

**SUBJECT OF LAW AS HOMO PRESENT**

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**Abstract**

The purpose of this research is a detailed analysis of the mode of a modern subject being in a number of parallel, consistent realities, consideration of its capabilities and development prospects. Special attention is paid to making an anthropological image of a post-human in the status of the subject of law, to justifying the relevance and effectiveness of his legal abilities in the modern simulation space. The scientific novelty of the results is an introduction to the field of philosophy of culture of the new concept of *homo present* (homo who is present), as well as its further substantiation as one of the conceptual characteristics of not only the subject of culture in principle, but, in particular, of the subject of law symbolizing the image of post-human as such. Thus, a man of post-non-classical culture manifests himself as a multidimensional co-participative polysubject. At the same time, the main mode of his being in these realities is presence, depriving the post-human of many abilities of a moral subject, but giving certain advantages to an actual subject, realizing in law. Thus, legal personality can be considered the main feature of the *homo present*, while legal reality can be considered the main reality of his presence and self-realization.

**Keywords**

Post-non-classical anthropology of law – Subject of law – Simulation – Post-human

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## Introduction

The cultural-anthropological analysis of the subject of law in the postmodern legal space provides the basis for identifying this subject as *homo present* (homo who is present). He is the subject of total equality, the subject of freedom and absolute possibilities, endowed with wide personal rights. The modes of his being in the world are pragmatic, interactive, autonomous, independent and formal presence. Legal reality is the only reality of its adequate embodiment, self-realization and the actual way of being.

The image of law and the image of a person have always been correlated in philosophical and legal theories of various times and traditions. The modern legal reality, devoid of any fundamental, absolute grounds, multi-sequential and liberal, simulative and polyontic, also repels itself from its specific, actual image of the subject. In the dynamic space of post-non-classical law, the subject acts as a polysubject due not only to its ontological orientation towards another, but also to its interactive presence in a legal situation. The being of the subject of law today is extremely complicated by the pluralism of values, the variability of legal meanings and the requirement of autonomous activity in the horizon of its ontological freedom. Today, practically everything depends on the individual choice of a full-fledged subject of law, starting with his worldview and ending with gender. Therefore, a philosophical analysis of the presence of a human in law is of particular relevance today.

## Literature review

The issues of legal ontology concerning the forms and modes of law being are very popular today among the philosophers and theorists of law. Their concern is mainly due to the “lack of reality” in the modern world of total simulation. Thus, the Russian lawyer V. Sorokin writes about the destructive effect of “losing the reality of law” in postmodern jurisprudence<sup>1</sup>. Deprived of its spirit, “dissubjected law”, in his opinion, appears as unsystematic and virtualized, with its essential characteristic only simulating legal regulation.

S. Žižek, in turn, regards “passion for the Real” as the main pathos of our time<sup>2</sup>. This passion is due to the deficit of the Real in all areas of the dynamic being of the post-human<sup>3</sup>. It is possible to overtake the Real today precisely in absolute and perfect forms of the visible, in simulative images that visually surpass the archetypal things in their illusory naturalness (physicality) – their own prototypes. The reality of such bodies, being virtual, is experienced as genuine. At the same time, authenticity is not at all important. It is devalued, because the new Reality is more impressive, influencing and captivating. Almost forty years ago, J. Baudrillard wrote an opus about “hyperreal” – simulacra of various kinds as “the models without root causes”<sup>4</sup>. In his opinion, the modern world, which is a consumer community regulated by the market economy, constantly creates a “lack of primary reality,” while at the same time successfully coping with it through ideological, political, food and other “witchcraft”.

<sup>1</sup> V. V. Sorokin, *Juridicheskaja globalistika* (Novosibirsk: Izd-vo NGTU, 2010).

<sup>2</sup> S. Žižek, *Dobro pozhalovat' v pustynju Real'nogo II: Razmyshlenija o Vsemirnomo trgovom centre – tret'ja versija*. 2002. Available at: <http://anthropology.ru/ru/texts/zizek/reflections.html>.

<sup>3</sup> S. Žižek, “Matrica, ili Dve storony izvrashhenija”. “Matrica” kak filosofija: Jesse. Ekaterinburg: U-Faktorija. (2005): 329-371.

<sup>4</sup> Zh. Bodriyar, *Sy`mulyakry` i sy`mulyaciya* (Ky`yiv: Osnovy, 2004).

