 8. Pp. 993–998. (In Germ.).

#### References in Russian

1. Абдусамедов А. И., Алейник Р. М., Алиева Б. А. и др. Атеистический словарь / под общ. ред. М. П. Новикова. М.: Политиздат, 1985. 512 с.
2. Альтман В. А., Арзакьянц В. В., Арман И. П. и др. Краткий философский словарь / под ред. М. Розенталя и П. Юдина. 3-е изд. М.: Политиздат, 1951. 615 с.

3. *Берман Г. Дж.* Вера и закон: примирение права и религии. М.: Ad Marginem, 1999. 431 с.
4. *Головкин Р. Б.* Правовое и моральное регулирование частной жизни в современной России: дис. ... д-ра юрид. наук. Н. Новгород, 2005. 516 с.
5. *Кант И.* Сочинения: в 6 т. М.: Мысль, 1965. Т. 4. 544 с.
6. *Клочков В. В.* Религия и право. М.: Мысль, 1978. 287 с.
7. *Ковшов Е. М.* Понимание прав человека в либеральной и религиозной идеологии // *Философия ценностей: религия, право, мораль в современной России: материалы IV Междунар. конф. (Курган, 10–11 апр. 2008 г.).* Курган: Изд-во Курган. ун-та, 2009. С. 80–90.
8. *Кулапов В. Л., Медная Ю. В.* Поднормативное правовое регулирование. Саратов: Изд-во СГАП, 2009. 200 с.
9. *Кирилл, Патриарх Московский и Всея Руси.* Свобода и ответственность: в поисках гармонии. Права человека и достоинство личности. М.: Отдел внешних церков. связей Моск. Патриархата, 2008. 240 с.
10. *Маркс К., Энгельс Ф.* Сочинения. 2-е изд. М.: Изд-во полит. лит., 1961. Т. 20. 858 с.
11. *Марченко Н. М., Лейст О. Э. и др.* Общая теория государства и права: акад. курс лекций / под ред. М. Н. Марченко М.: Зерцало, 1998. Т. 2. 640 с.
12. *Матузов Н. И., Малько А. В.* Теория государства и права: учебник. М.: Юристъ, 2009. 510 с.
13. *Матузов Н. И.* Право как мера свободы и ответственности личности // *Атриум. Сер.: Юриспруденция.* Тольятти: МАБиБД, 1999. № 1. С. 20–26.
14. *Милош Н.* Правила Святых Апостолов и Святых Отцов с толкованиями. М.: Паломникъ, 1998. 210 с.
15. *Нерсесянц В. С.* Общая теория права и государства. М.: Норма: Инфра-М, 2010. 560 с.
16. *Нижегечек В. И.* Советское право в системе нормативного регулирования социальных общественных отношений. Иркутск: Изд-во Иркут. ун-та, 1973. 455 с.
17. *Ожегов С. И.* Словарь русского языка / под ред. Н. Ю. Шведовой. М.: Рус. яз. 1985. 917 с.
18. *Павлов А.* Курс церковного права. Св. Троицкая Лавра: Собственная тип., 1902. 539 с.
19. *Пономарева В. П.* Право и религия в системе нормативного регулирования // *Право: история, теория, практика: сб. ст. и материалов.* Брянск: Изд-во Брян. ун-та, 2007. Вып. 11. С. 30–38.
20. *Путилкин П. А.* Соотношение правового и религиозно-православного регулирования общественных отношений: автореф. дис. ... канд. юрид. наук. Казань, 2013. 24 с.
21. *Салуцкий А.* За оптимизм! // *Парламентская газета.* 2003. 10 янв.
22. *Сырых В. М.* Теория государства и права. М.: Юстицинформ, 2012. 704 с.
23. *Тер-Акопов А. А.* Христианские начала и их развитие в российском праве // *Российская юстиция.* 2001. № 7. С. 64–69.
24. *Цыбулевская О. И.* Нравственные основания современного российского права / под ред. Н. И. Матузова. Саратов: СГАП, 2004. 409 с.
25. *Черных Е. В.* О нормативном характере юридической ответственности // *Вопросы теории государства и права.* 1998. Вып. 1(10). С. 80–82.
26. *Черных П. Я.* Историко-этимологический словарь современного русского языка: в 2 т. 3-е изд. М.: Рус. яз., 1999. Т. 2. 624 с.
27. *Шабуров А. С.* Политические и правовые аспекты социальной ответственности личности: дис. ... д-ра юрид. наук. Екатеринбург, 1992. 402 с.
28. *Шушманов И. А.* Ценности и антиценности сексуальной свободы с уголовно-правовой точки зрения // *Философия ценностей: религия, право, мораль в современной России: материалы IV Междунар. конф. (Курган, 10–11 апр. 2008 г.).* Курган: Изд-во Курган. ун-та, 2009. С. 141–149.
29. *Юнг К. Г.* Архетип и символ. М.: Ренесанс 1992. 208 с.
30. *Beckford J.* Social Theory and Religion. Cambridge, 2003. 370 p.
31. *Bottoni R., Cristofori R.* Religious Rules, State Law, and Normative Pluralism – A Comparative Overview. Berlin, 2016. 420 p.
32. *Calabresi G.* The New Economics Analysis of Law: Scholarship, Sophistry, or Self-indulgence? // *Proceedings of the British Academy.* 1982. Vol. 68. Pp. 82–89.
33. *Chambliss W., Zatz M.* Making Law: The State, the Law, and Structural Contradictions. Bloomington, 1993. 464 p.
34. *Cohen Charles L., Numbers Roland L.* Gods in America Religious Pluralism in the United States. New York, 2013. 420 p.
35. *Dahn U., Gruel Zur K.* Gestaltung der Rechte gegen Rechtsverletzungen. Zur Gestaltung der Rechte und Pflichten rechtlichen Verantwortlichkeit im Kampf gegen Rechtsverletzungen // *Staat und Recht.* 1972. Issue 2. Pp. 206–216.

