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LEV SHESTOV ON CRIME AND PUNISHMENT¹

The author analyses Lev Shestov's understanding of crime and punishment. Shestov points to a contradiction between the Gospel commandment of non-judgmentalness and judicial practice. He sees the salvation of society in Christ's teaching about love; jails are the grave of a person and the place of birth of a criminal.

Keywords: Lev Shestov, crime and punishment, Last Judgment, jail, Dostoevsky

Lev Shestov (born Shvartsman) is a Russian religious philosopher and essayist, who anticipated key ideas of 20th century existentialism. He immigrated from Russia to France, where he became well-known as a philosophy neglecting philosopher. He became such due to reason-driven arguments in a fighting reasoning. Shestov became regarded as a cynical, sceptical, and non-moralistic thinker, and his philosophy was regarded to be “nur für Schwindelfrei”, only for those people, who are not “afraid of the heights” [1. P. 1].

Shestov started his work as a literary critic and publicist. Later on he turned to religious and existentialism philosophy. I would like to cover the early period of his work in the perspective of newly found and as of now unknown articles written by Shestov, as well as to analyse the development of humanistic and liberal ideas in his works on philosophy. At the university, Shestov studied law. He never attended any course on philosophy and saw himself as a poet and an essayist of sorts [2. Vol. 2. P. 342]. In his youth, Shestov was interested in economic and legal issues.

In 1985 Shestov started his frequent collaboration with a daily newspaper, *Life and Art*, focused on literature, politics and art. The daily was published in Kiev and associated with the ideology known as Narodnichestvo, originating from the Russian word “Narod” – people. This newspaper was focused on the problems of the development of handicraft industry and peasant's self-governmental issues, new factory legislation, and the “highest orders and legalizations”.

One of the early articles by Shestov was a magazine review [3], dedicated to *The Justification of the Good: An Essay on Moral Philosophy* written by Vladimir Solovyov, where he examines Solovyov's theses that the law is the minimum of morality and that the Gospel contains the basis of law. Shestov states that law and Christianity have completely different origins: Christianity is based on love; whereas the law has its roots in the opposite of love. Historically, the law was created by pagans to protect earthly possessions and property, while Christ meant

¹ **К.В. Ворожихина.** Лев Шестов о преступлении и наказании

В статье исследуется понимание преступления и наказания Львом Шестовым. Философ указывает на явное противоречие между евангельской заповедью неосуждения и юридической практикой. Он видит спасение общества в христианском учении о любви, в то время как каторга является местом гибели человека и рождения преступника.

Ключевые слова: *Лев Шестов, преступление и наказание, Страшный суд, каторга, Достоевский*

that the Kingdom of God and His righteousness should be sought (Matthew 6:33). According to Shestov, history shows us that initially the law and Christianity were in conflict: the first Christians were victims of the “terrible and heartless” Roman law. The author concludes that law is not a minimal amount of morality; on the contrary, this minimal amount multiplies evil in history.

In a magazine review dated 4, December 1896 (No 335), Shestov studies the story of “the conveying of the convicts to the labour camp” and reflects on labour camp and the fate of a prisoner. He writes about the atmosphere of a labour camp, as well as how everything humane dies in a human being. For the author, the labour camp is “a corrupting school of evil and debauchery, where the prisoner is gradually turning into a dirty, cunning, bitter and dangerous animal” [4. P. 2]. He points out a clear contradiction between commandment of non-judgment in the Gospel and judicial practice. According to Shestov, the labour camp turns a human being into a convict; it does not control the evil will of the criminal, but, on the contrary, it “brings up in a criminal something of everything that is necessary for a crime: cunning, cruelty, shamelessness, despair, an avid passion for animal pleasures, contempt for oneself, for all and everything” [Ibid.]. Shestov writes that the labour camp is like a war, where a necessary evil cuts off the affected members of society in the name of the greater good. The labour camp is an evidence of neglected love towards one’s neighbour in the name of self-love, for the sake of personal good. The salvation of society exists only in one thing – in the teachings of Christ about love. Ostrog (jail) is a grave of a person and the place of birth of a criminal, the author concludes.