Thus, the figure of a cynical consumer and a constructive user in the “space of pleasures”<sup>5</sup>, described by many philosophers, confidently shaped the image of the modern subject of polyreality as *homo present*. Presence gradually established itself in the meaning of the basic mode of being. Its nature and unique significance for a personal human experience of perception were thoroughly studied by H. Gumbrecht<sup>6</sup>. The expanded boundaries of possibilities and sensuality guaranteed by the “presence” of the subject, in comparison with his “existence”, are described by V. Rybakov, exploring the “performative turn in culture”<sup>7</sup>.

The detailed characterization of *homo present* is given by P. Weibel, who substantiates the signs of a “user paradigm” established in the culture<sup>8</sup>. Within this paradigm, the practices of co-participation, action-performances, kinetic art, interactive media art and various kinds of art of action are popularized. The questions of anthropology of the postmodern subject in the virtual space are stated and found their solution in the works of the Russian philosopher L. Usanova<sup>9</sup>. The problem of individual freedom in the “era of performance” and its solution using the strategy of image and strategy of total incarnation are presented in the works of the Russian philosopher S. Kornev<sup>10</sup>. For the recent time, the discourse on the autonomy of an individual, his/her dignity and intimacy has passed from the traditional moral and ethical and axiological field into the fields, extraneous to philosophy, in particular, into medicine, physiology, and bioethics. This is noted by many European scientists, such as A. Huidu<sup>11</sup>, S. Ivic<sup>12</sup>, S. Mazurkiewicz<sup>13</sup>. Thus, A. Huidu proposes a radical review of the foundations of autonomy, dignity, and human closeness in postmodern society<sup>14</sup>. S. Ivic, in turn, rethinks the anthropological category of “Self” through the procedural and open in the semantic sense “philosophical identity of a European”<sup>15</sup>. S. Mazurkiewicz notes explicit “naturalization of philosophy” and comes to the conclusion that human nature, as a fact, is capable of setting the foundations of human rights; both mental and regulatory spheres depend on it. According to the Polish philosopher, the conception of human rights should be based on human nature. However, here the question arises about the “anthropological norm,” which suggests certain human abilities and capabilities as normative ones. Those, in his opinion, should be “dominant tendencies” in human behavior, and today they are simulation and presence. These tendencies are the “empirical justification of human rights”<sup>16</sup>.

<sup>5</sup> S. Zhizhek, Obojdjomsja bez seksa, ved' my zhe post-ljudi! 2002. Available at: [http://www.ruthenia.ru/logos/korf/2002/2002\\_12.htm](http://www.ruthenia.ru/logos/korf/2002/2002_12.htm).

<sup>6</sup> H. U. Gumbrecht, Proizvodstvo prisutstvija: Chego ne mozhet peredat' znachenie. 2006. Available at: <http://history-library.com/index.php>.

<sup>7</sup> V. V. Rybakov, “Performans kak sposob problematizacii prisutstvija”, Mezhdunarodnyj nauchno-issledovatel'skij zhurnal: Filosofskie nauki, Issue 11 (53) part 1 (2016): 159-163. Available at: <http://research-journal.org/philosophy/performans-kak-sposob-problematizacii-prisutstviya/>.

<sup>8</sup> P. Vajbel', “Mediaskusstvo: ot simuljacii k stimuljacii”, Logos, Vol: 25 num 4 (2015): 135-158.

<sup>9</sup> L. Usanova, “Virtual`nist` yak ry`sa suchasnosti”, Filosofo`ki obriyi, Num 25 (2011): 116-126.

<sup>10</sup> S. Kornev, Imidzh v jepohu spektaklja. 2008. Available at: <http://www.inache.net/signs/30>.

<sup>11</sup> A. Huidu, “Redefining Autonomy, Dignity and Intimacy in a Postmodern Society”, Revista Romaneasca pentru Educatie Multidimensionala, Vol: 10 issue 3 (2018): 112-118.

<sup>12</sup> S. Ivic, “European Philosophical Identity Narratives”, Cultura-International Journal of Philosophy of culture and axiology, Vol: 15 issue 1 (2018): 125-145.

<sup>13</sup> S. Mazurkiewicz, “Czy natura człowieka może być podstawą praw człowieka? Ujecie analityczne”, AVANT. Trends in Interdisciplinary Studies, Vol: 9 num 1 (2018): 129-144.

