The Problem of Legitimacy of Law
in the Context of Global Legitimacy Crisis

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Abstract

The article discusses such subject matter, as the development of understanding the legal philosophy role for overcoming the current global crisis of legitimacy. In this situation there is being elevated the actuality of elucidating the substantive charging of the idea of the legitimacy of law. The author's starting point is that the concept of the law legitimacy still does not attain the systemic form. This article examine the directions of conceptualizing the law legitimacy that may act as a perspective subject matter for the modern legal philosophy. It is arguable that within legitimacy of social order the all forms of legitimacy is importance, especially, the legal legitimacy that gives rise to formal shaping of social order. The methodology of article is based upon detailed scrutinizing the different approaches to phenomenon of the law legitimacy. There is analyzed the scope and the content of term 'legitimacy' in the political and the legal philosophy through comparative lens. Furthermore, author stresses the new aspects of the legitimacy crisis in age of globalization as the topic for legal philosophy mediation. The novelty of represented article consists in conclusion that targeted tasks of the legal philosophy are to take vigorously up the mechanisms of legitimacy and explicating their breaches.

Keywords: legitimacy, justification of law, social order, legality, procedural justice, globalization.

Introduction

Admittedly, the modern society enters into extremely blurred zone in which there occurs the distortion of various social institutions and social normativity as a whole, both at the national and international levels. The manifestations of the legitimacy crisis are different and closely connected with one another. They arise from erosion of certain legitimacy forms of legitimacy. As initial point, it should be stressed that legal, moral, political and religious forms of legitimacy, being the main forms of the latter, are elements of the legitimacy of social order.

This crisis within signed forms of the legitimacy is now causing a number of problems resulting in the growth of conflicts, violence, social uncertainty, personal frustration and deprivation, etc. The legitimacy crisis may be concisely described as deficit of the legitimacy. There is often stated that the legitimacy crisis is a serious impediment to effective functioning of political, social, and legal institutes. In other words, examined crisis hinders both the individual and social life. In this situation, the actuality of elucidating the substantive content of unconditionally transforming idea underlying the legitimacy is increasing in the context of global shifts.

Among tendencies in understanding the analyzed phenomenon there may be pointed the coverage of examined term a new subject areas, namely moral, religion, art, and, of course, the law. I think that scrutinized notion emerging from the traditional political discourse can soundly be applied to the law. It means a returning to initial substantive sense scope of the legitimacy.

Is notion 'law legitimacy' the subject matter for rational debates within legal philosophy, i.e. philosophy of law? What in this methodological perspectives can be proof of a vision of the law to be just and rightness? I will try to place these questions under discussion.

Discussion

The term 'law legitimacy' articulating the extremely fundamental problem of obedience to law and the role of the law in social and individual lives has certainly become widespread [1, p. 11-14; 5 – 6]. The issue of particular of the law legitimacy as well as the problem of essence of the law legitimacy in general and problem of the legitimacy of concrete laws specifically are taken up by bloggers [7]. Notwithstanding the fact that issue of the law legitimacy has been dealt with by various theoretical approaches, for example, the value and procedural conception, and the conception of justification of the law, I would like state the fact that analyzed term has not acquired the entire conceptual status yet. However, the thinking about the legitimacy of law as systemic phenomenon may acts as a perspective subject trend in the modern legal philosophy. We must be clear about the opportunities of forming a new subject area of the legal philosophy that is closely linked with development of its new functions.

In spite of the legitimacy as social phenomenon has a multiple aspects, it possesses the some key criteria, for example, the confidence in basic social institutes (state, family, education and so on). These are possible due to consistent of social institutes with moral, aesthetic and religious maxims and to law principle, rules, ideals and norms. The globalization enshrined in a postmodernity format introduces some risk of fragmentation the social legitimacy and the mechanisms of legitimatizing. The failure of due legitimacy of social order to 'aggregate legitimacy' of the social order is accompanied by permanent legitimacy crisis that makes a situation of 'life beyond legitimacy'. However, the legitimacy is an embodiment of rightness and, at the same time, a condition of socially shaped life. Like this conclusion, the importance of the mentioned particular forms of the legitimacy within the legitimacy of social order is indisputable. The law legitimacy is especially important, as it give rise the formal structural properties to the social order. Nevertheless, the law in itself should be legitimate too. In this case, there is the need to think about phenomenon of the legitimacy of law.

The globalization involving in its processes a various social relations invokes drastic changes and departures from habitual stereotypes and attitudes. There come into existence a great number of new and quite unconventional relations. Through lens of them, that what earlier was a well-established is apprehended now as an unaccustomed and illegitimate. The weakness of traditional stereotypes of legitimacy is now emerging at the national and international levels. J. Cohen, for example, pays much attention to the legitimacy in international affairs and looks at the problem of state sovereignty in the age of globalization [8].

The notion 'legitimacy' has firm but narrow content that is relevant for the political philosophy. Nevertheless, narrow content is not sufficient for the social and legal philosophy. In order to make use given notion as a tool for the description of processes taking place in social order there is need to bring to life a deep insight in respect of the legitimacy. Speaking generally, the legitimacy is a systemic relation covering substantial aspects and processes of cultural and social life through lens of recognition, confidence and endorsement. There is an axiomatic opinion that if there is the crisis of confidence to one or another of social institutes, including the activities of power bodies, the legitimacy crisis is on hand.

At that, the legitimacy crisis should be understood in the proper sense of term – not as the lack of confidence in and recognition of the law but as the questioning the latter. The crisis of the legitimacy is impossibly to unambiguously indicate as neither positive nor negative fact. It is rather an interval including the some fruitful moments, for instance, the transition to novel patterns of the legitimacy. Simultaneously, this interval contains also negative moment, such as the difficulties of functioning of society. Now, in the age of globalization, the legitimacy crisis is global, i.e. it embraces not only the different areas but also the different levels – national and international.