36. *Dorff Michael B.* Why welfare depends on fairness: A reply to Kaplow and Shavell // *Southern California Law Review*. 2002. Vol. 75. Pp. 847–900.
37. *Durkheim E.* Sociologist of modernity / ed. by M. Emirbayer. Oxford, 2003. 306 p.
38. *Geertz C.* The Religion of Java. Chicago, 1960. 421 p.
39. *Gerrad M. B.* What are Public-Private Partnerships, and How Do They Differ from Privatizations? // *Finance & Development*. 2001. Vol. 38. Issue 3. Available at: <http://www.imf.org/external/pubind.htm> (дата обращения: 10.10.2017).
40. *Grunawalt R. K.* Conflicts of law and morality. New York, 1989. 338 p.
41. *Hanegraaff W. J.* Defining Religion in spite of History // *The Pragmatics of Defining Religion: Contexts, Concepts, and Contests* / ed. by J. G. Platvoet, A. L. Molendiji. Leiden, Boston, Koln, 1999. Pp. 337–378.
42. *Hayek F. A.* Law, Legislation and Liberty: A New Statement of the Liberal Principles and Political Economy. Vol. 2: The Mirage of Social Justice. London; New York, 2012. 656 p.
43. *Hesselink M. W.* The General Principles of Civil Law: their Nature, Roles and Legitimacy // *Centre for the Study of European Contract Law Working Paper Series*. № 2011-14. Available at: <http://ssrn.com/abstract=1932146> (дата обращения: 10.10.2017).
44. *Hick E.* Evil and God of Love. London, 1975. 389 p.
45. *Jonas H.* Technik, Medizin und Ethik: zur Praxis des Prinzip Verantwortung. Frankfurt a. M., 1987. 324 s.
46. *Jonas H.* Das Prinzip Verantwortung. Versuch einer Ethik für die technologische Zivilisation. Frankfurt a. M., 1984. 432 s.
47. *Kaplow L., Shavell S.* Fairness versus Welfare // *Harvard Law Review*. 2001. Vol. 114. Pp. 990–991.
48. *Klein N.* Shock Therapy: The Rise of Disaster Capitalism. New York, 2007. 656 p.
49. *Lipinsky D. A.* Social Bases of Positive Responsibility // *Sententia. European of Humanities and Social Sciences*. 2015. Issue 3. Pp. 41–49.
50. *Lombardo S.* Regulatory competition in company law in the European Community. Prerequisites and limits. Frankfurt a. M., 2002. 236 p.
51. *MacIntyre A.* After Virtue: A Study in Moral Theory. Indiana, 1981. 308 p.
52. *Nozick R.* Anarchy, State and Utopia. New York, 1974. 430 p.
53. *Nussbaum M. C.* Human functioning and social justice: In defense of Aristotelian essentialism // *Political Theory*. 2000. Vol. 20, issue 2. Pp. 232–233.
54. *Posner A. R.* Utilitarianism, Economics and Legal Theory // *Journal of Legal Studies*. 1979. Vol. 8. Pp. 103–140.
55. *Richardson J. T.* The Social Construction of Legal Pluralism // *Democracy and Security*. 2011. Vol. 7, issue 4. Pp. 390–405.
56. *Ricoeur P.* Political and social essays / ed. by Stewart D., Bien J. Athens. Ohio, 1974. 239 p.
57. *Schmutzer R.* Probleme der Verantwortung aus arbeitsrechtlicher Sicht // *Staat und Recht*. 1973. Issue 3. S. 29–35.
58. *Schneider W.* Zum Verhältnis von Haftung und Verantwortlichkeit // *Staat und Recht*. 1972. Issue 10–11. S. 37–45.
59. *Spaak T.* Legal positivism, law's normativity, and the normative force of legal justification // *Ratio Juris*. 2003. Vol. 16, issue 4. S. 469–485.
60. *Stiller G.* Rechtliche Sanktionen Probleme ihrer Ausgestaltung und Anwendung // *Neue Justiz*. 1975. Issue 8. S. 219–237.
61. *Weber M.* Politik als Beruf / von Max Weber. Berlin, 1993. 661 s.
62. *Weiler W.* Zur Kategorie Verantwortung // *Deutsche Zeitschrift Philosophie*. 1965. Issue 8. S. 993–998.