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## Lev Nikolayevich Tolstoy: Political and Legal Views and Protection of Religious Rights

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**Abstract:**

*Lev Nikolayevich Tolstoy is not only a well-known Russian writer, but a significant social leader who has made a great contribution to promoting unique political-legal views on law, government system, international relations, education and other important spheres of life. In the article the author provides an analysis of Tolstoy's fundamental ideas considering major social fields. The reasons in personal life that affected his involvement in political and legal processes are studied. In the context of human rights protection Tolstoy actively acted on behalf of the Russian Doukhobors who had to emigrate at the end of XIX<sup>th</sup>-beginning of the XX<sup>th</sup> century from Russia to Canada. Many episodes in Tolstoy's literary works are written on the real judicial cases, which demonstrated the legal system faults, unfairness of the existed social and political model. One of the major Tolstoy's idea was pacifism, refusal of military actions in favor of diplomatic and peaceful conflict resolution that in years become more crucial in the modern society. Tolstoy paid great attention to the analysis of the social structure of the Russian village, customary law of the peasants and their relations with state authorities. Tolstoy's political and legal views present unique source of approaches and knowledge for minimization of the negative modern problems of Russian such as legal nihilism, law legal culture, corruption, bureaucracy. His literary heritage contains deep philosophical, methodological, fundamental ideas on the essence of life, mission of a human, role of the religion, civil and state institutions which could be considered as "eternal topics", study of which for centuries showed constant interest and search by generations genuine values and constants of life.*

**Key Words:** *Lev Nikolayevich Tolstoy, political and legal views, religious rights, Doukhobors, pacifism, non-violence, Christianity, Tolstoy Studies, state institutions, law.*

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## **1. Introduction**

### **1.1. Introduction to the Problem**

Lev Nikolayevich Tolstoy, a world-famous writer, the author of the novels “War and Peace”, “Anna Karenina”, “Resurrection” and others, severely criticized unfair social system, ruling classes and public church for whom he always was a “rebel” and a “heretic”.

His writings, literary articles, philosophic essays, memoirs and social and political essays compose rich and unique historical and cultural heritage of Russia, containing a huge amount of various ideas having a great influence on today’s spiritual life of the society. In the context of political and legal changes, the growth of social unrest, deformation of spiritual and moral values Tolstoy’s views on society, state, human and his meaning of life, his purpose and self-improvement gain especially significant scientific and practical meaning.

### **1.2. Importance of the Problem**

Tolstoy worked at the boundary between the 19<sup>th</sup> and the 20<sup>th</sup> centuries during the period of rapid growth of progressive social and democratic ideas, social and political movement, reforms revealing new opportunities for legal development of Russia. In his works and reflections Lev Nikolaevich paid special attention to the fate of the Russian people, Russian village and the search of a way to fairly arrange live for every man. Address to Tolstoy’s heritage arose from the need in a detailed grasp and recognition of the accomplishments of the thinker as many aspects of social and economic and political and legal position of Russia during that period are still relevant. Tolstoy’s views can help to recover knowledge about political and legal approaches to understand legally significant events and to motivate further development of current scientific ideas about society, politics, state, law and legislation.

### **1.3. Relevant Scholarship**

Tolstoy’s phenomenon has been a subject of studies for over one hundred years which led to appearance of a special religious tradition “Tostovstvo” (Tolstoy religious movement) and interdisciplinary field of knowledge “Tolstovovedenije” (Tolstoy studies). Historiography of Tolstoy’s work is huge; the works of bibliographers, writers, publicists, literature critics, thinkers and educators comprise the gold fund. During the Soviet period the works of Tolstoy were often viewed in the context of ideological principles and that did not allow the researches objectively explore all the aspects of Tolstoy’s work and to reveal a true meaning of his points of view. At the present time Tolstoy’s heritage is still being studied and unexplored facts are gradually revealed. As one of the leading Russian literature scholar Luchenetskaya-Burdina says his works are still one of the unsolved problems of Russian literature studies (Luchenetskaya-Burdina, 2002, p. 3). Speaking about religious and philosophical and political and legal attitudes of Tolstoy, we may classify them as the aspects of the heritage which are not explored enough. Among

the most known historical and biographical, literary, philosophical, pedagogical and religious studies of Tolstoy's works during the Soviet period and at present times are the works by Galagan (1984), Lomunov (1991), Tarasov (1998), Zhurina (2002), Luchenetskaya-Burdina (2002), Gluschenko (2004), Gulin (2004), and Orekhanov (2012). Galagan pointed at indivisibility of Tolstoy as an artist and as a thinker who thoroughly studied inner motivations of a Russian patriarchal peasant and his traditional way of life, thinking that the people are "self-making power". In his writings Tolstoy considered the problem of creative approach to correlation between ethical and aesthetical, giving a critical role to moral aspects of a life of a man and his religious views. Tolstoy showed that people might gradually get used to following elementary, known for centuries and mentioned in all the books rules of conduct, to follow them without violence, without forcing and obeying on the part of the state, a particular machinery for forcing people (Galagan, 1984. Pp. 11-12, 22).

Gulin correctly observed that philosophy and views of Tolstoy are impossible to regard in isolation from his religious personality as "uniqueness of Tolstoy's confession, belief, complexity of his attitude to the reality largely affected exceptional identity of a great writer" (Gulin, 2004, p. 3). Paperno states that in all of Tolstoy's self-narratives, from his first diaries to his religious treaties, there was an essential moral and social dimension to the question of the self. He knew that to know and to say who you are is to be oriented in moral space, deciding, "What ought I to do?" (Tolstoy borrowed Kant's phrase"). He addressed to this question in a number of writings (Paperno, 2014, p.5). Tolstoy during his life attempted to find adequate ways to represent the self, to probe its limits and, ultimately, to arrive at an identity not based on the bodily self and its accumulated life experience.