The crisis of legitimacy derives from the everywhere spreading mind of freedom and adherence of the individuals to economic, cultural, political and individual freedom. From the point of view of sharpening the sentiment of freedom, much could be seen and treated as a barrier to affirmation the willing to freedom that overcomes nowadays the borders and results in the consolidating the spirit of criticism. The freedom has become as the element of current quality of

life, and any restraint of it has already been regarded as an encroachment on the holy of holies. There is therefore raised the issue on lawfulness of restraints of freedom that allows us to revive the traditional debate on relationship between the freedom and the law. However, how can we define the degree of legitimacy of freedom? How can the freedom be ascertained as a basis of the legitimacy? We deem that it is possible because of the law, in principle, plays the role of abyssal and systemic background for legitimatizing the social order and shapes its indicative criterion, namely freedom.

I consider the most impressive and exceeding manifestations of erosion of legitimacy are doubts in the basic ideological and normative frameworks of society, including world society frameworks. The social disappointment in profound reasonableness of pointed frameworks amplifies these doubts. The crisis of the legitimacy is total and global. This fact reaffirms the actuality of the philosophical and especially the legal philosophical reflection aimed at stating the relevant models of the legitimation of social order and legitimation of the legal order of society.

The analyzed crisis has a direct relation with the tensions in the legal order of society and therein lay the area of critical work of legal philosophy reflection. The modern philosophy of law is influenced by situation of problematic legitimacy and strives to give rise the response on these circumstances under position of its mission. Moreover, the legal philosophy does not seek to escape the difficult problems as a problems of its subject matter. The latter needs to be expounded within new tracks of the legal philosophy reflection. We can find that the modern legal philosophy is bearing the heavy burden of responsibility for conceptual solution of crisis of the legitimacy. The legal philosophy strives to justify some perspectives on overcoming the erosion of legitimacy. I will try to ascertain that the legal philosophy is a considerable component of process of the legitimation. It may seem very interesting that response of the modern legal philosophy to global legitimacy crisis is provided by increasing of its meditation with regard to phenomenon of the legitimacy and legitimation.

Results
1. The legitimacy of law: between the political philosophy and legal philosophy discourse

The legitimacy is subject matter of both the political and the legal philosophy. To be sure, the political philosophy has firmly occupied this phenomenon and elaborated the specific lens of perceiving the legitimacy and legitimation as a political situation and political process founded on law and legal procedures. As the result, this philosophy has thoroughly highlighted the content of legitimacy, concurrently having created the massive block of scientific studies (F. Barnard, D. Beetham, K. Binmore, A. Buchanan, J. Cohen, J. Hampton, S. Hershovitz, B. Manin, F. Peter, P. Riley, J. Waldron, Ch. Wellman, etc).

The political philosophers are regarding the phenomenon of legitimacy in different ways but with retaining the basic conceptual senses. Here, the legitimacy is usually represented in capacity of the acceptance the power by population, as well as in capacity of the recognition of its authority and the consent with the power as governing regime. The legitimacy in political sense is a situation when the citizens or other subjects voluntarily perform the duty to obey to the decisions of authority. The obedience acquires the legitimate format.

It seems that legitimacy is more familiar to the political philosophy than to the legal philosophy. Nonetheless, the legal philosophy must not live at the expense of the political philosophy that often moves to legal discourse as widest context of its meditations. Surely, distinguish between the legal and the political philosophy is conditional and relative. As varied nuances of looking at the phenomenon of legitimacy are possible, I presume the subsisting the intersecting sector of scientific researches of the political and the legal philosophy. In my vision, there emerges the necessity to elucidate difference between the political and the legal philosophy approaches to the legitimacy.

The political philosophers engaged in elaborating the conceptions of legitimacy and being aware of the implications of activity of the legal philosophy refer to these implications. That is why boundaries between the political and the legal philosophical concepts of legitimacy are very transparent. In some sense, the theory of the legitimacy represented by increasing numbers of political and philosophical conceptions has integrated nature. In passing, the comprehending the phenomenon of legitimacy, its historical forms and sources also belongs to the domain of the moral

philosophy. Therefore, all said directs to calls for the necessity of coordinated attempts of political, legal and, undoubtedly, moral philosophy.

The legal philosophy focusing on the legitimacy covers relations between the power and the law tied with the power. The power through legal procedures integrates the legal order of society, becoming the legitimate authority and then sustaining the firmness of public order. As Weber has already pointed, legal procedures allow to associate and to accept the power of political authority having the legitimized justifications to coerce the citizens. The legitimate authority is a pillar and one of significant source of the law, and it provides the enforcement of legal norms being, ideally, subjected to law.

It is very often the confidence in actions of all branches of authority is determining the trust to the legislation as well as to the justice in accordance with the principle of the law. Thus, the legal philosophy starts from the vision of legitimate authority as indispensable condition of mechanism of realization of law. Amidst the branches of authority, the judicial and legislative authorities are more interesting for the legal philosophy, than executive power, which is, in turn, more interesting for the political philosophy. If the legislative and judicial authorities are put in streams of legal philosophy meditations, the procedural aspects of activity of these branches of power are also interesting for given philosophy.

The pointed procedural aspects are the integrated part of the legitimacy of law. The Estlund's conception of legitimacy has reflected the process of conceptualizing these aspects. Developing the 'purely' procedural conception of legitimacy [9, p. 108] within his conception of 'epistemic proceduralism', Estlund, at the same time, does not reduce the legitimacy to the exercising of the procedure-independent standards. I will further this approach in my article.

The actions of authorities that might be attractive to the legal philosophical thought must be living picture of everything right, proper, due, just, and legal. In so far as the law stands for the government of right, authorities are designed to implement the given rules. The law legitimacy is, at first, based on appropriate functioning legislative and judicial authorities and proposes due functioning of executive authorities. Therefore, the legal philosophy should reflect the procedural moment of authority being not only standing for the shaping the power's legitimacy but also for the establishing the legitimacy of law.