<sup>14</sup> A. Huidu, “Redefining Autonomy, Dignity and Intimacy...”

<sup>15</sup> S. Ivic, “European Philosophical Identity Narratives”...

<sup>16</sup> S. Mazurkiewicz, “Czy natura człowieka może być podstawą praw człowieka?...”

Romanian philosophers A. Sandu and L. Vlad propose to rethink a man by overcoming existing biological limitations (limitations in time, space, causality, creative power, ability to cognition), as well as existing ontological boundaries with the help of innovative technologies<sup>17</sup>. Today, the tendency to sacralize postmodern philosophy is also evident, which is reflected in the actualization of human spiritual practices, the frequent appeal of the European philosophers to Buddhist, Hindu, Daoist, Shiite philosophy and making of analogies between their truths and the principles of postmodernism. The possibility of drawing parallels between the Eastern meditative and Western apophatic thinking turns out to be appropriate on the basis of postmodern existential therapy, which makes it possible to significantly expand the limits of post-human capabilities in his biological and transcendental self. Such a practice in the field of communication philosophy (as a new look at physicality) is represented, in particular, by the works of A. Codoban and L. Marinoff, an existential stylist and philosopher who practice “philosophical counseling” popular today in Europe and “philosophical dialogue” – communicative spiritual therapeutic alternative practices of occult magic and traditional medicine<sup>18</sup>. According to M. R.-M. Shapiro, this is due to the dialogic nature of a post-human, as well as to the virtuality as the transgressive human being – the “the transhuman state”<sup>19</sup>.

Thus, the ontology of presence in a situation of the deficit of Reality has been sufficiently studied by modern philosophers, which determines the relevance of the image of the post-person as *homo present* and his identification as a subject of law.

## Methods

In this paper, a non-classical philosophical approach based on the key concepts of postmodern anthropology is chosen to consider the modern subject of law: the conception of simulativity, the conception of physicality, production of presence, the user’s paradigm, the conception of the subject’s interactivity, the conception of a man’s “perpendicular existence”, dynamic and the dialogical nature of man, as well as “existential therapy” from practical European philosophy. The methods of poststructuralism, communicative philosophy, anthropology of virtuality, intersubjective understanding of law, the method of hermeneutical analysis and deconstruction of polyontic reality, as well as the existence of a man in it, the method of discourse and interactive methods of art are used in the research.

## Results

The crisis of law, stated with conviction today in scientific circles, has also become apparent in the fields of ontology and the anthropology of law. It is precisely the metamorphosis of being and the modality of law, as well as of its subject, that today lead to a search for something radically new in philosophical and legal methodology. The superficial meanings and the changeable significance of law today allow us to speak more

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<sup>17</sup> A. Sandu; L. Vlad, “Beyond Technological Singularity – the Posthuman Condition”, Postmodern openings, Vol: 9 issue 1 (2018): 91-102.

<sup>18</sup> S. Frunza, “Aurel Codoban – an Existential stylist: From Desire to Love as Communication Instrument”, Meta-Research in Hermeneutics Phenomenology and Practical Philosophy, Vol: 10 issue 2 (2018): 568-585.

<sup>19</sup> Shapiro, M. R.-M. “Abracadabra! Postmodern Therapeutic Methods: Language as a Neo-magical Tool”. Journal for the Study of Religions and Ideologies, Vol: 17 issue 49 (2018): 3-17.

about its formal presence than the actual embodiment. Influence and effectiveness are the most relevant criteria for the law being, like any other entity in the conditions of virtualization. The dynamic nature of modern law arises discourse about its physicality. The conception of physicality of law, as a whole, comes down to a kind of alienation of law from its own objective essence at the expense of replicating its symbolic copies. A different image of the *telos* law is formed (different from the Aristotelian meaning of the concept “*telos*”) as a flow that is fundamentally unstable and not fixed. Due to the dynamic physicality of law, its realities are multiplied, as well as the ways of being of the subject in them.

The dynamic context of various kinds of narrative and corporeal attributes of law forms today the space of legal simulation, that is, the legal space of freedom. In other words, law is real to the extent that it is capable of influencing modern reality, manifesting its presence. Ontological innovations in legal reality are largely reflected in the capabilities of the subject in the practice of understanding and applying the law.