Orekhanov conducted a complex research of religious and philosophical attitudes of L.N. Tolstoy, he identified distinctive historical and cultural aspects of his reform activities in attempts to give a new interpretation of the New Testament and Cristian belief, in general; the author also analyzed place and role of the writer's personality in the context of specific historical and cultural situation in Russia during the 19<sup>th</sup> and 20<sup>th</sup> centuries (Orekhanov, 2009, 2010, 2012).

Zhurina emphasized the relevance of a fair conclusion made by Lunacharsky that "Resurrection" is the most ingenious novel from the social point of view. She notes that the writer in his the novel brought up social problems which served as a material for the novel. The writer covered the problems not on a social but on "transcendental" level because social evil was regarded as a special case of the world, universal evil occurring when the true belief was lost (Zhurina, 2002, p. 3).

Publications by outstanding representatives of the Russian religious and philosophical school hold an important place in historiography of Tolstoy's studies and are presented in collections of works "On Lev Tolstoy's religion" (1912), "L.N. Tolstoy in memories of his contemporaries" (1978), "L.N. Tolstoy: pro et contra:

Personality and creative works of Lev Tolstoy in the view of Russian thinkers and researchers. Anthology” (2000).

However, while there is a great number of various historical, philological, cultural, pedagogical and philosophical studies aimed at covering different aspects of Tolstoy’s works, there are no works devoted to social and political and legal attitudes of the writer both in Russian and international science.

Analyzing legal views of Tolstoy and his human rights activities, the article by a well-known judge and a statesman, chairman and prosecutor of St.-Petersburg district court Anatoliy Fedorovitch Koni is of a huge interest as it was written on the base of personal contacts with a great writer. During the first meeting with the writer Koni noted “keen as though sharp grey eyes in which there were more of a searching justice than caressing kindness, a gaze both of a judge and of a thinker” (Koni, 1978, p. 175). Koni shared with the writer many cases from his work which later formed the basis of Tolstoy’s creative works.

Publications by Kuprits (1978), Emelyanova (1979), Donskov (2005), Bagautdinov (2010) and Sushkov (2013) covering more detailed aspects of legal and religious attitudes of Tolstoy are also of scientific and practical interest for our research.

## **2. Method**

### **2.1. Characterization of Methodological Approaches**

Political and legal relations and institutions are the objects for studies of different humanitarian sciences (legal science, history, philosophy, sociology, political science and others) and each science while being in the system of interdisciplinary relations has its own unique approach. In Tolstoy’s heritage we may find the speculations about the nature, concept, implication, value, functions and role of state justice institutions as well as legal aspects of private or sectoral profile (i.e. about crime and punishment, blame and forms of responsibility, legal entities, forms of organization, role and judicial authorities, sources of forensic evidence, forms and tendencies of administrative work). As the foundation of studies of political and legal attitudes of Tolstoy’s works the author of the paper used current theoretical and methodological approaches developed, primarily, by the history of political and legal doctrines. In the context of this doctrine a rich variety of philosophical and specialized scientific methods are used including dialectical, historical, formal logical, systemic, comparative methods. Each political and legal doctrine has its own potential for further development of concepts (Grafskiy et al., 2001, 7-13).

Traditional scientific approach considering state legal institutions and views on their content in evolutionary development is a dialectical method. While in general, Tolstoy rejected state legal institutions as they are, in his attitudes we can see a certain idealism based on antecedence of spiritual but not material and recognizing as the only reality either individual consciousness, subjective perception and

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feelings or spirituality dominating all the things existed and ultimately – the God. In the course of his reflections of many years Tolstoy formulated his own religious believes.

## 2.2. Historical Methods

At present time, in literature there are many positions on understating law and the state, efficiency of organization and activity of state legal institutions. The attitudes of Tolstoy are very unique, however partly they share positions of historical school of law, the representatives of which thought that law must reflect the results of experience of empirical and spiritual knowledge about the environment and development of the unique system of social and normative regulation.

Understanding of Tolstoy's views is based on the principles of historicism and objectivity leading to comprehensive exploration of political and legal attitudes of Tolstoy with regard to his biography, creative and public work with the use of a large number of resources considering interdisciplinary approaches which were established during literary, religious, legal and philosophical scientific discourses. Tolstoy's views are studied in the context of interpenetration of historical and cultural aspects of development of Russian society in the second half of the 19<sup>th</sup> century. This period is characterized by developing a new type of personality, rationalization of attitudes to a spiritual aspect of life, secularization of political and social lives.

The principle of historicism enables us to analyze the development of institutions with regard to specific historical conditions, distinctive features, national unique way of development of Russia; it allows trace the genesis of development of various legal views, determine their place and importance for a certain period and relations with other concepts. Historical approach is a way of understanding, interpretation and assessment of political and legal content of the doctrine in the context of the past and the present; helps to identify "historical constants" in the analyzed ideas. Many arguments and evaluations became theoretical and conceptual foundations, they were not left in the past but, on the contrary, they lived through their time and became an essential part in the historical chain of development and political and legal knowledge strengthening. Today they constitute modern theoretical views. Historical and anthropological method makes it possible to trace distinctive features of Tolstoy's spirituality and the process of shaping of his views.

