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MYTH AS A FACTOR IN THE EMERGENCE AND DEVELOPMENT OF NATURAL-LAW THOUGHT

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Abstract: *The challenges of the modern world order have led, among other consequences, to a visible stagnation in the development of legal thought, as well as to deregulation and the transformation of the state and law. In chaotic and crisis situations, humanity has often sought salvation in myths, spiritual reflection, and natural-law thinking and understanding.*

The history of the study of myth began in antiquity and can be assumed to reach back even before the earliest Hellenic thinkers. Later, Renaissance mythographers continued this work. In the nineteenth century, comparative mythology emerged, taking a critical stance towards myth and mythology as rivals to science, calling mythology a “disease of language” or a misinterpretation of magical ritual.

Myth is a feature of every culture. It arose in the past and has survived, evolved, and taken shape up to the present day as a symbol—a set of symbolic images derived from the human psyche, stories, imaginary representations, spiritual and customary heritage, and traditions transmitted orally from generation to generation to individuals and communities over the course of their historical development. Myth thus forms part of the cultural and historical heritage of each community.

Ancient myths were taken over by the Sophists, who, through reinterpretation and elaboration, laid the foundations of natural-law theories. The spirit and development of these theories has continued across the centuries to the present day. Myths had an important role in the development of legal thought, especially in the past, but they may have a role even today. The key question is whether new myths will emerge in the future, connected with the spiritual rebirth and salvation of humankind, and articulated through the forms and contents of natural-law teaching.

Keywords: *myth; natural law; culture; heritage; influence; modern society*

INTRODUCTION

The challenges of the modern world order have led, among other things, to a visible stagnation in the development of legal thought, as well as to the deregulation and transformation

of the state and law. In chaotic and crisis situations, humanity has sought forms of salvation in myths, spiritual reflection, and natural-law ways of thinking and understanding.

The question arises whether, even today, in the demanding reality of the modern world,

natural-law thought, myths, and mythology can still play a role and have significance in identifying possible solutions.

1. THE PERIOD OF MYTHS ABOUT LAW

Myth, as a characteristic feature of every culture, arose in the distant past and has survived, developed, and taken shape until today. It is a symbol—a set of symbolic images derived from the human psyche, mythological stories, imaginary representations, spiritual and customary heritage, and traditions transmitted orally from generation to generation to individuals and communities throughout their historical development. Myths also include naïve fantasies about many phenomena, gods, heroes, supernatural beings, and personifications of nature. In this sense, myth represents an important foundation for the cultural-historical development of a particular group or community and is relevant for the establishment of various social norms, such as moral, customary, religious, technical, and later legal norms. Characters and contents from mythological stories are often of a religious nature, so the mythology and religion of a particular society are closely connected.

The study of myths began in ancient times and may be assumed to have existed even before the appearance of the ancient Hellenic thinkers. According to Plato, Euhemerus, and Sallustius, the Neoplatonists in ancient Greece began systematizing such views, which were later continued by Renaissance mythographers (Encyclopaedia Helios, 1952).

In the nineteenth century, comparative mythology emerged, taking a critical stance towards myth and mythology as rivals to science, pointing out that mythology is a “disease of language” (Müller) or a misinterpretation of magical ritual (Frazer, 1913).

Since itinerant Sophist teachers in ancient Greece derived their first ideas about law from the myths of the Middle East, we may assume that early ideas and myths about law originated both before and during the Hellenic and Roman eras in the broader Mediterranean–Asian region, today called the Middle East in

geopolitical terms. In this region, civilizations developed that were not strictly defined by the now dominant world religions (Arab mythology).

Such representations-myths about law—were adopted by ancient Hellenic thinkers, primarily the Sophists, as a starting point for the development of their legal ideas about the nature, origin, and essence of law. Thus, the Sophists became the progenitors of ideas about natural law. They initiated the conceptual and theoretical formation of this idea of the original nature of law—natural law (Greek mythology): a law that is given, eternal, universal, corrective, and superior to human creation in the form of positive law. Positive law, created by people, is expressed through legal norms contained in legal acts and was elaborated by ancient Roman jurists and their legal science through Roman law over almost fourteen centuries. Many of its basic principles are still present today in the modern continental European legal system and, beyond it, serve as a guideline and foundation for constructing legal orders in specific states.