The modern trend of replicating symbolic copies of cultural originals, as well as the simplicity and ease of their reproduction guaranteed by the developed information service, give a person the potential of immanent presence and total alienation at the same time. Alienation has a wide variety of manifestations: from bodily destruction to socio-legal polyidentity. The hierarchical integrity of the subject in the 21st century crumbled into many social roles and ontological identities in the commonplace playing field of reality. An internally fragmented, split subject can only simulate its own unity. If to follow classical moral criteria, such a subject is not a person. The post-human consciousness is only a set of social clichés; it lacks depth, roots, and historical justification.

S. Kornev, analyzing the “new man of the era of the performance,” notes that even his own identity has become a problem. Personality is a set of “small selves” that are in complex, contradictory relationships with each other. All of them are not able to form a self, they are fundamentally inferior and fragmentary, prompted to the individual from the outside, borrowed from the outside world<sup>20</sup>. The subject itself forms a space where social structures interpenetrate each other. The formal unity of the individual, superimposed on his internal fragmentation, connects heterogeneous structures with each other. His actions, thoughts, words, even his inner feelings are simply social clichés embedded in his consciousness. S. Kornev concludes from this that the smallest freedom space in this social world is absent<sup>21</sup>. However, the arbitrary choice of value priorities by a subject, as well as his deconstruction of a picture of the world and the establishment of new connections between heterogeneous structures, also represents freedom. Let it not be the freedom of self-manifestation of the entity, but the freedom of the user, the consumer, the manager.

According to S. Kornev, how a unique and free subject can exist only at the point of breakdown of structures, as a certain defect, flaw, break, paradox arising from their contact. Within this defect, or lumen, there is a certain space of freedom in the tissue of social structures - a space of uncertainty, unpredictability, where the dictate of structures stop working, and the subject has to create his role from emptiness, from himself. Thus, the moments of freedom are the situations when an individual has a chance to make a unique, unforeseen by nobody creative act in the lumen of the tissue of social discourse.

<sup>20</sup> S. Kornev, *Imidzh v jepohu spektaklja*. 2008. Available at: <http://www.inache.net/signs/30>.

<sup>21</sup> S. Kornev, *Imidzh v jepohu spektaklja*...

For an individual, this lumen-flaw becomes a means to manage social discourses and structures, to connect and disconnect them in a certain way, using the logic of discursive lumen. The individual has mastered this logic, and it allows him to uniquely modify a given set of languages and roles, pushing and crossing them with each other. The individual who has mastered the lumen is able to make cracks and holes in any system of social and cultural partitions. Like a hacker on the network, like a mouse in a megapolis. This is a personal achievement strategy. S. Kornev calls this “a strategy of perpendicular existence”, which allows one to live in society, but to be free from it<sup>22</sup>.

We can only reflect on how exactly an individual can find this very “flaw” or “lumen of structures”, which is a condition of his freedom. Perhaps a flaw is born due to the rough contradiction of languages, contexts, roles, masks and myths characteristic of an individual of a given cultural environment (for example, the “letter of law” and the traditions of the community). Or the flaw manifests itself as a result of the tragic conflict between myth and objective reality, the ideal content of the abstract norm and its concrete application (for example, as a result of experiencing social insecurity, unemployment, political crisis or legal collision).

Such freedom is extremely reminiscent of the hundred-year freedom of existence, so tenderly and touchingly standing up to protect human life and its uniqueness during the difficult times of world wars and the total crisis of the past century. Existence was a condition and, at the same time, the very purpose of existence. It was being achieved in the throes of self-determination, over the abyss of non-existence, in the existential fear of the ultimate test of personality.

And now, after a century, proceeding from the completely different nature of reality, a man again seeks to find his authenticity, selfness, integrity, freedom, and again remains in his tragedy alone with the structure. However, this time he is no longer enticed by the demythologization of being. He comes to deconstructing a network of numerous myths and parallel realities. And while standing in the crevice of real being and virtual being, a man again comprehends his salvation and liberation as a step into the abyss of non-being, into a discursive lumen-flaw for mastering the new logic of deconstructing polyontic reality. If a man was existential on the border of being and non-being, now the post-man searches for his long lost authenticity on the obvious frontiers of his numerous simulations. However, detachment into non-existence is still a prerequisite for gaining his structural integrity, the realization of his freedom.