In his article “Guilty verdicts and jury trials”, Shestov supports the judicial reform by Alexander II and the implementation of jury trials, which are expected to bring only improvement, from the author’s point of view [5. P. 1]. Shestov considered the jury to be the best form of trial that can solve serious cases, on the contrary to the critics of the reform, who claim that the jury indulge criminals, pardon the guilty, and therefore higher percentage of acquittals have been decided by the members of the jury rather than judges. This was not the reason concluding that the jury is not able to perform a repressive function. It was deemed to be not professional and therefore did not fit the subject. Shestov explains that the measurement by which the effectiveness of the trials is evaluated, which is the growth of convictions, is pseudoscientific, and it does not serve as an indicator of the growth of justice in society and does not indicate the development of the judicial system. Shestov speaks out in favour of the institution of conditional punishment, which is increasingly used in the countries of Europe, America and Australia. The use of conditional punishment means that people who committed a crime, having accidentally strayed and are not “natural born criminals”, do not go to prison, in which they are more likely to be “turned into villains and idlers” [Ibid.]. The author notes that the practice of applying conditional punishment has shown that the majority of conditionally sentenced people have never subsequently committed a crime. That means that most of real punishments, handed down by the court, are not necessary and are even harmful for both those who have broken the law and for the society, where they come back to. In 1898 Shestov published an article on the Dreyfus case, in which he opposes exceptional (extraordinary) courts, which he sees as a violation of human rights and the basic rules of justice.

The works of Shestov show how he has evolved from Narodnichestvo to religious philosophy. In his book *Dostoevsky and Nietzsche (Philosophy of Tragedy)*, published 1903, he describes the “regeneration of convictions” and “re-evaluation of all values” and how a person rejects their former ideals. After revising ideas of Narodnichestvo and rethinking the meaning of humanism, Shestov became an apologist for the underground and egoism, he starts to expose idealism and morality as hypocrisy and lie, and his philosophy turns into a philosophy of tragedy, where the main question is if the people rejected by law, moral and science have a hope [6. P. 16]. In this book, Shestov rejects projects of rational reorganization of society and expresses the idea that universal happiness is a beautiful invention, and, if a person sees his purpose in building the Kingdom of God on earth, then everything is lost: disasters and crimes of today are often justified by the prosperity in the future.

Shestov now sees philosophy as a “peregrination through souls” with writers and thinkers who are spiritually close to him. He sees his purpose in restoring the inner life of the philosophers he studied and clarifying how the experience gained by thinkers were reflected in their works. Shestov declares “conquest of the self-evident” perception and interpretation of the ideas of thinkers; in his opinion, two voices can be distinguished in the work: one is rational, arguing and reasoning, this voice says what the author wants to say; the other one is emotional, breaking into a cry, revealing the truth of the experience, an existential truth the author himself does not know about. Shestov points out the inner struggle of an individual, it is duality and schism, manifested in the polyphony of the text and arising from the discrepancy between the personality and his beliefs, between actions and principles. The philosopher is looking for the deepest motives of creativity, focuses on the symbols and signs that can reveal the spiritual secrets of his characters.

When analysing the works of various thinkers, Shestov is interested not in their theoretical views, but in the reflection of experience in their works. Despite the fact that Shestov is attracted not by ideas, but personalities, all of his characters resemble each other and experience the same tragedy, which social transformations are powerless to improve, and which, according to Shestov, must be accepted and understood. Therefore Shestov is characterized by psychological scheduling. That is why he artificially simplifies the complex individualities of the thinkers he studies.

The most interesting thing is that he did not consider his ideas exceptional. He confessed that he borrowed something from Shakespeare, from Nietzsche, etc. But the question of originality was not essential for him. The philosopher believed that there are words that must be repeated and spoken about again. As his double predecessors, Shestov chooses Tolstoy, Dostoevsky, Pascal, Nietzsche, Kierkegaard, Luther, who got through the existential horror and experienced a sense of abyss and groundlessness, the experience that led them to the collapse of all previous beliefs and values. It was Count Tolstoy who “infected” young Shestov with the Bible, not Nietzsche, as Berdyaev assumed. Shestov, like Pascal, glorifies nonsense and seeks living God – God of Abraham, God of Isaac, and God of Jacob, and not God in a philosophical sense. The Russian thinker shares with Nietzsche the following ideas: anti-idealism, realism, immoralism, as well as God-seeking. Both Kierkegaard and Shestov put emphasis on the individual, the personal, the exceptional, and not the general; the idea of “suspension of the

ethical” resonates with Shestov’s ideas. Moreover, Shestov borrows from the Danish philosopher the category of “repetition”. Thanks to Luther, Shestov turns to the biblical story of the Fall into the key to his anthropology, ethics and epistemology. Shestov’s interpretation of this plot differs from the Christian one though. In his opinion, the fruits of the tree of knowledge originally contained a deadly poison – the mind, which establishes norms and laws, death being the main one of those. Thus, the mind prevents human beings from following the path to truth and life. Shestov, like Luther and the apostle Paul, believed that the law gives rise to sin, that salvation is given only by faith, and everything that is not from faith is sinful. Referring to the apostle Paul, he speaks about the law: “The law was brought in so that the trespass might increase” (Romans 5:20), or “the law brings wrath. And where there is no law, there is no transgression” (Romans 4:15). Shestov interprets the law not as the basis of Jewish piety, but expansively – as any moral regulations and norms that, according to Shestov, are purely external in nature and must be overcome.