The teachings of the Sophists on law and natural law found followers in the ancient Roman Empire, where jurists nevertheless gave primacy to refining doctrines and understandings of material legal reality, social conditions, needs, and interests. In doing so, they shaped Roman law, established positive legal sources, and defined the formal sources of law through general legal acts. These sources determined the centuries-long course of legal development primarily within the European continental legal system up to the present day.

Mythology can also be seen as a fantastic history of a community, in which stories and legends about gods, heroes, and other irrational supernatural beings are transmitted orally “from generation to generation” to existing and future members of the community. Such narratives significantly influence the emergence, survival, development, and fate of communities from the earliest primitive clan societies onward.

Mythology, understood both as a cultural phenomenon and as a discipline that

systematically examines, presents, compares, and explains “sacred stories,” is thus an important source for the study of myths.

Myths are inherent to every civilization and culture; they constitute a collective form of cultural expression. They personify natural phenomena, historical events, and rituals with realistic or exaggerated content. Over time, such myths become more widely accepted, developed, and transmitted to other communities, influencing the consciousness of individuals and collectives. This consciousness shapes belonging to a narrow or broader group or community and contributes to the emergence and formation of various social norms (moral, customary, religious, technical, and later legal norms).

For the purposes of this paper, legal norms are of particular importance, but we do not neglect the influence of other types of social norms, which are evidently interrelated and interdependent in complex ways.

Whether myth, as a product of complex circumstances and psychological processes in individual and collective representations in the rational–irrational sphere of the human mind, can be a true or false reflection of reality remains an open question. Human beings, in addition to other qualities, are both rational and irrational.

The entire historical and evolutionary path of myth—from its emergence in original communities in the age of barbarism to the present day—as a significant cultural-historical phenomenon and an agent of social development, deserves special attention in research on the normative element of law and on the causes and factors that have influenced or may influence the material and formal origins of legal norms.

It is evident that myth, with its indicated properties and characteristics, can be regarded as an important factor influencing the creators of normative law—that is, the creators of the normative element of the legal order—alongside many other causes and factors. Undoubtedly, myth, in cooperation with other factors, is a possible material legal cause or factor in the creation of law and legal norms, at

least in the initial stages of their development. This conclusion can be drawn from an examination of the development and influence of, among others, ancient Arab and Hellenic mythologies on what later came to be shaped, in form and content, as law and legal norms.

1.1. ARAB MYTHOLOGY

Arab mythology can be described as a diffuse, incomplete, and unsystematized set of myths and beliefs of pre-Islamic, tribally organized, polytheistic Arabs who lived in the area of today’s Middle East. These myths and beliefs, to a greater or lesser extent, served ancient Greek thinkers—especially the Sophists—as a source for developing their ideas about a distinct type of law: natural law.

Before the Islamic period, Arabs and other peoples in the region were organized in tribes; religiously, they believed in a multitude of gods (polytheism) and led a largely nomadic Bedouin lifestyle. This period was marked by pronounced spirituality, which laid a solid foundation for the development of art, spirituality, philosophical reflection, and scientific observation of the world, nature, and society. This intellectual and spiritual heritage would significantly influence the later development of art, philosophy, and scientific thought in antiquity, particularly in ancient Greece and the Roman Empire, and thus European civilization more broadly—especially in parts of South-East Europe and North Africa. Through the subsequent adoption of Islamic religious teachings and the expansion of political power, this legacy spread to these areas by means of conquest.

1.2. GREEK MYTHOLOGY

Hellenic (ancient Greek) mythology consists of a group of unsystematized myths about natural and social phenomena in that era, as well as about numerous gods, heroes, mythological beings, customs, rituals, cults, and literature. These stories were most often transmitted orally “from generation to generation” within narrower or wider communities, so

that a multitude of such representations and understandings survived and were transmitted to later times, possibly even to the present day.

Greek mythology, in its breadth and richness, had a strong influence on the centuries-long development of European civilization (Plato, 1976; Aristotle, 1975), including the development of legal thought. The Sophists, as progenitors of the idea of natural law, drew on mythological material in order to shape their ideas about law and justice. Their natural-law ideas later flourished with the emergence of bourgeois revolutions, when they were used as powerful arguments against the feudal order.