Indeed, due to procedures of legality the legitimatizing of authority is a crucial for the political legitimacy. While the political philosophy concentrates on named subject matter, taking into account importance of law as procedural aspect of authority, the legal philosophy observes this situation in other section. That implies the central importance of the law legitimacy as recognition and acceptance of the law by population in capacity of right, proper, and just reality as well as in capacity of the guard of right, proper and just social order as a whole, including the similar quality of authority's nature and actions.

The consideration of the power's legitimacy with emphasis on the law legitimacy may have the one theoretical effect. Like this, the globalization is being accompanied by different tendencies, for example, by widening of the will to power. The rise of open areas originates from specific outlines of power-holding relations. As consequence, in the age of globalization the problem of power's legitimacy should be identified in a new way. That is setting the new level of the comprehension of the interrelation between the power and the law subsisting as etalon of the recognition or the non-recognition power as legitimate.

In addition, the power acquiring new and more complicated forms objectively falls into legitimacy crisis. This leads to the increasing of role of the law in the capacity of background for recognition of freedom and power in the capacity of contrary phenomena of human life. Moreover, the law is seen as the measure for considering various aspects of social order to be fair and proper, and, accordingly, legitimate or non-legitimate. All signed means that the understanding of legitimacy as the central element of functioning of social order enters into the area of legal philosophy vision. Here the legal philosophy intersects with the social philosophy and demonstrates the fandimental nature of latter. But it is also clear that the legal philosophy should be interested in the legitimacy of law and the legitimazing of the law as a dimension of the legitimacy of social order. The shaping impact of law may be accurately named the ruling of the law.

Under this interpretation the legal philosophy has to strive to inscribe the law grasped as the legal reality and legal order in the broadest social and cultural context. In confirmity with this vision the law legitimacy is neither a prior nor the result of process of legitimazing. The legal

philosophy, underlying the idea of law and the foundation of possibility of the legitimazing of law, demostrates the significance and the necessity of the law for society and individuals. At once, this madiative working of the philosophy is a historical so long as the every epoch presumes a certain demands to the law and its legitimacy. And so, there is no harm to deconstruct in some degree historically obsolete layers of the idea of law as well as to criticise the subsisting forms of existing of law. But all that should be the subsidiary moment of constructive elaborating the idea of law and its legitimacy in direction of their updating.

2. The conceptualizing the legitimacy of law

According to my vision, the legitimacy of law is the expression of virtue of principles, rules and institutions of law. This approach is consistent with viewing the legitimacy as a virtue of political institutions, actions and decisions. The law is an initial reality, while the authority is a derivative reality existing as important instrument that needs to be legalized, i.e. integrated into the law reality. The authority is a sort of 'law medium' and, at times, is a source of legislation as positive law that is not reduced to law in general. The law is above the authority in order to provide the ruling of law reflected in the conception of 'rule of law'.

The described details have principle importance for the modern theory of legitimacy that is being developed by the legal philosophy. The latter is explaining the specificity of the legality and the legitimacy at the level of political and juridical understanding. The divergence of understandings subordinates to some regularity connected with that the government actions may be legal but not being legitimate. This situational opposition of this fact is possible when the government actions are legitimate but not lawful. The legality is a conformity of the government to legal rules and procedures, while the legitimacy, in accordance with its legal sense, is conformity of the law and the government actions to high principles and values of law. The legality may be separate institutional phenomenon only under umbrella of law legitimacy. So long as the morality is a more profound justification of the legitimacy of the social order, the legitimacy without the legality, like in the just pointed case, is mainly moral by nature. The law based on morality has to solve the collision between the legality deficit and the legitimacy deficit through appropriate legal procedures.

The discussed features of legitimacy refer to the Buchanan's conception of the legitimacy advocating its moralized version. Buchanan points that the wielding political power has political legitimacy if and only it is morally justified [10, p. 689]. Thus, justified authority is admissible for people. As stressed by Simmons, this circumstance is a necessary but not sufficient for political legitimacy since the latter includes the generating the legal obligations [11, p. 137]. I think the moral defensibility of authority needs for legal procedures that are capable of shaping the obligations to obey to government commands under more universal background of social and individual consent to do so.

My theoretical concept of the law legitimacy implies, as some moment, the ascertaining a dissonance between the legality and the legitimacy of authority by postulating the law rules and procedures in kind of eminent principle basic of the law having the moral loading by its nature. As the result of such approach, the political power has to be legal and legitimate. That is a significant condition for legitimacy of legal rules derived from authority. The authority is the guard of the law legitimacy and the legitimate legal order in general. The other guard is citizens. Their adhering to law is the central barrier for illegal impulses of authority.

The opportunities of the legal philosophy in the sphere of researching the legitimacy phenomenon is contained in initial sense of the legitimacy as result of the recognizing and accepting something or someone right and proper. This is a broad definition of legitimacy enabling us to set the maximum theoretical comprehension of legitimacy with utmost abstraction. That inspires the process of philosophical thought. In the overall philosophical perspective, the legitimacy is a synonym of the 'cluster' such appreciations as right, proper, and just. The system of appreciations covers the moral, political, economic and legal areas of society. The terms 'legitimacy', 'legitimation', 'legitimizing' should not be understood in capacity of simple connotations. I would want to suggest the definition of legitimacy as the unity of these appreciations. The legitimacy, being the result of this theoretical approach, in more concretized forms provides the legality and the morality.

How should the legitimacy of law be exhaustively determined? It is a significant for the legal philosophy, firstly, to highlight the legitimacy as an effect of recognition and acceptance of the social order, the social processes and other different aspects of human life as corresponding to legal stipulations. This affords to evaluate the social order as right and proper in all respects. Secondly, the legal philosophy also explores the causes underlying the process of legitimizing too. Probably, it is a principled part of the legal philosophy mission.