Direct historical aspect of political and legal content of the doctrine demonstrates historical explanation of certain views on society, state, law, and politics. Creative heritage of Tolstoy contains deep philosophical, general methodological and fundamental ideas about the meaning of life, human mission, the role of religion and the purpose of state legal institutions which are "eternal themes". Many thinkers contributed to the development of these ideas promoting historical succession and enrichment of theoretical aspects of various concepts. Among the critical problems we may also name the relationships of moral and politics, the personality and the

state, reforms and revolution, power and violence, justice, equality and law, right and freedom, right and law. Historical and genetic method helps to reveal the changes in the content of political and legal and religious attitudes of Tolstoy, to identify solid positions which the thinker followed during all his life.

### 2.3. Comparative Method

Comparative method helps to distinguish the views of Tolstoy from the views of his contemporaries in Russia and Europe. Comparative analysis (in synchronous and diachronous aspects) of different concepts enhances the knowledge about general and specific characteristics and identifies the most acute criteria of classification and typification of political and legal doctrines and, consequently, leads to a more correct assessment of their content (Grafskiy et al., 2001, 13). We may mention a well-known argument between Tolstoy and Soloviev when Soloviev demanded to include the state into the Kingdom of God, but Tolstoy, on the contrary, insisted on its complete elimination. The two thinkers opposed theocracy and anarchy, holy statehood subjected to the Church and complete rejection of the state (About Lev Tolstoy's Religion, 1912, 59-76; Hooper, 2001, pp. 360-380).

## 4. Results and Discussion

### 4.1. Legal aspects of Tolstoy's work and his political and legal views

A social way started within the walls of Kazan university during Tolstoy's study years. Since 1845 when he was a first-year law student, he tried to find explanation to the phenomena of a legal way of life. One of the most outstanding scientists of the Kazan University during that period was one of the founders of the civil law science D.I. Meyer who gave Tolstoy a task to analyze "Nakaz" by Catherine II and compare it with Montesquieu's "The Spirit of Laws". In his work Tolstoy showed a positive attitude to republican system of government, rejection of autocracy, despotism, and slavery. Criminal science was of a particular interest to him, and when discussing the issue of death penalty he expressed his strongly negative attitude.

Nevertheless, in the university Tolstoy could not find the answers to the questions that bothered him. Curriculum was restricted by the Statute of 1835 year to teach only current Russian laws and it did not leave place for studying philosophical aspects of the law; historical and legal trend which was able to revive dry dogmatics was only emerging. "In a letter to a student about the law" written not long before his death in 1909 Tolstoy wrote: "I was a lawyer myself and I remember when in my second year of studies I got interested by the theory of law, and it was not for the sake of an exam that I began studying it, thinking that I could find in it explanation of the things that seemed strange and unclear to me. But I remember well that the deeper I understood the theory of law, the more I was convinced that either there was something wrong with the science or I just could not fully understand it" (Tolstoy, 1936, p. 60). In winter Tolstoy did not come to the exams and in spring 1847 he submitted an application to terminate a study course in the university;

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among the official reasons he named problems with his health and family circumstances. He did not become a man of law but in his genius works the issues of law, justice, power, and social inequality take a very important place (Kuprits, 1978, pp. 97-105). All his creative work is characterized by fearless, open, ruthlessly harsh discussion of the most acute and painful issues of those times.

Several facts are known when the writer himself had a legal experience. For instance, in 1861 pursuant to the abolition of serfdom, Tolstoy was appointed an amiable compositeur of the 4<sup>th</sup> district of Krapivinskiy region in Tula province. By modern standards he performed the functions of a Justice of the Piece. Unlike all those who regarded people as a little brother whom they need to raise to their level, Tolstoy thought that people are much higher than intelligent classes and that masters should borrow Russian muzhik spirit. For this reason, he actively defended land interests of the peasants often breaching orders of the tsar. "Mediation is interesting and challenging but it is no good that the entire upper class began to hate me and put des batons dans les roues from all the sides" (Tolstoy, 1984, vol. 18, p. 572). His work as a mediator expanded the field of observing the life of the peasants giving him a valuable material for his creative works. Tolstoy resolved the disputes between the landholders (pomeshchik) and the peasants. However Tolstoy did not work for long in this district as landholders addressed to the leader of the upper class with request to remove Tolstoy from his post of an amiable compositeur. Landholders claimed that Tolstoy was solving the cases in favor of peasants. For this reason Tolstoy had to leave that position (Bagautdinov, 2010, p. 24).

He also had experience of a defender in criminal matters. In July 1866 near the Tolstoy's mansion house in an infantry regiment a record clerk Shabunin stroke the commanding officer and was committed to a military field court. He was at risk of death penalty. His comrades asked the writer to serve as a defendant and he gave his consent. The facts of the case showed that the commanding officer was constantly finding faults with the clerk and finally brought the clerk to the extreme irritation and as a result he could not restrain himself and hit the officer. Tolstoy tried to convince the court that Shabunin was mentally incapable man and deserves leniency. However Tolstoy's participation in this case was not successful and the accused was sentenced to death by shooting (Gusev, 1935, vol. 14, pp. 658-663). That episode had a great impact on Tolstoy as he saw a ruthless power of the state based on violence. In this regard he wrote to his friend, a publicist Biryukov: "This case has influenced me much more than all the events in life that seem important: loss or gain of fortune, success or failures in literature and even loss of close people" (Gusev, 1935, vol. 14, p. 663).

Besides, Tolstoy many times visited court sittings including those with participation of jury. It is a known fact that he himself took part in criminal proceedings as a member of jury. On July 18, 1881 Tolstoy visited a district court in Kaluga. After the visit he wrote in his diary: "Visited a district court. It is all the same fuss. A poor man stole a fur coat. Was sent to penal battalion for 3 years and 9 months". In the

entry of November 27, 1890 Tolstoy wrote about the proceeding in Krapivinskiy court in Tula province describing it as a “shameful comedy”. The episodes in Tolstoy’s works such as “Resurrection”, “Living corpse” and “Power of Darkness” are based on real cases from the court practice during the 80s-90s years of the 19<sup>th</sup> century.

