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Technical Development and Natural Rights

Abstract: Scientific and technical achievements can cause deep changes in spheres of morals and law. I am going to discuss some philosophical conclusions which follow from two significant ideas of contemporary civilization. First of them is a thesis about indistinguishability of natural from artificial, and the second one is an opportunity of creation of artificial human.

The first thesis is a consequence of the principle of relativity of physical reality to conditions and a way of observation, on which both interpretations of quantum theory and Einstein's theories of relativity are based. I show that the given principle deprives us of objective criteria to distinguish natural from artificial, freedom from necessity, freedom from violence.

Today power of technique is directed not only on the external world, but also on a person. Due to information technology, and biotechnology an opportunity of creation of artificial and controlled individual increases. So human loses many features of a person and transforms to a part of a collective super individual subject. In modern time a search of the transcendental basis of law and power leads to impersonal human and recognition of super individuality.

Traditional belief about natural rights will disappear. There is necessity of revision of such concept as right of freedom. Liberal belief about freedom as a condition of human existence is changing. Prospects of technical development make justified R. Dworkin's reflections about superiority of right of equality in comparison with right of freedom.

Scientific and technical achievements can cause deep changes in the spheres of morals and law. I am going to discuss some philosophical conclusions which follow from prospects of contemporary scientific and technical development. In my opinion, these conclusions mean a threat for the western tradition of law.

First of all I would like to discuss an idea of indistinguishability natural from artificial in the contemporary culture and science. The classical science, in particular Galileo-Newton's mechanics, put in criteria of distinction between natural and forced states. According to Newton's first law everybody preserves its state of rest, or inertial motion except in so far as it is compelled to change that state by forces impressed upon it. The state of freedom is similar the inertial state of mechanical body. So freedom exists when a person is in a state without external compulsion and violence. In the Enlightenment philosophy freedom is not only a state without violence, but

also a state of independent autonomous existence. An independent person operates due to internal motives without violence. So, distinction between inertial and not inertial motions is the ontological basis to distinct freedom from compulsion, the “natural” and “artificial” states of human being. The existence of the absolute space was the basis to distinct inertial motion from accelerated one.

In the XXth century interpretations of Einstein’s relativity theories and quantum mechanics are based on the principle of relativity of physical reality to conditions and a method of observation. According to this principle there are not any objective criteria to distinguish natural from artificial, freedom from necessity, freedom from compulsion. Really, in Einstein’s general theory of relativity (or theory of gravitation) physical forces have geometrical interpretation, so the accelerated and the inertial motions are physically equivalent. Einstein denied existence of the absolute space, so he eliminated the basis to distinguish free state from forced one. At last quantum mechanics shows dependence of object essence on a relation to means of measurement. And so the belief about existence of thing-in-itself loses its rational meaning today. This belief remains only illusion of classical philosophy and science.

Let me remind, that Kant’s notion of thing-in-itself is, on the one hand, designation of an objective existing, and, on the other hand, it designates ontological essence of freedom which is opposed to natural necessity. According to Kant freedom is necessary condition of law. Also Hegel connected the notion of law with freedom, defining law as a measure of freedom. Destruction of conceptual distinction between freedom and necessity, which happened in the contemporary science, has led to that we already habitually designate by the word “postmodernism”. Today there are no criteria by means of which it would be possible to distinguish natural from artificial, and freedom from violence.

But legal thinking is based on recognition of distinction between the above mentioned states. Antiquity has created type of the person which operates according to certain principle, the rule created by him/her, and not submitting completely to the external circumstances of his/her life. Structuralism has opened the kind of the contemporary individual which caused entirely by anonymous structures of thinking, sensation, and behaviour. This discovery has led to the statement about “death of a subject” (M. Foucault). It is very difficult to argue that conclusion if the modern social development is connected with total submission of all life to technique, and its own purposes.

Let me look at prospects of law in the context of modern technical development. In numerous researches on philosophy of technique have been shown, that the power of modern technique is directed not only on the external world, but also on a human. That creates dangers for human being. Well-known German philosopher Martin Heidegger noted that misunderstanding of essence of technique as a process of openness of the truth and evaluation of technique as just manner of getting of riches and power leads to destruction both of environment and the human nature. Also M. Heidegger wrote about such kind of social consequence of technique as totalitarianism. Totalitarianism is the government form which can be a result of uncontrollable supremacy of technique. As Heidegger said in the 20th century humanity is victim of its technical fabrications.

Due to information technologies, biotechnologies, and especially genetic engineering, the opportunity of creation of artificial and controlled person increases. Genetic engineering creates the opportunity to form a human with the wishful properties concerning sex, psychics and intellect. The subordinated to power of technique a person loses many features of a subject and becomes an element of so called “collective person”. We risk meeting the situation of disappearance of a person as a subject of his/her life. Let’s take such kind of technical artifact as a mobile phone. A mobile phone demands some individual skills of using. Modern tendency of development of mobile phones, as well as any complex technical equipment, is adaptation of technical equipment for primitive and “intuitively clear” skills of use of any device. However a modern consumer of technique does not possess knowledge how to produce a mobile phone, and how it works. At the same time the usage of any composite technical device implies the existence of the communicative society. Manufacturing of any device also implies collective knowledge and collective manufacture. This super individual is the technological community, capable to possess knowledge of manufacturing significant artifacts and to make their by collective way. It is important to comprehend that becoming of the super individual is connected with loss of personal basis of his/her life.