One enough prominent intrigue should be reflected. On the one hand, the legal philosophy assesses the social processes through lens of law and legal normative order. On the other hand, it could envisage the concept contours of the legitimacy of law. That would be a serious metaphysical step of philosophical thought. In this case, the legal philosophy should try to invoke the reasons of possibility of the legitimacy of law as significant form of the legitimacy of social order.

I would like to undertake an attempt to stress the synchrony of descriptive and normative character of the law legitimacy concept. The legitimacy as starting point of social order arises from activity of procedural mechanisms including rules of recognizing and accepting by individual and/or groups the different aspects of social being. Such rules may be political, moral, and, undoubtedly, legal. The legal rules are more reliable to regulate all kind of areas of society. This statement follows from the thesis that the law contributes to fixing the legitimacy of social order and may stand as its component. In my opinion, the law area should be considered to be one of the subsystems of legitimacy of social order. That conclusion supposes increasing the weight of the legal philosophy reflection upon the legal legitimacy of social order including moral, religious and political orders.

Historically, the legal philosophy has had connections with the legal theory chiefly having explored issues on normativity and validity of law and laws. For the legal theory, for example, the question on legitimacy is a derivative. What is specific of the legal philosophy approach? It should be understood in a comparison with the approach of the legal theory. In particular, the legal normativism, being influential trend in legal theory, has understated the significance of the problem of legitimacy. The legal theory represented by normativism, as Priel has arguably noted, leans down, in fact, to reduce the specific of law nuances of legitimacy, considering the latter rather political than legal phenomenon [12, p. 10-18].

This attitude explains the interest of the legal normativism to asserting the vision of law as a system of valid and feasible norms embodying the intention of the power. However, the legal theory, in certain degree, does not reject the entire problem of legitimacy. In so far the legitimacy of law is based on the social normativity, the legality of power as a part of legitimacy in general and legitimacy of law in a wide sense is not possible without normative regime. Indeed, the fact that the legitimacy and normativity are overlapping and intersecting phenomena is obvious. However, the distinction between the former and the latter for the legal theory is ambiguous. Hart, for example, has not concentrated on this problem, mainly having paid attention to the nature of law demands and to the nature of obligations to obey the laws. Making distinction between the legitimacy and the normativity as well as between their closely linked substances has philosophical background. The moral and political philosophy, for instance, has treated the term 'legitimacy' in respect to the authority as its normative status affording the governor institutions to govern the people.

The legal philosophy has rich heritage of conceptual founding the legitimacy and the legitimation. The nature of these phenomena has hotly been debated by the scholars. According to my insight, the modern legal philosophy already is mature to understand the dual character of the reflection upon noted phenomena. On the one hand, they are subject to closely scrutinizing through analysis within terms of different theoretical positions. On the other hand, the philosophical examination of the legitimacy and legitimation would be interesting as a separate subject matter. The former is important for the history of legal philosophy. The latter is significant for attaining the understanding the role of legal philosophy in the modern society, including understanding its potential for overcoming the legitimacy crisis. It is just that very case giving us the opportunity to lead the legal philosophy away the suspects in decline of its feasible role for justification of a new paradigm of legitimacy.

In so doing, there is a reason to emphasize the lack of maintaining the closed linkage between the justifying of the legitimacy by the legal philosophy in historical aspect, on the one hand, and the contemporary efforts to detail the legitimacy concerning to law, on the other hand. Strong ties, undoubtedly, would promote increasing of methodology assets of the legal philosophy. However,

the modern legal philosophy strives to solve the problems of legitimacy not having appeared formerly. The globalization of the law is accompanied by a new horizon of legal regulating. That demands a new approach to justification of the law in terms of legitimacy. Substantially, the legal philosophy has to solve problems of the essence and meaning of the law, taking into consideration the current historical situation in which the society and law exist. That is why the legal philosophy should perceive the new trends at the national, international and subnational live shaped in trends of law evolution.

Taking into mind the signed conclusion, the legal philosophy recurs to question why does the legitimacy exist. The legitimacy is core condition for individual and society life. It determines the framework of social order, then becoming its attributable moment. The legitimacy is the recognition and approval of existing social order in which motives, goals and interests of real people's actions and activities are embedded. In other words, the legitimacy is both the fundamental prerequisite of normal social processes that is the main result of formal and informal procedures of legitimation and a specific process. Therefore, secret of the legitimacy consists in procedures of legitimation. Such procedures have to work effectively otherwise the social order will undergo the erosion. The distortion of the social order disorients human conduct and entails the social conflicts and personal deprivation.

Target task of the legal philosophy is to take up the mechanisms of legitimacy vigorously and to explicate their breaches. These conceptual activities have proper practical effects. Together with that, there exists possibility to display the function of the legal philosophy due to justification the social norms and principles, including the critical position in respect to them. The legal philosophy strives not only to simply restoring the existing legitimacy structure but also to offer more adequate conceptual outlines of latter. Additionally, it is necessary to show the hemisphere of the legal philosophy activity. It is an obvious that the legitimacy has and must to have the vast field of different aspects – political, moral, legal, religion, etc. For the legal philosophy, it is significant to concentrate chiefly on political and legal aspects of legitimacy and on appropriate procedures. Nevertheless, the reflection on the moral aspect of legitimacy of social order also should take into account the possible the legal philosophy conceptualizing of them.

Considering the moral, political and legal legitimation, the legal philosophy details the legitimating function of philosophy as such. Whereas the legal philosophy is working in special areas, it obtains the high altitude of philosophical thought. The philosophical thought penetrated by specific philosophical preferences is a normal phenomenon relevant to the legal philosophy. The result of this fact is the mosaicism of its efforts to reconstruct and, in the end, to restore the social legitimacy. One of the more significant elements of such pluralism is the specificity of setting out the connection between aspects of social legitimacy. It is also interesting that the difference in intentions of philosophical efforts consists in constructing and deconstructing the legitimacy designs.