Tolstoy had friendly relations with chairman of Moscow district court Davydov N.V. with the assistance of whom he visited prisons for many times and talked to prisoners. L. Tolstoy wrote letters, requests to court and state officials and even to the tsar in defense of arrested political prisoners and exiled. It was Davydov who told Tolstoy about a criminal case of the Gimers who staged a killing of the husband to obtain a divorce. Due to this case Tolstoy wrote a drama “Living corpse”. In this work we can see impressive descriptions of interrogation scenes. L. Tolstoy devoted many publicist articles to the issues of law and justice (“Shameful”, “A letter to a student about law”, “To the tsar and his assistants” and others). Famous articles “Cannot be silent” and “Who are the killers” are written against the tsar court and execution of 1905 revolutionists (Bagautdinov, 2010, p. 26).

A very special place in life and work of Tolstoy took his friendship with Anatoliy Fedorovitch Koni. In his article he mentioned that “keen observation” of Tolstoy should not be confused with “sharp insight of psychological analysis” of Dostoevskiy. In his works Tolstoy managed to discern and depict in various life events and in people’s actions aspects or features that vanished out of the sights of readers in everyday life. The readers can always hear the voice of “compelling worldly truth” as he considered both high aspiration of people and their sinister affections. The main aim and the main characteristic of his work Tolstoy saw in analysis of human nature inconsistency. Tolstoy reflected: “I have been hardly thinking recently. Maybe, I should not have said it. Maybe my words belong to one of those evil truths that are hiding unconsciously within every man and must not be openly said because they become harmful as wine sediment that should not be shaken in order not to make bad wine. Where is expression of evil that should be avoided? Where is expression of goodness to take example by? Who is a villain? Who is a hero? All are good and all are bad ... The hero of my story whom I sincerely love with all my soul and whom I tried to depict in all his beauty and who was and will always be wonderful – is truth” (Koni, 1989, pp. 2-5).

The uniqueness of Tolstoy’s personality is that he devoted himself not only to creative depiction of the truth but to the search of and stand up for justice, primarily, in legal defense of peasants. According to Koni, legal aspect of Tolstoy’s work is as significant as his creative work. “With his dauntless hand he always tried in his dramatic works, fairy-tales, stories and novels, in his philosophical and ethical and political works demystify deceptive but attractive social lies whether it expressed itself in theory or in practice, in traditions and institutions, in customs and laws, in conditional virtue and unconditional violence”, wrote Koni. Calling to inner world of a human, appealing to “free oneself from antiquated views” he tried to prove that



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the “Kingdom of God” is based on spiritual needs regardless and even contrary to established conditions of people living together. The reader may not agree with some of Tolstoy’s statements or doubt in their ability to be asserted in practice, however we “cannot but sincerely respect the writer who is not satisfied with an earned fame of a great artist but strives with all the vigor of his talent to solve all the emerging issues for the sake and for the purpose of reducing pain and reaching real but not formal justice”.

Thinking about the meaning of life, the mission of a man, family, upbringing, attitude to death and others, Tolstoy deeply believed in moral responsibility of a man and the need for constant spiritual development. The thinker strived to alert conscience regarding it as the “supreme judge of life, inspirations and activity of a man”. In his creative works and philosophical essays Tolstoy addressed to the voice of the secrecy of the human heart and with the help of a passionate word or bright images he “made this voice sound insistently and for a long while”. As Koni thought due to exceptional creative skills of Tolstoy he and his works became so popular far beyond Russia in the Western Europe and America (Koni, 1989, pp. 2-5).

Koni shared with Tolstoy one case from his practice. In the first half of the seventies a young gentleman, who was later appointed as the Governor of one of the Russian provinces, requested Koni as the Prosecutor of St. Petersburg district court to help him to effect a marriage with an arrested woman Rosalia Onni, who committed a crime and in general had a shady past. In a private conversation Koni wanted to know about the motives of that intention but got no answer. And only later after Rosalia’s unexpected death in prison from spotted fever, a woman keeper shared with Koni a story of that poor girl. In memory of Rosalia the groom contributed the dowry to the orphan asylum for children of arrested people.

It turned out that Rosalia was a daughter of a widower, a tenant in one of the Finland provinces. After his death until 16 years old Rosalia lived in a “girls’ house” where she met that young man who later became her fiancé. The man was a relative of the hostess of the house and taking advantage of the situation he seduced the poor girl and after that she was banished from the house. The young man left Rosalia, she gave birth to a child, placed it to a substitute home and found herself on a downward path in a brothel. The young man left for St. Petersburg and entered “business and intelligent circles”. Once, being a member of jury in a district court, in one of the proceedings he recognized a victim of his “young and egoistic passion” who was accused of stealing. Something changed in his heart and to redeem from his sins he decided to sacrifice his “freedom”, “reputation” and “any other deep feeling” to implement the “right to punishment”. Koni was very impressed by very deep and intimate meaning of that story. In his own words that “was not an ordinary case but a revelation of moral law, manifestation of higher justice which is expressed in a proverb ‘God sees the truth, but waits’” (Koni, 1978, pp. 184-188).