1.3. THE ANCIENT HELLENIC–ROMAN PERIOD: THE BEGINNINGS OF NATURAL LAW AND POSITIVE LAW (ROMAN LAW)

The generally accepted view, as already noted, is that ideas about natural law in European civilization were conceived in antiquity, beginning in ancient Greece and later in the Roman Empire. During the feudal era, these ideas were significantly reduced and subordinated to justifying the feudal social order. The prevailing natural-law view was that the state and law were of divine origin, and that they served to protect the feudal system and the position of the Church within it (Thomas Aquinas, Augustine).

In ancient Greece, over the centuries, a constellation of thinkers, philosophers, and scientists emerged who studied nature, society, and the state, but only sporadically law. It was not until the fifth century BCE, with the appearance of the Sophists—travelling thinkers, philosophers, and teachers of practical knowledge and skills—that systematic reflection and teaching about law as a phenomenon began. The Sophists drew, among other sources, on certain myths about law from the region of the present-day Middle East, which they enriched and used to articulate the idea of natural law.

The Sophists (Protagoras, Hippias, Gorgias, Callicles, Lycophron, and others) are considered the founders of the idea of natural law. Ideas about the existence of a law not created

by human beings but eternally given in the universe and in nature emerged in their teachings and further developed through both democratic and aristocratic variants. The democratic variant (Hippias, Antiphon) stressed the natural equality of human beings, whereas the aristocratic variant (Callicles, Thrasymachus, Aristotle, Plato) emphasized their natural inequality. This dualism between natural and positive law persists to this day in legal thought.

Plato divided reality into two spheres: the visible world of the senses and the invisible world of ideas. On this basis, he developed his concept of the ideal state, founded on the common good, in which everyone performs tasks according to their abilities, for the benefit of all and of the state. Aristotle rejected this strict dualism between the sensory world and the world of ideas. For him, the ultimate goal of all sciences is the good, and the greatest good is the main goal of political science. The greatest good that the state strives for is justice, understood as the general welfare. Aristotle points out that justice has several meanings: in addition to justice as moral correctness in general, there is justice as conformity with law and equality. Natural law, in his view, has universal significance and does not depend on whether it has been adopted or not; positive law, by contrast, becomes meaningful only once it has been formally established.

Further development of natural-law teaching continued with Epicurus and the Stoic school. Epicurus argued that the political community arises from contracts concluded by free and equal citizens and that justice is not absolute but the consequence of mutual agreement not to cause harm. Epicurus and the Stoics regarded self-sufficiency (autarchy) of the individual—not the polis—as the ideal; a person should be a citizen of the world rather than bound exclusively to the polis. The Stoics proclaimed natural law as the supreme law of nature, against which all existing laws and states could be measured. They advocated the idea of universal brotherhood. Their teachings were adopted in ancient Rome (Seneca, Cicero, Marcus Aurelius, and others). The idea

of natural law contributed to the construction of Roman law and Roman jurisprudence (Ulpian, Gaius, Paulus) (Žižić, 2004).

Scholars in the ancient Roman Empire, most often pragmatic practicing lawyers, adopted the teachings of the Sophists and other Hellenic thinkers. However, unlike Greek philosophers, they focused primarily on the study of law, and only secondarily on the study of the state. They developed the famous Roman law, which is still studied today. Roman jurists were especially interested in legal positivism, that is, in the positive law that was being created and that was in force. They created and determined the formal legal sources of law, paying less attention to material sources. They established that the formal sources of law were general legal acts: constitutions, laws, and bylaws. To this day, this determination has been accepted in European countries that belong to the continental legal system.

By contrast, Anglo-Saxon countries initially inherited elements of the Roman legal tradition but subsequently developed their own common-law system, in which the overriding formal sources of law are custom and a specific type of court decision-judicial precedent. This system applies in Great Britain, the United States, and the Commonwealth countries.

In recent decades, with the rise of neoliberal capitalism in the world and in Europe, the influence of the Anglo-Saxon legal system on the European continental model has become increasingly evident. It is difficult to predict the ultimate outcome of this influence.

1.4. THE FEUDAL PERIOD: RELIGIOUSLY BASED NATURAL CHURCH LAW

Legal thought, originally conceived at least two and a half millennia ago in antiquity, took on a predominantly philosophical and religious character with the emergence of the feudal social order. Legal doctrine in this period was mainly directed toward justifying the feudal state and law, that is, the existing social order, with a pronounced intolerance toward divergent views. The development of legal

thought stagnated as a result. It was emphasized, among other things, that the state and law were God's creation and that the secular state was not autonomous (Thomas Aquinas, Augustine).