Authority of the legal philosophy derives from its aims to set up the corrected balance not only between varying aspects of legitimacy and manners of their arraying but also between constructing and deconstructing conceptual intentions. The modern legal philosophy must be careful in its attempts to construct the due image of the legitimate social order. I think the noted image expands the demanding a new approach to content as well as to structure of the legitimacy of social order. Both the content and the structure of its legitimacy shall correlate to some novelty of social order. The evolution of the social institutions and norms regulating the social relations affects the image of the legitimacy of social order.

The modern social order is no an autonomous reality. The current shift in organization of society raises the issues on appearance of heteronomous trends in law and moral. These trends connected with mentality of postmodern is such phenomenon as moral and legal personal sovereignty, particularly, increased because of the development of digital environment. It follows from the assumption that traditional theoretical patterns, for instance natural law, are becoming a narrow starting point for both modern and postmodern legal philosophy and for theories of legitimacy and legitimation. However, the philosophy of natural law continues to keep the certain attractiveness, although there is the digitization of individual and common life. Despite the fact that manipulations of consciousness take place, contemporary people, nonetheless, retain autonomic and critical positions that are, at times, in situation of ideological vagueness. It stands to reason, the doctrine of natural law is seen to be capable of being the ideological pillar of due law.

I deem the central part of philosophical thought inquiring a solving of problem of legitimacy correlates to the objective exposition of the legitimacy of law, as it has been above-mentioned. This exposition is the key moment for legitimacy of authority. The legitimacy system of law includes the varying aspects such as recognizing the meaning and the necessity of law existence. That entails the confirming the readiness to obey to the legal policies, including derived from power [13-15].

Traditionally, having undertaken the activities on law justification, the legal philosophy herewith has promoted, in just now mentioned sense, the triumph of law. These activities should be recognized the integral element of legitimatizing mechanism of the law at the top level of legal mind. With the utmost clarity, the legal philosophy for each historical age has strived to find the clear sense and proper basis of law as the legal existence of individual and society. Simultaneously, this could identify some new approach to law that is not merely a normative system legitimating numerous phenomena of social and cultural life within social and cultural order in capacity of lawful or non-lawful, but as legitimate (proper, true) or non-legitimate (improper, no genuine) too. Thereby the law gives support to mental structure that arranges society areas by means of subdividing of them into matter reality and mind (ideal, due) reality. These are coordinates expanding to any kind of human conduct. This thesis leads to the renewal of conception claiming the worth of law and specifying the content of its value sounding.

The law is an enormous part of the social norms that provides stability of social order. Should law be subject to the separate estimating under above-signed criterion of correctness and incorrectness? The need for that could be argued by necessity of attainment of stringent legitimacy thereby deep thought reflection of law validity. This presupposition arises from the presumption that the law is basis of conclusions on power legitimacy, as well as on legitimacy of other phenomena and institutions. The law has to deal with it objectively and impartially, avoiding formulating the final assertions, but highlighting the opportunities of acquisitions by one or another aspects of social life, that lost the legitimacy or come into the zone of crisis of their legitimacy, a new contours of their recognition and confidence in them. This implies that the law as the autonomous area must be irreproachable. I doubt whether law can give reason for recognition of the power and the state if the authority of law is small in itself. As the result, the formal legal legitimacy will be here unstable and unconfident.

3. Substantive contours of the legitimacy of law in the context of wide approach to law

A distinctive feature of the law realized in philosophical reflection is the capacity to alignment its own legitimacy and the absence of fear about critical contemplation at the level of professional and popular sense of justice. The law is inherently divided into different forms, one of which is so-called positive law arising from authority. In addition, the law includes fundamental ideas, values and principles that permit to estimate the positive law as one of component of universe of the law. Pursuant to my opinion, block of ideas, values and principles holds primordial and irrefutable legitimacy of law though their historical content may be changing from age to age. That explains mainly the abstract but simultaneously sense- and aim-oriented nature of given block.

I think the major justification of law as the legitimate law presupposes compatibility of former with social and cultural values. Nonetheless, heuristics of this thesis implies a very difficult theoretical topic. In accordance with W. Sadurski which has undertaken critical scrutiny of formula 'democracy-plus' questioning the theoretical model 'democracy without values', the value approach has supposed what "law, in order to be legitimate, must embody certain substantive values" [3, p. 379]. K. Murphy, T.R. Tyler and A. Curtis share and detail the value approach in relation to the laws and rules. As they say, "we suggest that the rules and laws of an authority gain legitimacy when they are consistent with people's moral values, and if one's personal values are consistent with the law, cooperation and compliance will be voluntarily extended has also found that deeply held moral beliefs can be more accurate than procedural fairness judgments in predicting acceptance of authority decisions that have threatened one's moral views. Hence, just as values can coincide with law, so too can law be undermined by contrary values" [2, p. 3].

Certainly, the said ideas, in a way, could cover the law legitimacy in whole. The value-oriented approach to justification of legitimacy of law proceeds from concentrating on nature and content of values acting as a basis for evaluating the law and the laws in respect of their legitimacy

or illegitimacy. The values, nonetheless, are not absolute reference point along of their historical and group variability. In the age of globalization when values is complicating especially the relativism of values makes the legitimacy of law very problematical more than ever.

The underscored insight provides possibility to detail the limits of content of purely value approach to the legitimacy. From this point of view, it is worthwhile returning to widespread conception of the procedural justice addressing the fairness and transparency of processes by which the decisions and acts of authority are being done. It is an attractive scheme accounting for phenomenon of the legitimacy as the legitimacy of power, as well as, in certain perspective, the legitimacy of law. The procedural justice has many aspects that has been articulated by Rawls. For the moment, it has become the solid approach to description of closely connected legitimation of law and legitimation of power [16, 17]. However, this approach often is devoid of some moments. As K. Murphy et al explain, the theory of procedural justice emphasizes how people perceive the legitimacy of authorities, at the time ignoring how people may receive the legitimacy of laws and rules. Indeed, the theory of procedural legitimacy overshadows why and on what ground the procedures providing the legitimacy of power are legitimate.