Tolstoy was very impressed by the story of Rosali Onni. In August 1895 L.N. Tolstoy told Anatoliy Fedorovitch: "I am writing that story you told me, but I never know what is going to come from it, what I am writing and where it will lead me; I do not know myself what I am writing now". In 1898, Tolstoy made up his decision to use the proceeds from his work to help resettle in Canada the oppressed sectarian group known as the Doukhobors, He threw himself into concentrated work on the novel which "grew from a tale of quilt over a past indiscretion into a work of epic scope, a panoramic view of Russian life in the late nineteenth century, seen from the peculiar vantage point of Leo Tolstoy". (Gustafson, 2009, pp. viii).

"During the decade in which he wrote "Resurrection", the last decade of the 19<sup>th</sup> century, Tolstoy himself was on just such a journey of discovery, the reawakened an interest in social, economic and political issues. "Resurrection" is more informed by Tolstoy's social, moral, and religious views than any of his other fictional works. This world view is shaped by one central concept which first surfaced in Tolstoy's essays on education in the 1860, and then, especially in the Resurrection decade, came to dominate his social and political thought. This concept, *nasilie*, which can be translated as both 'coercion' and 'violence' and ranges from the physical to the spiritual, assumes, in the manner of Tolstoy's adolescent intellectual idol Rousseau, a fundamental innocence of goodness of human beings which is distorted by culture and social institutions. The government of this society is the institutional embodiment of the fundamental coercion/violence, it is held together by the basic instrument of *nasilie*, the military, which itself is a system that turns innocent drafted men into monstrous beasts. The non-military institution that most embodies this *nasilie* is the legal system with its courts and penal institutions", - stated Gustafson (Gustafson, 2009, pp. viii, ix).

The church, which should uphold the basic teachings of Christ, in fact mocks them by condoning war and the military, by supporting the legal system, penal in carceration and capital punishment, and by itself befuddling the minds of the people through intoxicating liturgies and pompous ceremonies. Society can be redeemed from this order of *nasilie* only when all acknowledge their involvement in it and agree to stop hating, torturing, enslaving and killing. It is this world-view that controls resurrection. Gustafson concluded: "What makes "Resurrection" unique is that it combines this anatomy of social with a story of moral awakening and spiritual growth toward freedom from the secular ideals and toward the possibility of a new life. "Resurrection" is built around the contrasts in experience of heroine and a hero, of poor and rich, of outsiders and insiders, of victims and victimizers, of the caring and the callous" (Gustafson, 2009, pp. ix-x).

Eleven years later "Resurrection" was published and according to Koni it had a "very strong impression on many young people and made them to reconsider the values considering themselves and their worldly attitudes". Tolstoy often called this work "Koni's story". A lot of attention in the novel is paid to the description of court proceedings, manners and customs of the judicial system in those times. The

writer based the court proceedings, images of the judges, jury, and defendants on the real situations and facts, using real prototypes of his characters (Kokobodo, 2012, pp. 1-15).

L.N. Tolstoy spoke out against some of the aspect of the work of courts. "Resurrection" served as an expression of his legal views. With guarded resentment he told about his experience of being requested for jury service to Tula and about certain episodes during court proceedings, behavior of the parties, judges and lawyers. Koni's view of the world was identical to Tolstoy's attitudes in terms of the need to follow ethical norms in a law practice. In this regard Koni noted: "A sham and in some cases if we can say so sporting aspect in the work of prosecutors and defenders always repulsed me and, despite the inevitable mistakes in my court service, with clear conscience I can say that I never intentionally broke one of the major principles of Kantian ethics; it means that I never looked at a man as a means of reaching any, even though honorable, aim". Koni believed that Tolstoy appreciated his honesty and treated him very kindly, with deep respect and gratitude to his legal help in protecting peasants. Anatoliy Fedorovitch was an ideological follower of Kant and he paid much attention to the problems of judicial ethics. He believed that execution of unconditional requirements of ethical duty is expressed, first of all, in respecting human dignity and in love to a human as to the bearer of moral law based on "happiness of a fellowman's happiness and own moral perfection". Koni showed to Tolstoy a work devoted to judicial ethics. Tolstoy answered him in 1904 "I read the court justice, while I think that ideas of such a respected man as you are must bring use to the young generation, personally I, with the best will in the world, cannot reject the thought that the higher moral religious law – categorical imperative of Kant – destroys the court itself. Hopefully, if we can meet, then we will talk about it. I shake you warmly by the hand" (Koni, 1978, pp. 188-189).

Not only the characters of the novel underwent the process of resurrection and spiritual renewal but the people of Russia, in general. That very early stage of "resurrection" wanted to depict a great writer who called himself "attorney of 100 million people of the land". All the subsequent works of Tolstoy are infused with the conviction that the life should be significantly modified. In light of Tolstoy's ideas his novel should be considered not as utopia, but as prevision and prophecy. In the novel as well as in other publicistic works of the 1890<sup>th</sup>, Tolstoy proclaimed the inevitability of popular revolution in Russia, thinking that it would be, primarily, peasants' revolt. He wrote his "Resurrection" as a "collective letter" to the millions of readers. The writer was right believing that his novel would read people not only in Russia but in also abroad. The full text of the novel was published abroad in a huge number of copies. At the beginning of January 1900, a newspaper "Rossija" announced that "not ten thousand but hundred thousand people" read Tolstoy's novel; "it (the novel) penetrated to the masses of not very rich people, who usually learn about literature at second hand". A year later after the first publications Tolstoy told to one of the Moscow journalists that his novel

“Resurrection” gave him an incredibly satisfying feeling because he managed to express in words his long-standing ideas and thoughts and the readership turned out to be incredible (Lomunov, 1991, pp. 8-12; Toland, 2012, pp. 15-26).