As Hose Ortega-i-Gasset wrote that in the XXth century appearance of such kind of subject as “the mass” human is connected with forming of special breed of faceless human. Characteristic feature of such kind of individual is concentration on own desires which importance surpasses everything else, and aspiration to extract pleasure from everything. Therefore this type of individual does not claim on realization of such own desires which are not

connected with self-improvement. As Erich Fromm remarked a human chooses either to Be, or to Have. Our individual chooses “to have”.

Prospects of technical development correlate with Ronald Dworkin's reflections about superiority of the right to equality in comparison with the right to freedom. In his book “Taking Rights Seriously” (1977) Dworkin criticized abstract concept of the right to freedom. Really, the concept of the right to freedom seems superfluous and unclear if simultaneously there is the right to freedom of conscience, the right to freedom of speech, the right to freedom of removal. However, if we mean not only negative, but also positive meaning of freedom, then the concept of the right to freedom is meaningful as the claim of opportunity to create something new as a gift, a donation, but not a service. The right to freedom is requirement of the possibility to create something new. God is free during the creation act. The freedom of creation is an opportunity which is given to a person to be the owner of him/her-self. On the contrary, if a human is just interesting in distribution of already existing resources, he/she requires first of all the right to equality at the least. This is a situation when a person controls another one, because it is important, that one individual could not have more rights to possession of resources, than another one. Then the freedom of creation may be displaced by the freedom of choice between already given possibilities.

Human depersonalization is already carried out today. French sociologist Jean Baudrillard shows that today the problem of identification is solved more often with the help of method of a free choice of resource and join to it. A human identifies itself with that resource. For example a man can want to change his sex and to become a woman. No problem. Identification becomes just technical problem. Any question becomes just technical one, or the question of technique.

In the light of the above-discussed the prospect of law in the conditions of the technocratic society I see the following way. The Enlightenment philosophy belief about the natural law will disappear. Law can turn to a system of rules. More precisely the natural law will become the technical right, that is, it is reduced to system of technical norms, because all relations between people will be total mediated by technique. Therefore legal norms will regulate first of all relations between an individual and the world of technique. Actually the law becomes just positive, though it will seem the natural one.

A human destination will be to provide the technique world functioning. A human as a part of this world will be subordinated to its laws. There will be an inversion of the right into the law and, thus the culture of barbarians will return. But it will be technocratic barbarity. It will be a

revival of paternalistic ideology. A human of mob does not have any pretension except satisfaction of his/her desires which are even not generated by him/her. Such kind of individual attitude to the right only as the indicator of that somebody is obliged to provide realization of his/her rights. Rudolf von Jhering's belief about the struggle for law will be meaningless. If the classical law was a means of the creation and organization of a public life, now law becomes only a means of adaptation of an individual to the world of technique. A human trusts to take care of his/her soul and body to technique.

The previous consideration gives a reason to talk about changing of status of human rights and freedom. I think the basis of human rights differ from the basis of legal law. Human rights are based on concept of human dignity. Human rights are expressed in the system of values which should be protected. The first article of the Universal Declaration of Human Rights accepted in 1948 states, that «All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood». It means that if someone is not endowed with reason, or conscience, then one is not a person according to the Declaration. Therefore the set of rights and freedom does not extend on a similar entity.

But according to the Declaration each person is endowed with some set of fundamental rights just by his/her birth. People have the set of fundamental rights from their birth to death. These rights do not depend on what kind of social group a person belongs. These rights belong to him/her personally. On the one hand, according to the Declaration the rights and freedom is an object that society has to recognize. And the rights and freedom is also a subject in the certain meaning. I mean that the personal rights and freedom should be unconditional values for a person, and a subject of right should lay claim to his/her rights and freedom. For that a person should be a self-conscious being.

The unity of claim and recognition should take place in any right. If to keep in mind that a human is born twice, in the beginning as a biological organism, and then as a social essence, then it is clearly that dignity is realization of him/her-self as the subject of own social life. Dignity is a condition of a person who is realized as self-made-man. Both the social conditions and natural circumstances are not sufficient conditions to be a person.

A subject of own life uses freedom as the necessary condition of formation of socially significant qualities. A human has to occur own efforts to be a person. Human qualities cannot be obtained as something given in the external world like material things. Under the conditions of

power of technique the wishful human qualities become unconditional values, but value of conditions due to which these qualities can arise are not unconditional values. Technique exempts a person from necessity to make efforts (strong-willed, intellectual and emotional) to form own social qualities. The work of soul is replaced by granting of blessing.

Power of technics can make a situation when the human rights and freedom will be cancelled, because a human will claim to possess the certain set of human qualities, and technics will have a duty to provide the corresponding rights of possession.

Development of technics puts such serious problems as the new understanding of human identity, individualities, and subjectivity. That is the great philosophical questions of our time.

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