POST-RELIGIOUS ERA: 
REFLECTIONS ON THE LEGALIZATION 
OF RELIGIOUS ETHICS

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Abstract
Not only is the religion a spiritual belief, but also a general way of life. Traditional religions are questioned for lack of authenticity, and the death of God inevitably leads to the collapse of religion and its value system, which continues to weaken or even dissolve the meaning of

1 Xiao Hang, Summary of Disintegration (Song Gang trans., Zhejiang University Press 2010) 235.

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the world and the meaning of life, etc. The secularization of religion is characterized by the separation of the transcendental elements of religion from the human knowledge structure or moral system. However, the removing process of religious factors may harm the morality itself. A feasible way is to translate moral elements by means of scientific language and to set the roots of morality within human reason or nature, that is, to find out the rational alternatives of religious ideas that carry morality for a long time. Law is the key element of post-religious society, and the overflow and migration of religious ethics to law will be conducive to create a new perfect order.

Keywords
Post-religious era, meaning consensus, secular ethics of religion, crisis of legal trust, moral legitimacy, natural law, symbol systems, intangible religion, perfect order

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I. Introduction
Religion comes with human civilization. By the end of the eighth century BC, the city — state has spread throughout Greek society. A temple is essential for all city-states except for the wall, inhabitants and port, so from this we can see the significance of religion to Greek society and the civilization under the axial age. The Enlightenment advocated replacing fantasy with knowledge, dispelling witchcraft and rejecting anything that did not conform to the principles of calculation and practicality. As a result, religious belief and religious ethics were regarded as the construction of human irrationality and were constantly suffering desalination and digestion. At the same time, the differentiation of modern society also makes religion no longer fully dominate the
society. Religion has been downgraded to a special functional system similar to politics, economy, morality, science and education. As Qichao Liang put it, science is in the ascendant, while religion has belonged to the age of last dharma. Due to the fact of religious decline, there is no universal or unique answer to solve the ultimate question of world meaning and life meaning. Meanwhile, the value consensus that human society can form is weakening day by day, the connotation is increasingly wishy-washy or even tends to die out, and the loss of the highest value plunges human society into nihilism. Does morality make sense without God? An alternative order shall be established in the post-religious era, according to the requirements of new symbol system and secular order, religions shall abandon their theological content and integrate with other social sub-genre systems for common social significance. Therefore, “the Law of the Night” and “the Law of the Day” can benefit by associating together, with the spillover and migration of religious, it may become a new symbol in modern society to regain its pursuit of meaning and to undertake the construction of global ethics if religious ethics is reasonably accepted by laws.

II. “Faith and righteousness”, religious sentiments and ethics

God in Western religions is a vivid image, combining the important contents of Judaism worship, Greek philosophical rationality and Christian moral practice, etc. Therefore, a God in the realm of religion is the basis of human religious belief, rational logic and moral value, and it’s also the ultimate bearer of all values. However, why human beings need to fantasize about an “absolute existence” or “the eternal”, like God, Buddhist or Nirvana? Euripides explained that everyone’s mind is a god. Plato also convinced that every man’s spirit was divine, and that there was a spirit, that is a divine vigor in one’s mind, to help them fly to heaven and close to their kind. The Samkhya of Hinduism put forward the concept of divine oneself, that is, to produce a greater sense of self-consciousness to transcend itself. Because the more people suffer, the more they identify with this world of life and death, the more they yearn

3 Tim Morgen, Understanding Utilitarianism, at 41 (Tan Zhifu trans., Shandong People’s Publishing House, 2012).
for the absolute and infinite truth of divine oneself. British religious
scientist Muller believed that religion stemmed from infinite idea which
was the most important prehistoric driving force of all religions for
early human. He discussed religion by using the theory of occurrence,
that is, “religion is an inner instinct, or temperament, which enables
people to understand the infinity under different names and various
guises independently, without any feeling and reason”, “as long as we
focus on listening, we can hear this spiritual moan from all religions.
It was a desire to know the unknown, to speak the unspeakable, to
receive the love of God.”4 The modern theologian, Scherer, expressed a
similar view. He considered that metaphysics or religion was an essential
stipulation of human being, and because of the limitation of individuals,
the existence of human being becomes occasional and thus becomes
fragile and rootless. Therefore, the extension to the divine realm of
absoluteness constitutes the essential intention of man. Supported by
the divine, the human beings surpass their limitations, find out the
meaning of life and settle down the order of the soul. Even, without the
God’s self-apocalypse, human beings will also construct metaphysics as
a substitute for revelation belief.5 Eliade proposed a compromise view,
and he believed that the divine and the secular were two basic forms
of human existence.6 That is, transcendent, divine moral ideal and
touchable and commonplace daily life. Secular life is a social dispersion
state, and each person gives priority to himself, showing the desire for
material life and the emphasis on private interests. Meanwhile, what the
divine world awakens is the common social emotion and moral ideal of
every human being. Each person’s thought concentrates on the common
belief and the common tradition, thus constructing, strengthening the
collective ideal and restoring the individual and the whole morally.
As explained in “Galatians”: regardless of Jews and Greeks, free men
and slaves, men and women, you have become one in Christ. Like the