There is no doubt that the procedural justice is relevant to provide the accordance of people's behavior with power demands. Furthermore, the procedural justice does the obedience to the law possible. The legal procedures must therefore have the profound justifications in order to be ground for made decisions and acts. In these circumstances, the value approach enables to shed light on vague background of rightness of legal procedures the following to which makes people's and power's decisions and actions to be right. The conception of procedural justice pays the close attention to the compliance with formal procedures in context of formal goals, not to values that really are not subject to full formalizing. As D. Smith remarks, it does not mean that procedural fairness is a sole or a central foundation of legitimacy in all societies at all stage of development [18, p. 31-32; 19].

As I suppose, it is no clear what are power's demands in themselves. Are they the speaking law or the tool for the supremacy of law. The procedural justice as model of legitimacy is good for explaining the behavioral aspect of functioning of society's order, not for broadest view on the legitimacy of social order and legitimacy of law. The latter should be understood as no a number of legal rules but as the law universe of human being. From this attitude, people may question about legitimate of material and procedural legal rules founding the ground of legitimacy of power. The procedural justice also is extending at various bodies of the juridical power, for example, the police, court and so on. The legitimacy of the police and the legitimacy of the court [20, 21] are special subject matter for theory of procedural legitimacy. If laws and law are illegitimate, the political and executive power will be illegitimate too.

When we think about the legitimacy of law, we have to be fully aware of object of this theoretical construction. The notion 'legitimacy' is traditionally applied to that is named the acting or positive law and is quite applied to that is named the legal order. Similar to legitimatizing of the law, the legal order, being legal order of society, should subject to legitimatizing too. Due to this fact, the legitimacy of social order becomes possible. The legitimacy of legal order is one of topics of history of legal thought [22] showing that is very essential for the normally and sustainably functioning civil society and the state, and for their institutions. Furthermore, the legitimacy is a spiritual and pragmatic value.

It is difficult and even impossible to insist on injustice and unfreedom in capacity of fundamentals of social order. Notwithstanding the ideas of freedom, justice and equality is needed to be harmonized because of tension among them sets an utmost horizon of individual and social life. This horizon has been always embodied in the past and is being embodied in the present to different degree in the legal order of society as certain substantial dimension of freedom, justice and equality. The described a priori mental and normative ideological block, having composed the natural law, has carried out and is carrying out the adjustment of positive law. Of course, the historically emerging pause of the adjustment is accompanied by the crisis of law legitimacy and by crises of one or other of social phenomena, and, finally, by the crisis of all legitimacy machinery.

So well, the presence of fundamental core of law is the condition of the law legitimacy. This core is needed for vindication, protection and modernization. That reveals a new subject area for the legal philosophy thought. Moreover, the legal philosophy is the central point of legitimatizing of the law understood as its theoretic justification. These efforts essentially extend

the functions of the legal philosophy in the modern world. As the result, the legal philosophy does not merely study the processes of legitimatizing and illegitimatizing the social phenomena in aspect of legitimatizing and illegitimatizing of the law. The legal philosophy carries out the function of providing the increasing of the legitimacy of law, showing not only the system of principles, ideas and values that justify the law, but also proposes the measures for updating the law and for best implementation of mentioned system in positive law thereby contributing to legitimizing of law in public consciousness.

Indeed, the law will hardly cope with its goals if it will not be authoritative. Therefore, there arises the issue on systemic evaluation the positive law. This evaluation includes not only the criteria of its effectiveness and advisability but also its ideological reasonableness and capacity to correspond to calls of the times. A more practical analogue of law legitimacy is admissibility of the positive law by population. Insofar as the acting law is addressed to all citizens, it is possible to say about its admissibility alone in case of balance between interests of different groups. That means that the legitimacy of positive law is the result of social consensus, and the positive law may elevate its own level of legitimacy over group of interests.

There is founded the position on the difference between the law and the laws (legal rules). The system of laws, as well as the enforcement of them is not self-sufficient. The legislation and judicial practices, and other forms of law is integrating into an elusive system of norms, principles and values named as the law in the wide extent, for example, as the natural law. As above-signed, the natural law rhetoric is enough conditional now because the center of people's life has moved to the technological environment. The natural law approach reserves all rights to further development as it has placed and is placing the emphasis on the axiological dimension of law, giving to the law as system of pragmatic rules the profound justification. In conformity with the natural law paradigm, the law is subject to great humanistic ideas. That concerns the law making, the enforcement of law, the obeying to law and the free realization of legal norms by citizens. Retaining a positive moment of natural law tradition, it is a necessary to admit very abstract position of latter.

What is the law dimension in wide extent? Is it the reality or the presumption? I consider this dimension setting up the legitimacy of formal laws to be presumption, and, more concretely, to be ideological system. However, this presumption is a more or less valid as the mental intentions is integrated part of legal consciousness. The crisis of law legitimacy has begun with understating the need at the preserving, maintaining and developing of mental intentions as regards legal area. Moreover, there might be said about the loosing and even the losing these intentions being above-determined as presumption.

4. Some lessons from discussions on rationality of the law

The law universes sanctioning the concrete legal order of society, being understood by me as the presumption, may also be assessed as a sphere of belief in rationality of the law. The latter wording belongs to M. Weber. I want to develop this thesis. Well, Weber thought that the generalized belief in rationality of the law is ground for the admitting the political authority to be rational when former acts under stated legal procedures. The citizens act in accordance with this belief and are confident in the rationality of law that directs them to relying on authenticity of content and of application of law, and to accepting their duty to obey. We see the triumph of law legitimacy of social order. Pursuant to position of author of given article it would be true to assert that the belief in rationality of law must be cover both citizens and all power branches, i.e. it must be overall.