Tolstoy developed a unique ideology of non-violent anarchism which is often called Christian anarchism. He thought that enforcement was evil and came to conclusion that it was necessary to abolish the state but not by the way of revolution based on violence, but by rejecting to execute public duties such as military service or tax payments by each member of society. L.N. Tolstoy wrote: “Anarchists are right in everything – in rejecting the existent and in their belief that there is nothing worse than violence of power; however they are mistaken when they believe that anarchy may be spread due to revolution” (Tolstoy, 1993, pp. 211-230). Tolstoy’s political and legal views developed partly as a result of his experience in the Crimean war, his later pacifism, resulting from his participation in the siege of Sebastopol. But it was the witnessing of a public execution in Paris in 1857 that led to his opposition to organized state rule (Pinel, 1987).

The logical extrapolation of Tolstoy’s doctrine of pacifism, rejecting all violence, including as a form of self-defense or retaliation, its designation as a form of nonresistance. It was this idea that inspired the hugely important Tolstoyan movement this wasn’t a movement that Tolstoy started himself, but he gained many followers not only in Russia, but internationally, who attempted to set up communities to live according to his ideals. A central aspect of his doctrine was rejection of the state and all the institution associated with it, because they inherently operated through violence and oppression. This involved not only institutions such as the police and army, but also, for example, tax authorities, because they entrenched inequalities and placed some in a position of power over others. The church was included, because it supported the other functions of the state (Alston, 2010; Schonle, 2013, pp.42-52; Tolstoy, 2014).

The most important issue of state and legal regulation in Russia was the land question. Tolstoy thought that the problem of land, to be more particular, the problem of “land slavery” must be regarded not as political and legal but as moral and ethical, destroying “the primitive demands of morality”. In his letter of November 6, 1909 Tolstoy noted that he was astonished by “grave injustice of private property in land”, “stupid and impudent solution of the problem by our poor state and its complete misunderstanding by the society”. “I think that the question of land slavery injustice and of the need to be free from it is now on the same level of perception as was the problem of the serfdom in the 50-s: the same conscious resentment of the people, the same realization of this injustice among the rare best representatives of rich classes and the same rude, partly unintended, misunderstanding of this problem in the government”.

The government should have understood that “Russian people with their ingrained belief that the land belongs to God and may be common but in no way can it be

private property. In this case, the government would understand that a Russian man is well ahead of other peoples in terms of this important issue". Tolstoy was strongly convinced that the government needed to play a critical role in expressing progressive ideals of the people, freeing the land from the proprietary rights. However, as usual "people from the government being on the lowest moral and intelligent level, especially now after winning the revolution and becoming self-confident and daring, are not able to think authentically and to understand the immorality of private property. They are not afraid to break age old traditions of the Russian life in order to lead the Russian people in that awful, immoral and wrecking state in which find themselves European people" (Suhotina-Tolstaya, 1980, pp. 438-450).

Tolstoy had a tremendous influence on many world writers and thinkers and his impact reached beyond the literary into other realms. The idea of a non-violent rebellion had a great influence on an outstanding leader of the national liberation movement in India M. Gandhi who called Tolstoy his teacher. In the world caught on the rack of terrorism and violence Tolstoy's ideas are important for international society. The correspondence between Gandhi and Tolstoy contains an interesting exchange between two on their different views on reincarnation and the causal consequences of such belief. Gandhi enthusiastically became a disciple of Leo Tolstoy and inherited the difficult "search for Truth" which had preoccupied Tolstoy for much of his life. Reverend Doke writes in his biography on Gandhi: "Undoubtedly Tolstoy has profoundly influenced him. The old Russian reformer, in the simplicity of his life, the fearlessness of his utterances, and the nature of his teachings on war and work, has found a warm-hearted disciple in Mr. Gandhi" (Mahatma Gandhi and Leo Tolstoy Letters, 1987, p. 12-13).

Many European thinkers among whom was Austrian philosopher Stefan Zweig thought of Tolstoy as "apostle of non-violence", pacifism. According to Zweig, Tolstoy's call for a new social order initiated movements such as the Russian Revolution and Mahatma's Gandhi's campaign to free India. Tolstoy's belief found its continuation in Gandhi's famous policy of non-violence. Zweig proclaimed Tolstoy as the spiritual father of Romain Rolland's call for peace during the First World War. Both Tolstoy and Zweig regret modern militarism. Tolstoy's and Zweig's criticism is mainly directed against European high society and its corrupt values. For Tolstoy the peasants are the most moral people and closest to the truth. For Zweig, the simple Eastern European Jews' values are superior to those of the affluent, educated European society (Zweig, 1963; Fraiman-Morris, 2007, pp. 108-115).

One of the Tolstoy's most active American correspondents was judge and writer Ernest Havard Crosby (1856-1907). Following his first encounter with Tolstoy's philosophy in 1891, Crosby became one of the most energetic and devoted disciples of Tolstoyanism in America, attacking manifestation of militarism, imperialistic (especially for Spanish-American and Russian-Japanese Wars), and social injustice,

all in the name of Christian ideals. Crosby followed Tolstoy's publications and defended his literary interests, providing him with material from the American press, urged him to write in support of various causes and individuals, and shared his own writings with his teacher, including his satiric anti-militaristic novel "Captain Junks, Hero". Inspired by the turn of events in Russia at the turn of the century, Crosby expressed his wish to return to Russia to visit with Tolstoy after the expected revolution (his first and only visit took place in 1894), to which Tolstoy responded skeptically that he should not wait. An untimely death prevented Crosby from returning to visit his teacher (Davis, 1989, p.110).