1.5. THE BOURGEOIS PERIOD: STRONG DEVELOPMENT OF LEGAL THOUGHT – THE BEGINNINGS OF HUMANISM AND THE RENAISSANCE

A radical transformation and rebirth of consciousness, spirituality, and life in all spheres of social reality began with the advent of humanism and the Renaissance in Europe. This transformation implied a break with the previous world order and the birth of a new world with new views and determinants.

The change was especially evident in culture, science, and art, as well as in other spheres of life. There emerged a powerful hunger, curiosity, and need for new knowledge, particularly in the mentioned domains. A general awakening of scientific consciousness took place, accompanied by the appearance of many scientific creators in all fields of science, including legal science, where numerous theories of the state and law arose. Many of these theories served, among other things, as “instruments” in the struggle of the emerging bourgeois society against the preceding feudal social order.

These theories, and not only they but also developments in science and art, often found their origins and justification in the renewed and intensified interest in antiquity and the study of ancient science, culture, art, and other heritage, especially that of ancient Greek and Roman civilizations. Knowledge drawn from ancient thought was frequently used as a theme or starting point for further research and creation in various sciences, as well as in culture and art, during the past centuries. Roman law and the history of the state and law are illustrative examples.

If we look at the vertical timeline of social development from antiquity to the present day—particularly in European civilization—we see that already at the beginning of humanism and

the Renaissance a key methodological pattern was established in the process of research and knowledge: seeking ideas and solutions first in ancient scientific, cultural, artistic, and other legacies; then, conditionally speaking, “skipping” the feudal period and its legacy; and only thereafter, on this basis, developing a broad and awakened social consciousness and a hunger for new knowledge, discoveries, and advances in all areas of social life.

This methodological path, or matrix, assumes that scientific roots and ideas derive primarily from ancient Hellenic and Roman civilization, while the legacy of the feudal era and of many other ancient and non-European civilizations is largely neglected. Such an approach can lead to one-sided, dogmatic, or erroneous scientific or other perspectives. It is therefore evident that these problems must be approached as broadly and comprehensively as possible in the pursuit of scientific truth.

Many bourgeois theories of the state and law arose after the emergence of humanism and the Renaissance. These theories viewed the state and law in different ways—either as ideal or as social realities—addressed various causes of their origin, and proposed diverse conceptualizations, down to the present day. Many of these theories were intended to serve as tools in the ideological and political conflict between the feudal and emerging bourgeois orders, and thus between different legal orders: some sought to challenge the existing order and justify the new one, while others aimed to justify the existing order and dispute the upcoming changes.

In the past four or five centuries, a multitude of natural-law, sociological, realist, dogmatic-normativist, historical-legal, psychological, and other theoretical approaches have been formulated. Yet the question and problem of defining law remain topical and unresolved, subject to different theoretical approaches, which indicates the complexity and enduring relevance of these phenomena.

2. A REVIEW OF DEREGULATION AND TRANSFORMATION OF THE STATE AND LAW IN MODERN TIMES

If we accept that the goal of the science of the state is to achieve the greatest good (Aristotle, 1975), that the state is a phenomenon to be studied through legal, social, and political theory (Jovanović, 1922), that state power is based on legitimacy (Weber, 1976), and that the state is a tool for the wise and just organization of the political community (More, 1964), then, in light of historical experience and knowledge of the destructive consequences that have occurred in the past and continue to occur today, several questions arise:

- a. Is humanity, that is, its “managers,” repeating historical mistakes that have already cost civilization dearly?
- b. Or are such developments in some sense necessary and inevitable?

It is evident that modern civilization is significantly threatened by numerous existential challenges, including the confrontation between the current and the emerging world order, which is conceptually based primarily on a neoliberal conception of the development of a transhumanist society of a post-democratic and post-industrial character. This new order is grounded in the unfathomable currents of the Fourth Industrial Revolution and the application of artificial intelligence, which will significantly and radically alter the present existence of civilization.

Among other things, these processes, by driving globalization of society, the state, and the law, imply the deregulation and transformation of existing systems. The basic features of the traditional state and law—such as sovereignty, national equality, and certain other values—are being lost, transformed, or transferred. In such a situation, legal science significantly lags behind in offering knowledge and answers to these numerous challenges.