It is not accidental that under Weber's approach the legal legitimacy has become the one of dominant forms amidst other forms of legitimacy. As I think, Weber has excessively paid attention to the legality of authority as sources of its legitimacy. This fact may be justified by central importance of legal authority for legal character of social order and for legal legitimacy of social order. The legal authority makes laws and decisions, based on laws. It demands that the authorities makes laws and provides the enforcement of them within format of the legitimacy of law. In my opinion, the legality of authority not reduced to the rationality of eminent law universe is interesting for the legal philosophy. In situation of constitutional state, citizens shall mainly obey to law and directions of authorities that do not have independent importance because the former embodies, in principle, the rule of law. The rule of law is accomplished the intentions to adhere to law. These intentions are in relationship with the belief in the law and its rationality.

The legitimacy includes some moments of beliefs and persuasions that are a spiritual background shaping the legal culture. The legal beliefs and persuasions compose the fundamental basis of legitimacy of social order in general. With regard to the political legitimacy, the citizens believe and persuade that the government actions coincide with appropriate using of power in accordance with constitutional mandate. It occurs in the democratic society. As the consequence, there are persuasions that the legal rules and court decisions are right and proper. The legality of authorities embedded in the legitimacy in the context of trust to them, leads to the legitimatizing the social order. The basis of beliefs and persuasions to legality of authority in the traditional societies has rested on "celestial cues" and something of this kind. Anyhow, the beliefs and persuasions in respect of the authority legality is an addition to beliefs in right, proper and just of law, its rationality or divinity.

The crisis of legitimacy accompanied by procedural crisis has begun with crisis of the mental foundations of legitimacy. The history has faced variable forms of legitimacy crisis. The ongoing crisis is a one of forms of changing of legitimacy paradigm, including the changing the paradigm of legitimacy of law. The general line is as trends to rational background and, accordingly, to rational philosophical justification of legitimacy. It demands the taking into account the dynamic of changing of paradigm of rationality in philosophy and society. However, these circumstances do not decrease the role of beliefs and persuasions existing at the ideological and mental level within the law consciousness. The rationalizing of them is a limited. It also demands to take into account that the full rationalizing of legitimacy is becoming fragile, because the law consciousness has lost elements of "absolute clamps" represented in form of legal beliefs and persuasions. The extreme relativism absolutizing the rationality of law and of legal life is fraught with trends to permanent crisis of legitimacy.

In this light, the Weber's concept, built upon the principle of human liberty and rationality and having given rise to the rank of legitimacy institutions, is needed to be revised. The perspectives of modern democracy induce the seeking a new form of democratic legitimacy backing on considering the people as the actors of political and legal processes. At the same time, we should not reject the idea of rationality but should debate its new paradigm. However, in the modern legal mentality there prevails the urgent request of justice not the rationality. In my opinion, the modern justice must be rational. The balance between the rationality and the justice calls for a renewing the law beliefs and persuasions of people. We must interpret the rationality not as wrapping of legitimacy, but as underpinning of justice.

The belief in the rationality of legal practice as the pillar of legitimacy was questionable by Schmidt. He also has made distinction between the legality and the legitimacy, and has argued that is impossible to find within the law the adequate foundation for state. Contrary to Weber, he claimed that the legitimacy of norms relies on people's acclamation of them [23, p. XV]. Schmidt referred to idea that the law has formal coherence, and the state has needs for more than the legality simply to make the people beliefs in its authority. The legitimated state is a core sense of legal traditions based on constantly reaffirmed and recreated symbols and myths. Having disagreed with the Weber's conception of the belief in rationality of the law as main source of legitimacy, Schmidt has pointed on general decline the modern rationality as an initial legitimacy source. Having attempted to show the origin of crisis of parliament democracy, he has stressed that this crisis has been motivated by the overtaking the belief in will over the belief in reason [24, p. 48-50].

I think, there may conclude similar thesis on some infeasibility of rational background of the legitimacy of law. However, as I suppose, the general crisis of rationality acting as foundation of legitimacy does not mean the failure of rationality. The belief in will, being applied to situation of crisis of political and legal legitimacy, is danger in respect of the social institutions. Moreover, the belief in will scarcely may be foundation of the law based on the idea of justice balanced, in principle, with the rationality. Hence, the political legitimacy must not be beyond the authority and rationality of law. In turn, the legitimacy of law is not beyond the principles of rightness, justice, and, of course, rationality.

I sympathize to the approach to the political legitimacy that have been drawn by Rawls having followed to Kant's view on the difference between the legitimacy and the effectiveness of authority and having admitted the case when the obligation to obey did not cease if the laws is unjust. Rawls has treated that "political power is legitimate only when it is exercised in accordance

with a constitution (written or unwritten) the essential of which all citizens, as reasonable rational, can endorse in the light of their common human reason" [25, p. 41]. The Rawls's conception of the political legitimacy was connected with the justice and the common human reason. And so, the legal philosophy can widely treat such common orientations, as rightness, fairness, and justice in kind of pillars of the legitimacy of law. To say about a likeness between the law and the policy is not to imply theses on coinciding the law and the political legitimacy.

The crisis process in the law, on the one hand, and law consciousness, on the other hand, in spite of its extending, has some limits. The modern law disposes the one substantial detail, namely the human rights. The constitutional principle of the rule of law correlates to absolute values of human rights that stem from presumption of human dignity implying the personal freedom and valuation. The modern law includes latters as the components that serves as a good example the beliefs and persuasions that are not rationalized totally. The human rights resulting from the presumption of human dignity are most dear for peoples. The law regulating and protecting them is mainly law of human rights. The human rights have become powerful factor of the legal legitimacy of social order, at the same time, being the weak link. That is accounted for a vulnerable of protecting and fulfilling of them. Human rights actualize such principle element of the legitimacy of law, as the equality. With regard to expounding the equality, the greatest role belongs to the Sadurski's researching [26]. He has examined the sphere of legal equality and argued that the plausible conception of non-discrimination may be constructed through reflective "equilibrium process", and yet that should reject the thoughtless assumption on that the presence of some particular criteria of differentiations necessarily hides the legal classification as discriminatory.