According to Shestov, Dostoevsky created the real “critique of reason”. For Shestov, Dostoevsky is not a Christian, but a rebel who raised against the norms of morality, intelligence, reason, against the laws of nature. In Dostoevsky’s works, Shestov heard a call for freedom; he was close to the writer’s appeals to a “moody”, “arbitrary” or “underground” consciousness, which does not submit to obvious things. According to Shestov, the crowning achievement of Dostoevsky was the revelation of the human psychology, where whim and desire are the most valuable things for human personality. The image of the “underground man” expressed the ideal of Shestov’s free man at full scale. And Shestov’s God is moody and arbitrary, and as groundless as a man.

Dostoevsky (as well as Nietzsche) does not reject a person, however low they may fall; he is trying to embrace the psychology of the personality, which turned out to be “underground”. For Shestov, the real heroes are only the rebels and the theomachists created by Dostoevsky, the so-called “positive characters”: Alyosha Karamazov, Father Zosima, Prince Myshkin. Those are perceived by him only as personified ideas, deprived of genuine existential features. For Shestov, Dostoevsky (as well as Nietzsche) is an “underground” psychologist, who opens the actual era of psychology, the opposite to the sphere of reason and morality. According to Shestov, Dostoevsky is an immoralist (even though he tried to find some renewed morality) because he does not offer ready-made truths, but he is in constant search and attracts readers as witnesses to this search. In his ideas there is no strength, equilibrium, soil, and that is why Dostoevsky (similar to Nietzsche) cannot be a teacher or a preacher.

For Shestov, the key piece written by Dostoevsky is the novel *Notes from the Underground*. He wrote about it: *Notes from the Underground* is “a heart-rending cry of terror that has escaped from a man suddenly convinced that all his life he had been lying and pretending when he assured himself and others that the loftiest purpose in life is to serve the humblest man” [6. P. 169]. This document is the evidence that the writer disavows his past. Dostoevsky discovered the philosophy of the underground and Shestov became its apologist. A person in the underground is tortured by questions and doubts, which cannot be resolved as such. But the underground gives a sense of authenticity, sincerity and nudity because it does not deceive, it will save from all truths, from all lies. “There is no other way to the

truth, as through labour camp, dungeon, underground...” [6. P. 157], Shestov writes.

Shestov is the successor of the psychology of “ripping off the masks”, initially introduced by Dostoevsky and Nietzsche. This type of psychology is aimed to uncover unconscious motivations, hidden instincts and irrational impulses that determine the behaviour of a person. They explore the inner life of others in all its angles and ambivalence, the life hidden behind the external manifestations and actions of a person. Like Freud, Shestov implies the existence of two levels in the personality structure: in his works one can trace the conditional division of “self” into rational and irrational. Due to the existence of this duality and schism, the inner life of the individual becomes anti-nomic, dynamic and changeable. The rational “self” is the level of everyday life where universality and necessity prevail. This is the life of a social individual according to reason, law, and morality. In this case, “self” is filled with the external: it functions according to social norms, laws and equates to a social role. This is a rational man of culture. According to Shestov, the rational “self” is the antithesis of the irrational, “underground”, true “self” of an individual, who is in constant doubts, hesitations, but, most importantly, does not want to reconcile with reality. This individual “seeks the impossible, struggles against the insuperable, does not believe in the self-evidences, does not even submit to reason” [7. P. 45]. The “underground” man is free, independent from the outside. This is the true “self” of the individual that appeals to God.

In his philosophical books and essays, Shestov repeatedly addressed the problem of justice and fair trial, the psychology of a criminal who needs to be understood in order to “return the image and likeness of God” [8. Vol. 1. P. 209]. Shestov notes that both the law and the categorical imperative tell us that we shall not kill, not because the neighbour will die, not because of being sorry for the victim, but because – by violating the rule – the person becomes a murderer. Laws do not have love and mercy, they indicate a desire for justice, but human justice is not related to the divine: “The Sun Shines on the Righteous and the Unrighteous” (Matthew 5:45), Shestov repeatedly mentions, referring to the words of the Gospel.