The discourse on freedom continues. And the path to the existence of a person today is possible through the ongoing updates of physicality through postmodern therapeutic techniques and virtualizing technologies, which allows us to speak of “new cosmology”, “postmodern magic”<sup>23</sup>. Thus, S. Frunza in one of his works analyzes the work of popular in Europe existential stylist A. Codoban, offering a special way (or tool) of interpretation, communication, action and cognition – love, based not on rationality, but on desire, as an erotic desire and the desire for transcendence<sup>24</sup>. Since, according to

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<sup>22</sup> S. Kornev, *Imidzh v jepohu spektaklja...*

<sup>23</sup> M. R.-M. Shapiro, “Abracadabra! Postmodern Therapeutic Methods: Language as a Neo-magical Tool”, *Journal for the Study of Religions and Ideologies*, Vol: 17 issue 49 (2018): 3-17.

<sup>24</sup> S. Frunza, “Aurel Codoban – an Existential stylist: From Desire to Love as Communication Instrument”, *Meta-Research in Hermeneutics Phenomenology and Practical Philosophy*, Vol: 10 issue 2 (2018): 568-585.

A. Codoban, philosophy is called to shape a way of life, the “existential counseling” practiced by it, uses the resource of human desire for the purposes of his personal development and improvement. Love acts as a transforming force in the postmodern world. It leads to the transformation of a man in five dimensions: physical, social, personal, spiritual and religious. At the same time, the role of a “neo-magical” tool of therapeutic intervention in the existence of a post-human is language and discourse<sup>25</sup>. This can be considered as another surge in the relevance of the philosophy of communication and, at the same time, as a manifestation of the post-modern human polyiontic tendency, which has expanded the boundaries of his biological and transcendental being.

Human freedom is now increasingly acts in the sense of “liberation”: from status, obligations, from cultural, social, political, national, topological, gender belonging. An autonomous individual avoids all belonging and identification, striving into the space of pleasure. In this regard, S. Žižek speaks of the “postmodern, disappointed world of permissiveness”, where individuals practice “the use of pleasures”<sup>26</sup>. This should be understood as the satiety of a consumer society prone to self-destruction.

Today’s law, proclaimed as humane, liberating self-worth, guaranteeing the self-improvement of an individual, in fact in the most commonplace way legalizes the aimless destruction of a man. Cyber space is recognized as the sphere of maximum freedom in our time, not without reason. S. Žižek, however, notes the paradoxical connection of the cyberspace mind with the fate of the body. Even ardent defenders of cyberspace warn that a man must not forget about his body, must be rooted in the real life, regularly returning after diving into cyberspace to intensely experiencing his own physicality, from sex to jogging. The “real life” of our body and its mortality is the main horizon of our existence, which at the same time serves as the basis for immersion into many possible virtual worlds<sup>27</sup>.

It is the strive to take the last bastion of natural conditionality that explains the nature of the fourth generation of human rights, justifying the individual’s physiological self-determination: his right to choose gender, appearance, sexual orientation, fertilization method, implantation of a natural or artificial organ, use of stem cells, euthanasia, and like these. It seems that just the expansion of the virtual forms of human existence causes an active search for them of new ways of “finding the body” in desperate attempts to restore the lost reality. Thus, the concept of “physicality” replaces the concept of “essence”. Physicality is enough for a comfortable being and getting pleasure. Simulation is recognized as a principle. Not only the virtual presence becomes illusory, but also the physical existence, subjected to gene modification, implantation, plastic surgery, transgender changes or cloning.

S. Žižek’s concern about the ontological search for modern man is also traced in his work *Welcome to the Desert of Real II*. He cites the phenomenon of “cutters”, who have an overwhelming desire to cut themselves with razors or cause themselves other injuries. The problem of *cutters* is in the affirmation of reality itself. It has nothing to do with suicidal desires. This is a radical attempt to find a firm footing, to take root in reality, a desperate strategy of returning the body to the reality, perception of oneself as existing.

<sup>25</sup> M. R.-M. Shapiro, “Abracadabra! Postmodern Therapeutic Methods:...

<sup>26</sup> S. Zhizhek, Obojdjomsja bez seksa, ved’ my zhe post-ljudi! 2002. Available at: [http://www.ruthenia.ru/logos/korf/2002/2002\\_12.htm](http://www.ruthenia.ru/logos/korf/2002/2002_12.htm).

<sup>27</sup> S. Zhizhek, Obojdjomsja bez seksa...



The cut and blood are perceived by them as a return to life, the feeling of being revived again. This is undoubtedly a pathological phenomenon, however, at the same time, an attempt to restore some norm, while avoiding psychotic decay (permanent loss of the body)<sup>28</sup>.