#### 4.3. Protection of Religious Rights of the Doukhobors

In seeking a solution to critical questions of the existence, the truth and the meaning of life, L.N. Tolstoy was talking to priests and monks, visited holy men in Optina Monastery, thoroughly studied the new Testament, read theological works, studied ancient Greek and ancient Egyptian languages to read in the original the primary sources of Christianity as one of the world religions (Tolstoy, 1934). At the same time he attentively observed the nonconformists called heretics including dissenters (raskolniki) – doukhobors, molokans, Baptists and all those who were known as sectarians. Tolstoy was greatly interested in Doukhorbor processes and beliefs, in particular to the concept of "unity of people" which the Doukhobors exemplified. For Tolstoy the Doukhobors represented a living example of "practical Christianity", the religious community movement (Donskov, 2005, pp.10-45). Tolstoy's spiritual inquiry led him to developing his own moral and religious doctrine the essence of which was in ideology of personal self-improvement based on the principle of "universal love" and "non-resistance to evil through violence". Major social and legal institution in Tolstoy's view was a family.

An American journalist George Kennan (1845-1924) who spent a day in Yasnaya Polyana (June 17, 1886) entered into controversy with a writer and told him that if oppression is beneficial for the oppressor and if he sees that he can oppress with impunity and no one stands against him, then when must he stop oppressing? "I think that peaceful submission to injustice which you defend must simply divide the society into two classes: the tyrants who find tyranny beneficial and who will continue it eternally, and the slaves who think that rebellion is useless and who will always submit" (L.N. Tolstoy in recollection of his contemporaries, vol. 1, 1978, p. 374).

G. Kennan wrote: "However, the count Tolstoy still stated that the only way to destroy oppression and violence is in complete rejection of violence despite anything. He said that the policy of non-resistance to evil which he advocates as a revolutionary method is in full compliance with the character of a Russian peasant, and he referred to wide and quick spread of religious sectarianism within the Empire as an example of success of such a policy, despite repressive measures" (L.N. Tolstoy in recollection of his contemporaries, vol. 1, 1978, p. 374).

One of the most influential state officials the chief Procurator of the Holy Synod K.P. Pobedonoscev understood it very well and in 1891 he wrote to the tsar Alexander III: “We cannot hide from ourselves that recently there was a growth in intellectual excitement under the influence of the works by the count Tolstoy and it is going to aggravate the spread of strange, distorted ideas about the faith, the Church, the government and society; the trend is negative and it is alienated both from the Church and from the nationality. It seems that some epidemic insanity grasp the people” (Essays about the history of St. Petersburg eparchy, 1994, p. 142). The writer’s preaching led to his excommunication in 1901. As it is said in the Holy Synod: “A known worldwide writer, Russian by birth, orthodox by immersion and upbringing count Tolstoy dared to rise against the God and the Christ and His sacred possession, withdrawing from the Mother who fed and brought him up, from the orthodox Church and devoted his literary work and the talent given to him by the God to spread the doctrines offensive for the Christ and the Church and to destroy in the minds and hearts of people paternal faith, orthodox faith which helped our people to survive and due to which the Holy Russian was strong. In his letters and works, being spread by his followers all over the world and especially within our dear Motherland, he advocates with a zeal of a fanatic abolition of all the dogmas of the orthodox Church and the essence of the orthodox faith, denying the God in the Holy Trinity, the Creator; he denies the Jesus Christ – the God-man, the Redeemer, and the world’s Savior who paid the price for us and who had risen from the dead; he denies the virgin birth of Christ and perpetual virginity of the Blessed Virgin Mary; he does not acknowledge the afterlife and the law of retaliation, he rejects all the sacraments of the Church, insulting the most sacred believes”. Due to this “The Church does not consider him as its member until he repents and become transparent with the Church again” (Essays about the history of St. Petersburg eparchy, 1994, p. 143).

Though in religious circles they knew about the “ungodliness” of count Tolstoy, they could not stand it anymore when in 1899 his blasphemous novel “Resurrection” was published. All the income from the novel the author gave to Doukhobors who suffered pressure from the Tsar Government and had to relocate to Canada. Moreover the son of the writer Sergei Lvovitch Tolstoy accompanied those who were relocating to Canada. It was the second steamboat carrying away the Doukhobors to the new World. The name of the steamboat was “Superior” and on its board there were 1989 emigrants. In January 1899 the steamboat successfully arrived at the port Halifax. “The relocation went safely, - told Lev Nikolaevitch Tolstoy to one of his interlocutors. – The Doukhobors will likely settle well in America. The faith in the Doukhobors was closer to the moral state of the people seeking God. In 500 years those believes which made the Doukhobors leave for America will dominate among the majority of Christian people” (L.N. Tolstoy in recollection of his contemporaries, vol. 2, 1978, pp. 206, 219, 325, 559, 564, 572).

The daughter of Lev Nikolaevitch Tolstoy Tatiana Lvovna Suhotina-Tolstaya wrote in her “Diary” that at the beginning of 1898 she was in Petersburg and was ready to

go home when she received a telegram from her father: "The Molokans are coming on Tuesday to Petersburg to make arrangements about the children. Postpone your departure to help them". The situation touched the children of three Mordovian peasants-sectarians from Samara province Chipilev, Bolotin and Samoshkin. The children were taken away from the parents and placed into a monastery.

Tolstoy wrote two times to the Tsar about those arbitrary actions of authorities: on May 10 and September 19, 1897. The first letter did not reach its destination but the second one was given to Nikolai II. Tolstoy wrote the pleading to the Tsar on January 25, 1898 on behalf of the molokanin F.I. Samoshkin, they removed the only child from him. On the same day Tolstoy addressed to a well-known lawyer A.F. Koni with the request to help return the children who were forcefully taken away to their parents.