In his first book *Shakespeare and His Critic Brandes* (1898) Shestov writes about Macbeth, who became the victim of the categorical imperative, once violated, he was forever subjected to moral anathema, which pushes him to further atrocities. Shestov justifies the person that violated the rule, explaining that there is no such force that could destroy a person other than himself. Morality for Shestov is not of a formal nature, good is not an idol or a goal, the aim is people. The “supreme law in the soul” is built on empathy to other people, love for the neighbour, which means “to feel yourself in your neighbour” [Ibid. P. 210]. Morality begins where the categorical imperative ends because it does not tolerate coercion. The deification of morality and the law “leads inevitably to the desire to destroy, to choke, to crush others, in the name of a principle recognized as obligatory” [6. P. 71–72]. We can see that in Tolstoy’s novel *Anna Karenina*, where the author mercilessly sentenced to death his heroine for violating the commandment by adultery. The main idea of his first books as a literary critic (about Shakespeare, Dostoevsky, Nietzsche, and Tolstoy) was the concept of the inevitability of the law of nature, morality and society, and Shestov saw the

purpose of human beings in the search for what would allow to overcome their cruelty – “we must seek God” [6. P. 140], the philosopher concludes.

Shestov in his philosophy sought to give hope to, among others, a person rejected, excluded by society. He believed that the person is their own judge and law: “There are no laws above man. Everything is made for him, both the law and the Sabbath. He is the measure of all things, he is called to be a law-giver like an absolute monarch ...” [9. P. 171]. The “greatest reality” for Shestov has only the judgement that is waiting for a person on the other side of history, it knows “no rule, no law; for it there is no innocent man; all are guilty, and especially those who obeyed the laws and made a virtue of this voluntary submission” [Ibid. P. 123] – and this is the Final Judgment of a human over themselves, the world and God, the only “law” for which is the commandment that “man is the measure of all things”.

For Shestov, the measures of justice are the balances of the long-suffering Job, who exclaimed: “If only my anguish could be weighed and all my misery be placed on the scales! It would surely outweigh the sand of the seas ...” (Job 6:2–3). On one side of these balances are heavy laws and norms dictated by reason and nature, on the other are “weightless” insult, fear, horror, delight, triumph, despair, freedom, but they are the “most important” and outweigh the balances for Shestov.

Unlike Christianity, Shestov has no paths for the transformation of life, no paths to heaven for the world. Salvation for him remains in the intimate catastrophic experiences of individuals. Shestov believes in inner transformation when the second dimension of thinking opens up and psychological miracles occur, since “the kingdom of God is within you” (Luke 17:21).

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The author analyses the understanding of crime and punishment of Lev Shestov, a Russian religious existential philosopher. The study is based on Shestov's early publications in the Kiev newspaper *Life and Art* that was run by the earlier generation of Russian socialists known as

Narodniks. In his early articles, published in 1895–1900, the future philosopher opens up as a literary critic, spiritually close to the leaders of the 60s, preaching humanism and love to humankind, and as a journalist, who writes on legal and social and economic topics. Shestov opposes violence in all its forms: revolutions, wars, and the principle of criminal repression in the name of respect for human rights and the protection of human dignity. He supports the liberal reforms of Alexander II, the Tsar-Liberator, the launching of jury trials (as a progressive form of legal proceedings), advocates for the institution of suspended sentences. Based on previously unknown Shestov's articles, the author traces how the beliefs of the philosopher evolved, transformed and were “reborn” from Narodnik to religious and existential philosophy. The article reflects the main stages of the philosopher's worldview evolution, encompasses his views from Narodnik to Nietzscheanism and existential type religious philosophy, studies the transformation of his views, as a result of which he “overcomes” the ethics and follows the route of philosophy of tragedy and immoralism. The article analyses the origins of his ideas, examines the influence of thinkers and philosophers who were close to Shestov (among them Dostoevsky, Tolstoy, Nietzsche, Shakespeare, Luther, Kierkegaard), observes his method of reading and constructing texts (“peregrination through souls”). In his latest works, Shestov rejects projects of rational reorganization of society. He thinks the law and any moral regulations and norms should be overcome. Laws for Shestov do not have love and mercy, they indicate a desire for justice, but human justice is not related to the divine. The only “law” for Shestov is the commandment that “man is the measure of all things”.

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