Similarly, in today's market we find many products that lack their malignant properties: decaffeinated coffee, fat-free cream, nicotine-free cigarettes, non-alcoholic beer, etc. The reality in which we exist simply generalizes this procedure for engaging a product devoid of its substance, as if resisting the solid core of the real, as well as decaffeinated coffee has the smell and taste of coffee, but it is not. This is the advantage of the virtual, which is experienced as real, without being such: reality is the best similarity to itself. S. Žižek concludes that a civilized "consumer paradise", with all its hyperreality, is inherently surreal, nonsubstantiated, devoid of material inertia. Real social life in it as such acquires the features of a staged fake. There a dematerialization of the "real life" itself happens, its turning into a ghostly show after the triumph of spiritlessness<sup>29</sup>. However, the simulation environment does not require revelations from its visitors, keeping their anonymity, autonomy and inviolability. Let being in such a visible Reality is only a superficial presence, but it guarantees comfort and pleasure.

For such a surreal or virtual world of consumers based on advertising and replicating simulacra, the term *sphere* seems to be a good one as the world of a gigantic embodiment of phantasm. The sphere has a virtual symbolic order associated with a matrix or networks that structures reality for us. Structurally transformed reality-sphere does not violate the kingdom of the principle of pleasure, although everyone present in it realizes that the experience of reality is false. They accept the logic of the play. This is reminiscent of the behavior of "claustrophobic people" in the film "The Matrix", analyzed by S. Žižek in his eponymous work<sup>30</sup>. Such post-people of this kind were more afraid of the danger of their rejection from the sphere, rather than the fact of their alienation from the true original reality – origin, spirituality, dynastic tradition, ancestral community or autochthonousness.

An original picture of fictitious being and the race for "naturalness" is given by J. Baudrillard in "Simulacra and Simulation"<sup>31</sup>. According to J. Baudrillard, today there is a need to recycle waste to reuse it, while phantasms, the imaginary (historical, fabulous, legendary) of children and adults is waste, the first significant feces of toxins from a hyperreal civilization. In this order, all the institutions for the restoration of the "real" (sexual, mental, somatic), but in fact simulative, are functioning. People no longer look at each other - for this there are institutions. They no longer touch each other, but there is contact therapy. They no longer walk, but are engaged in jogging. Everywhere lost abilities are restored, or a lost body, lost socialization, or a lost taste for food. They reinvent primacy, authenticity, purity, asceticism, wild naturalness that has disappeared: natural pleasures, spiritual practices, natural food, yoga<sup>32</sup>.

<sup>28</sup> S. Zhizhek, Dobro pozhalovat' v pustynju Real'nogo II: Razmyshlenija o Vsemirnom trgovom centre – tret'ja versija. 2002. Available at: <http://anthropology.ru/ru/texts/zizek/reflections.html>.

<sup>29</sup> S. Zhizhek, Dobro pozhalovat' v pustynju Real'nogo II...

<sup>30</sup> S. Zhizhek, "Matrica, ili Dve storony izvrashhenija", "Matrica" kak filosofija: Jesse. Ekaterinburg: U-Faktorija. (2005): 329-371.

<sup>31</sup> Zh. Bodriyar, Sy`mulyakry` i sy`mulyaciya (Ky`yiv: Osnovy, 2004), 23-24.

<sup>32</sup> Zh. Bodriyar, Sy`mulyakry` i sy`mulyaciya...

All this fuss comes from the natural existential fear of a man to be convinced of his non-deification and the absence of essence. The same S. Žižek comes to the conclusion that the most painful for a person is the question “Who am I?” Who are we, if the prospect of discovering the genome of every person is close? Perhaps we are nobody and nothing, a code that can be compressed to the size of a single CD, a simple illusion of self-awareness, reality consisting of a complex interaction of a network of neuronal and other connections?<sup>33</sup>.