"We must not remain calm, - wrote Tolstoy, - when you have to witness such evil deeds". Tatiana Lvovna Suhitina-Tolstaya addressed to the chief Procurator of the Holy Synod K.P. Pobedonoscev when during the meeting with her said that "Samara hierarch pushed himself too hard" taking away the children from "sixteen parents" and that he would immediately write to Samara Governor. In her diary on march 8, 1898 Tatiana Lvovna wrote: "the father received a letter from the Molokans, they returned their children" (L.N. Tolstoy in recollection of his contemporaries, vol. 2, 1978, pp. 222-225, 575).

"However, in those times people who dared to obey the voice of their consciousness, who did not want to restrict their religious feelings and confession of faith by the established borders were oppressed, they were given insulting nicknames by the bearers of the Sward of the Spirit and the Sward of the Secular. And those were not the people from the sects whose misbelieves contradicted the demands of morality and social life; for the most part those were the dedicated people who were devoted to the precepts of their ancestors and stood out from the other people by their coolness of judgement, love for labor, housekeeping and often very strict family life which is so shattered now ... Their suffering fate, persecutions, destruction of a family, children forcefully taken away and place in a monastery disturbed and troubled Lev Nikolaevitch. He wrote letters to the authorities, made arrangements about pleadings and supported all those who were to have their say on those cases. I also found myself among the latter", - wrote Koni.

Russian Doukhobors and Molokans suffered from the severe repression in their home country because they refused to serve in the tsar army on grounds of their religious believes. The Molokans admitted the possibility to serve in the army only as carriers and hospital attendants. An outstanding Japanese writer Kenjirō Tokutomi better known as Tokutomi Roka (1868-1927), one of the followers of Lev Nikolaevitch in Japan, visited the writer in 1906 and spent five days in Yasnaya Polyana. Tokutomi Roka left highly reliable recollections containing almost protocol statements of everything he saw and heard there.



Numerous statements of Tolstoy about important issues of literature, culture and acute societal problems are of the most interest. Speaking about military service and the peace T. Roka said: “The way to peace does not lie through Hague conference; the only correct way are shown by the Doukhobors. If everyone followed this path, of course there would be casualties, but they would serve the high purpose”. “Yes, this is right, - answered Tolstoy. – However, it would be bad if someone of them will openly takes up arms. The love in each man should be so great that it should never allow taking up arms. Indeed, who will submit if they say ‘cut off the baby’s head’? The love to a child will not allow this” (L.N. Tolstoy in recollection of his contemporaries, vol. 2, 1978, p. 325).

The second half of the 19<sup>th</sup> and the beginning of the 20<sup>th</sup> century is of a special interest for history and legal science as that period was rich in sharp ideological debates, oppositions and collisions taking place on the background of important social and political changes. One of the crucial trends in historical studies is exploration of life, views on the world and work of the greatest representatives of the Russian culture and Tolstoy is among these people. A great Russian writer, an outstanding thinker whose artistic, philosophical and publicistic works became known worldwide and to a large extent have defined the image of Russia at the beginning of the 20<sup>th</sup> century, Tolstoy took interest in many aspects of the life. In his works he formulated the problems of personal freedom, motivation of man’s behavior, ethic problems of justice, punishment and repenting. During the second half of Tolstoy’s life we can see a crucial turning point in his religious and philosophical, state and legal views and in his attitude to life which to a large extent was defined by ideological conflict with K.P. Pobedonoscev and St. John of Kronstadt. Genesis, historical evolution, ideological characteristic features of inner conflict of the writer and external contradictions with state authorities and the Church are relevant topics for today’s discourses. Discussing political and legal views of Tolstoy helps to better understand the process of developing Russian state and law, justice, public and state structure, relationships between a person and authorities, the influence of the environment of forming legal awareness of a man and his legal culture.

#### **4. Conclusions**

L.N. Tolstoy (1828-1910) is a great Russian writer, thinker and a social activist whose works left a deep mark on the life of Russia. Tolstoy saw the essence of cognition in understanding the meaning of life and in finding the answers to many other questions of existence. Criticizing social and political structure of Russia in those times, Tolstoy hoped in moral and religious progress in human consciousness. The idea of historical progress he associated with solving the question of a man’s purpose. The answer on the question could give created by him “true religion” in which he denied theological aspects of church doctrine and, consequently, the role of the Church in social life. The ethic of self-improvement he connected with rejection of any battle, with the principle of non-resistance to evil through violence,

with the principle of universal love. Considering any power an evil, Tolstoy came to the idea of denying the state. As in his social life he rejected violent methods of fighting, he thought that abolition of the state was possible when each and every man rejected perform social and state duties. Religious and moral self-improvement was to give certain spiritual and social order.

Tolstoy committedly supported anti-state approach. In his creative works Tolstoy appealed directly to the people as to bearers of a true faith and morality. Tolstoy was greatly influenced by Russo, Kant, and Schopenhauer (Draganov, 2013, pp. 52-56). Diverse views of Tolstoy were in tune with some part of Russian and foreign society. It was expressed in the religious and political movement of Tolstoyans the ideas of which were not only purely religious but also social and political, primarily, associated with the ideas of pacifism, “non-violent methods” of struggle for equality and social justice. Religious and philosophical ideas of Tolstoy became a concept for the movement of Tolstoyans based on “non-resistance to evil through violence”. The supporters of his doctrine followed the five commandments: be patient, thou shall not commit adultery, thou shall not swear, thou shall not resist to evil through violence, love your enemy as you love your neighbors. During the last years of Tolstoy’s life his struggle against injustice became truly titanic and heroic.

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