I suppose the breach in mentioned beliefs or, in my wording, in presumption of the eminent law universe, correlates to the legitimacy crisis and the crisis of habitual mechanisms of legitimation. The contemporary humanity is losing the trust to homogeneity and autonomous world of law ideas and values, as well as to the general socio-cultural ideas. That is a narrowing down of mentality, including the law mentality. All noted should be signed as consequence of moral and mind degradation. The modern humanity is losing trust not only to the law principles but also to the wisdom of the legislators. The accountings of legislators now is no sufficient foundation for law legitimacy. Be it as it may, this crisis may be regarded as shift of model of the law and the law legitimacy, namely as the transition to relative, pluralistic and heteronomous world of law rationales existing as presumptions. In these conditions, the crisis of law legitimacy leads to the crisis of legality. The full renewal of law rationales is the lap of the future. It is determined by need at overcoming the disoriented, in the view of law, conduct of citizens.

The regarded conclusions indicate that there is need to give in details the accounting for the relation between legality, legitimacy, and legitimacy of law. Indeed, the legality, including the legality of power, is a considerable element of the legitimacy of law, in particular, and the legitimacy of social order in general. The legality refers to people actions, as well as to actions and decisions of the executive power, the judicial authority, and the legislature authority. The foundation of their legality transforming to their legitimacy is the correspondence of them to laws. Meanwhile, same laws should correspond to the law in the wide extent. Due to the legal foundations and, accordingly, legitimacy, the power is becoming the political authority and an attractor of the legitimate social order corresponding to legitimate law.

The power in order to be integrated into the legitimacy of law and the legitimacy of social order should correspond to law universe. Such corresponding is the substantial part of the social legitimacy. Therefore, the power's legality is a merely procedural tool of the legitimacy of social order. The actions, including actions of power, may has the criterion of legality but this is insufficient for recognizing the existing of legitimacy. The society has the pointed position on possible tension between the legality and the legitimacy. The crisis of legality undermines the law order of society and, as consequence, legitimacy in general. In these conditions, there is appearing the need to envisage the law universe that to be adhere to it.

Simultaneously, the law legitimacy is not only one of forms legitimacy but such form that affects the valid realization human goals and intentions. What is an ultimate basis of the law legitimacy of social order? These are moral and even religious intentions intersecting with the fundamental law intentions and setting up united moral-law complex. This thesis could be demonstrated in terms of the idea, value, and principle of justice. Hence, the law universe resists to its own final rationalizing. That confirms the proposal of above-presumed character of the eminent

law universe sanctioning the law legitimacy of social order. In the whole, the law universe has moral-law nature that overlaps with conclusions of theory of natural law.

The legal life in its different forms, such as executive and legislative activities, also encompassing the realization of human rights, has permanently to bear in mind this moral-law universe. The forgetting the basic justifications of the legal order of society directs to legitimacy crisis. What is the means for overcoming this crisis? Opportunities of that are not simple enduring the negative processes of social disorder. The overcoming this crisis presupposes the intensified seeking the relevant model of mechanisms of the legitimatizing the social order. The crisis of legitimacy of power, law and social order should not be suspended but should be settled due to assistance from the legal philosophy potential. The legal philosophy must elaborate the conceptual framework of creating a new law legitimacy of social order on basis a new and updated mechanism of legitimatizing of the law.

Pursuant to said, it is clear that theoretical working is scanty that law would be legitimate in practice. At the same time, the philosophic legal legitimatizing is the aspect of widest understood processes of law legitimatizing and acts as ideological form of it. The theoretical legitimatizing of the law and directions on practical legitimatizing of the latter presupposes the initial pluralism of philosophical legal reflection. However, in this pluralism there is hiding the risks of fragmentation when, in accordance with different types of understanding of the law, the separate models of legitimatizing are emerging. In the kind of condition of noted legitimatizing, the impact of the philosophy on law may be as constructive dialogue between the legal philosophy conceptions in perspective of attaining the consensus between them on issues of viewing what is the law.

In addition to said, it is now time to emphasize the one interesting trend. The problem of the law legitimacy in conditions of the globalization age, as I briefly mentioned, is parallel to the law globalization. The domestic legal order has integrated into the international legal order and then to the global law. There is emerging a new vision of that what is law and, accordingly, of that what is its legitimacy. It is necessary to point out the one of most significant lines of legal philosophical trends, namely the analysis of the legitimacy of system of international relations and international institutes backing them [27, 28]. During the discussions on the justice, liberty, and equality within international relations regulated by the international law legal philosophy has significant perspective. That turns us to the problems of the legitimacy of international law and international legal system [29-31].

Here, it should be taken into account that both the legitimacy of international legal system and, of course, the legitimacy of global law are separate subject matter. However, the domestic law may be admitted as legitimate if it is consistent with international standards. In the result, usual justification of the law legitimacy understood as legitimacy of domestic law is a new subject area revealing a need for justification of the legitimacy of global legal standards as measures for the domestic law legitimacy. At that, the global processes questioning the state sovereignty can undermine the sovereignty of national legal systems, while the law legitimacy often is being depictured as the legitimacy of sovereign law. It means a great concern for the legal philosophy work and is worth thorough examining.

Conclusion

In sum, in my article I have tried to outline the legitimacy as phenomenon that call for the legal philosophical reflection. My starting theoretic point was the fulfilment of analysis of the nature of legitimacy and causes of its crisis with a view of the potential of the legal philosophy. It is a clear that to capture all aspects of legitimacy crisis, including all aspects of crisis of law legitimacy, is hard. That is why the legal philosophy has to turn to renewal of its mission in modern word. Its mission is viewed as the justification of a new paradigm of the law legitimacy. The latter could be regarded as the condition of increasing of its potential able to conceptually settle the problems of law legitimacy and legitimacy of social order that was faced by modern humanity. The legal philosophy stands before the problem of creating a conceptual equilibrium between, firstly, rationality and beliefs, and, secondly, justice and equality, and, thirdly, between freedom and equality at the level of framework of legitimacy.

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