Basing on the data of neurophysiologists, S. Žižek argues that it would be expedient to place our freedom of choice (as an ability) on the unconscious level: the decisions we make unconsciously are truly free; we never decide in the present tense, we just unexpectedly notice that we have already made a decision. A couple of milliseconds before a person makes his “free choice”, brain scanners are able to detect a change in the brain’s chemical processes, which means that the decision has already been made<sup>34</sup>. S. Žižek recognizes in this the Kantian “intellectual intuition”, the ability for which, until recently, remained solely in the divine mind. But, truly sacred is the experience of the full presence of the subject in the virtual space through neurophysiological practice. This can be achieved with neurological implants. They would allow simulated sensory signals of the virtual environment, as well as the subject’s own virtual body, to directly reach the brain, bypassing the sense organs. Thus, the usual “website” could be perceived as a virtual environment that does not require additional apparatus (glasses, gloves, joysticks, etc.). The post-human could “roam” in this environment, mentally choosing sites and entering them.

In turn, A. Sandu and L. Vlad write about the “post-human condition outside the technological singularity”<sup>35</sup>. Today there is a series of technologies capable of irreversibly changing a person to a trans-human or post-human state. These are technologies of virtualization of the social space, which allow getting rid of the localization of a human being and opening up for him new non-topological spaces of communication and being, as well as the ability to download the human consciousness to electronic media. Such technologies allow a person to be in non-biological space, that is, regardless of his own physicality. These are technologies of indefinite life extension, bringing him out of the physical horizon of temporality and extremity. Analyzing this, the Romanian authors even consider it necessary to turn to the methods of the mystical philosophy of the Shiite school of Kashmir (X-XI centuries), which allowed to rethink the boundaries of a human being. They rethink the philosophy of Kashmir in a postmodern context, based on the latest technological capabilities<sup>36</sup>.

S. Žižek assumes that at that moment, when, finally, the human brain will be completely scanned into a more convenient and compact electronic device and can be transferred from one material carrier to another, since the human consciousness is built according to the program model, we can talk about the emergence of the “pure mind”<sup>37</sup>. Such a state of affairs would have a dramatic effect on the ontological status of the

<sup>33</sup> S. Zhizhek, Obojdjomsja bez seksa, ved' my zhe post-ljudi! 2002. Available at: [http://www.ruthenia.ru/logos/korf/2002/2002\\_12.htm](http://www.ruthenia.ru/logos/korf/2002/2002_12.htm).

<sup>34</sup> S. Zhizhek, Obojdjomsja bez seksa...

<sup>35</sup> A. Sandu; L. Vlad, “Beyond Technological Singularity – the Posthuman Condition”, *Postmodern openings*, Vol: 9 issue 1 (2018): 91-102.

<sup>36</sup> A. Sandu; L. Vlad, “Beyond Technological Singularity...”

<sup>37</sup> S. Zhizhek, Obojdjomsja bez seksa...

subject, while the problem of identity would completely lose its meaning, since being as such would represent a dynamic chain of identifications. Why does mankind interfere with the ontology of reality, so complicating it? For the sake of anthropological triumph: a man, objectifying himself virtually, is able to gain experience of any kind, as well as unlimited possibilities, that is, to become omnipotent.

Consequently, any existential, intellectual and physical manipulations of a man over himself are dictated by his desire to expand personal freedom. Freedom spread to all natural and artificial forms of human existence, pushing the limits of its technical, symbolic, communicative, spiritual, mental and physical capabilities. Expansion of all-round capabilities of a man is guaranteed by his dynamic immanent presence in singular parallel realities. Through dispelling oneself in these realities, as well as the essential split of one's self, resembling catterism, a man becomes ever more aware of one's own strength, influence, and self-rule. Any practices of a person (from economics to art) are today becoming interactive, becoming the practices of complicity, varieties of user activity. In the conceptual apparatus of philosophical anthropology, a new metaphor suggests itself: the modern man as *homo present*.

A pure presence is ontologically convenient for the user, since it is recognized, relevant, legal, competent, neutral, anonymous, productive, unsubstantial, and most importantly, irresponsible, although it guarantees maximum freedom. Presence itself is a simulation in the deep illusion of democracy. This is a state of the subject that cannot be called fake, insincere, fake, since the true, sincere, present does not exist in principle. Presence cannot be called untruth, since truth does not exist. There is only relevance, expediency and efficiency of using the benefits, freedoms, rights and opportunities of this or that reality as a sphere of individual presence.