In recent decades, the individual has become increasingly alienated and self-sufficient, subject to various forms of social engineering that

often diverge from authentic human nature and from spiritual and material existential needs. An important question thus arises: will there be new processes in the natural, natural-law development of human spirit, within the broader existential cycle, that could contribute to a “return of man to man, nature, and society”?

3. THE POSSIBLE ROLE AND CONCEPTION OF MYTH IN MODERN SOCIETY

Myths have had a certain importance in the development of legal thought, and in the spiritual and social development and formation of societies, especially in the past. However, they may also play a role today, at a time when numerous challenges accompany the currents of modern society.

The role and significance of myths in the contemporary world can be examined from several perspectives:

- 1) Formation of collective identity and belonging. Myths influence the shaping of primarily collective identity and the sense of belonging to a particular collective (group, nation, people). Among other things, they can provide a foundation for a society to form, build, and enrich common values, traditions, and a sense of historical continuity, supporting the preservation of cultural heritage and identity.
- 2) Explanation of the world, emotional support, and spiritual inspiration. Through symbols and stories, myths offer individuals and groups a particular understanding of the world around them and help provide meaning to life. In this sense, they serve as frameworks for interpreting reality and coping with existential uncertainty.
- 3) Development of moral consciousness and ethical values. Myths can offer individuals and groups concrete instructions and guidelines for behavior and decision-making, thus contributing to the development of solidarity, respect for human rights, responsibility in social processes, and respect for and protection of nature.
- 4) Psychological influence and integration. Through archetypal symbols, characters, and narrative patterns implanted in the collective unconscious of certain groups or peoples, myths can help individuals better understand and integrate their psychological processes. This can foster self-understanding, personal development, and overall spiritual growth.
- 5) Spiritual and creative inspiration and art. In the sphere of culture-art, literature, music, and other forms of expression-myths can inspire individuals and groups to engage in diverse creative activities and to expand their imaginative horizons.
- 6) Although myths are often associated with the past, with natural-law origins and spirituality, their role and significance in contemporary social processes should not be underestimated. The strength and influence of myths can contribute to a better and deeper understanding of oneself and of the modern world, which may have a positive impact on everyday life and spiritual growth and, in turn, on addressing certain challenges of modern society.

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МИТ- КАО ЧИНИЛАЦ У НАСТАНКУ И РАЗВОЈНОСТИ ПРИРОДНОПРАВНЕ МИСЛИ

Резиме: *Изазови савременог светског поретка условили су, поред осталог, и видљив застој у развоју правне мисли, дерегулацију и трансформацију државе и права. У хаотичним, кризним ситуацијама људски род је тражио и вид спасења у митовима, духовном, природноправном промишљању и схватању. Мит је једна од карактеристика сваке културе, настао у прошлости, опстајао, развијао и уобличавао се до данашњих дана, као симбол, тј. скуп симболичких слика произашлих из људске психе, прича, замишљених представа, духовног, обичајног наслеђа, предање које се са колена на колена усменим предањима преносило на појединце, заједницу и заједнице током свог историјског развоја до данас, као гео културно – историјског наслеђа. Улога и значај митова у савремености могу бити различити, и могу се сагледавати кроз неколико видова (аспеката), и то: 1) кроз утицај на обликовање превасходно колективног идентитета и осећаја припадности одређеном колективу (групи, нацији, народу); 2) кроз објашњење света, емоционалну подршку и духовну инспирацију, путем симбола, прича, пружајући појединцима, групи, одређено разумевање света око себе, и пружајући им смисао живота; 3) кроз психолошки утицај на појединце, групе, и психолошку интеграцију 4) Кроз духовну инспиративну креативност и уметност појединца, група, у сфери културе (уме: тност, књижевност, музика и сл). 5) кроз утицај на развој моралне свести и вредности. Иако се митови везују за прошлост, природноправну изворност и духовност, не треба занемарити улогу и значај митова у савременим друштвеним токовима, њихову снагу и утицај, чиме могу допринети бољем и дубљем разумевању себе, савременог света, што се може позитивно, одражавати на свакодневни живот и духовним раст, тиме и на решавању одређених изазова савременог друштва.*

Кључне речи: мит, идентитет, припадност, морал, инспирација, духовност, емоција, психологија