Mostly all modern anthropological and value transformations occur, one way or another, in the space of law, in the legal reality of freedoms and obligations, opportunities and limitations, competence and normativity. Virtual reality technologies (primarily computer technologies), brought to life by the imperative of rationalization of society, have proven to be effective tools of law simulation. Moreover, the imperative of simulation led to the transformation of the logic of virtual reality into paradigm logic for any action, including legal<sup>38</sup>. Post-human exists by endless choice. The choice determines his values, way of life, appearance, social role, and finally, the reality in which he exists. The choice becomes a way of self-determination and self-affirmation, a means of cognition and integration, implementation and adaptation. However, the post-human's choice is not existential, but virtual, not personal, but simulative. It does not lead to "personal responsibility for the fate of the whole world." It only actualizes the presence of the post-subject in the dynamic space of interactive reality, contributes to obtaining satisfaction. Here, the law serves as an algorithm for the beginning, a mechanism that sets the logic of understanding and initiation to this reality.

It is legal, not ethical skills that help the comfortable presence of the modern subject in the space of permanent choice. Owning legal effective methods of legal structuring of economic, informational and functional relations with other interactive and competent subjects, each "present" one is able to optimally use the possibilities of the environment and his own ones, infinitely expanding them through participation in the events of other parallel realities. Thus, the law, being an instrument of every single post-

<sup>38</sup> V. V. Sorokin, *Juridicheskaja globalistika* (Novosibirsk: Izd-vo NGTU, 2010), 133.

human, at the same time becomes a way of its being in the world, being deservedly called “presence”. Presence in an ontological sense seems to tell us: “Nothing personal!” Presence is the true being of the subject of law: abstract, anonymous, alternative, universal, equal in his autonomy. The subject of morality, individual, unique, emotional and caring, there is no more place in the post-reality. The cynical subject of law is the post-human. The present world is a space of self-realization of the subject of law as *homo present*. The choice that he makes in his legal interactivity is expedient and cynical, justified by constructive communication and consumer satisfaction of oneself.

According to the theorist of law V. Sorokin, the modern orientation of legal practice not on real public relations, but on images leads to the simulation of legal institutions themselves. Institutions become the images of reality, replacing the reality itself. As such ephemeral, “virtual” legal institutions, V. Sorokin gives the examples of the simulative activity of a parliament that does not have the real political will to improve reality by adopting a new law (fictitious rule-making); Internet voting using web pages; the establishment of law and order and the restoration of justice by criminal structures playing the role of law enforcement; shadow regulation of public relations; procedure for the choice of power, etc.<sup>39</sup>. In other words, law and order is a simulative result of the simulative activities of legal institutions. With the help of mass media, an illusion of successfully regulated legal reality is created. Accepting its rules, conventions and norms, a person is enthusiastically present in it, using all the opportunities and symbolic benefits provided to him. In these cases, theorists speak of a “lack of reality of law”<sup>40</sup>. Deficit and law simulation is accompanied by intense overproduction of legislation, constant deconstruction and reload of the legislation system.

Modern law, completely alienated from its natural and moral foundations, however, is recognized to be human-oriented, proclaiming the person as the highest value, humane. Maybe something has changed in the very humane foundations of law since the days of the natural and legal tradition of the Enlightenment? A man, an anthropological beginning himself, has changed. From a spiritual and moral personality, motivated by absolute values, he turned into a no less worthy independent, self-sufficient and strong-willed subject, sliding from image to image, from event to event, from reality to reality. The law gave him outstanding ability to simulate and access to broad user capabilities. The law is comparable to a computer operating system that allows you to freely simulate and broadcast images, preserving attributes of reality and being open to enter and exit.

The legal environment is not indifferent to the subject, despite the non-recognition of spirituality in it. The prior, outstanding status of a typical subject of law is based precisely on the recognition of its autonomy, independence, autonomy, personal legal position and will, and free choice of legal regulation algorithm. This reminds the “shooting from the shoulder” technique, deliberately reanimated and used by many modern filmmakers in order to preserve the effect of the subjectivity of events. Subjectivity is protected by modern law. It is not deactivated with the subject of morality. It found a new content as a feature of the subject of law.

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<sup>39</sup> V. V. Sorokin, *Juridicheskaja globalistika*...129-134.

<sup>40</sup> V. V. Sorokin, *Juridicheskaja globalistika*...130.

## Conclusions

Thus, a person of post-non-classical culture manifests himself as a multidimensional co-participative polysubject. At the same time, the main mode of his being in these realities is presence, depriving the post-human of many abilities of a moral subject, but giving certain advantages to a current subject, realized in law. Thus, legal personality can be considered the main feature of *homo present*, while legal reality is the main reality of his presence and self-realization.

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