4 Max Mueller, The Origin and Development of Religion, at 15 (Jin Ze trans.,
Shanghai People’s Publishing House, 1989).
5 Max Scheler, “Death, Eternal Life, God”, at 2 (Sun Zhouxing trans., Hong Kong
Institute of Chinese Christian Culture, 1996).
6 Mircea Eliade, Sacred and Secular, at 32 (Wang Jianguang trans., Huaxia
Publishing House, 2002).
performance of mourners in the Greek games, God is also a human being who shows his pursuit and self-transcendence of the perfect world under the limitation of life.

The relationship between religion and morality has a long history. The great Greek philosopher Heraclitus said the virtue of man was his patron saint. After textual research, the philosopher, Heidegger, discovered that the ancient Greek word “ethos” for morality or ethics means the dwelling place where man lives near the God. Theologian, Harnak, believes that Jesus combines religion with morality, which is the relation between soul and form. It can be seen that the moral concept of human beings has the attribute of religion at first, and the core of religious ethics is the theodicy, that is the metaphysical view of God and the world. Its theoretical system is based on the question of where the individual “comes from” and “where to be saved” and “how to be saved”. Usually it contains two aspects of the relationship, namely, the relationship between man and God and the relationship between man and man. For instance, the first four articles of the “Mosaic Commandments” stipulated how to treat God and the last six articles stipulated that how to treat others. These two kinds of norms are scattered in any place of the Bible, ranging from unbelievable different gods to dietary taboos. The 631 commandments cover all aspects of human life, regardless of the typical theological norms or theological attributes of them. Many legal provisions are directly related to real life, human relations, human nature and the universal ideals of human society. “Luke” recorded that Jesus calls non-Jewish Samaritans neighbors. Because they are caring and able to save lives, what is expresses is Christianity’s transcendence of natural race or national identity and the pursuit of universal benevolence. Like “Matthew” and “Isaiah”, they express noble sympathy and tolerance in different ways. Such as “The bruised reed he shall not break: and smoking flax he shall not extinguish?” or “I have given my body to the strikers, and my cheeks to them that plucked them: I have not turned away my face from them that rebuked me, and spit upon me.” The Mahavira

7 See Gospel According to St Matthew 12:20.
8 See Prophecy of Isaias 50:6.
followers of Jainism regarded nonviolence as their only and enduring religious principle, and they believed that all creation with breathing, existence, living and perception should not be killed, nor should they be subjected to violence, ill-treatment, and torture or expelling. The Indian epic, Mahabharata is a classic expression of this idea. It describes the samurai temperament of the Kshatriya, and the tragic end of the story proclaims the end of the violent destiny of Kshatriya thought and the establishment of the spirit of the times as the ahimsa and compassion. In the first century AD, Bodhisattva became a new model of compassion in the Buddhist world. Not only will they not disappear into the blissful of Nirvana, but they will sacrifice their happiness for the good of the masses. They want to be the refuge of all living beings, the place of all living peace, the ultimate relief of all living beings, the island of all living beings, the light of all living beings, and the law of freeing all living beings.\(^9\) Islam was originally called Tazak, and the term contains the meanings of pureness, generosity and chivalry, and Muslims are therefore required to possess the virtues of compassion and generosity. They are ordered by the lord to share their income with the poor, the zakat can remove the deep self-interestedness of their hearts, and the system of niyyah tries to regulate the differentiation of rich and poor. Although Islam is not a religion of ahimsa, the “Koran” only allows for fighting in self-defenses, which condemns war as a great crime and even retaliation must be effectively controlled within certain limits.

In ancient Greek mythology, judicial decisions came from the goddess of justice, Dike, who would be harmed by any perversions of the law. If the nobles accept bribes or perjury for personal gain, Dike will report to her father, Zeus, whose eyes can see and understand everything. Therefore, the protectors of society then punish the city-states of crime with plague, famine and political disaster. To give up the metaphor of myth, religious ethics has a practical influence on the application of law. For example, the early Christian leaders, on one hand, taught believers to pay taxes, register property, and obey the Roman rulers to the extent permitted by the Christian conscience and commandments in

\(^9\) Karen Armstrong, Axial Age, at 435 (Sun Yanyan trans., Hainan Publishing House 2016).
accordance with “Matthew” and “1 Peter” and other doctrines. On the other hand, they would also urge the Roman rulers to reform the law in accordance with the new teachings, including to respect conscience and freedom of worship, prohibit unmarried cohabitation and kill children, limit arbitrary divorce, expand charity and education, reduce military violence, slow down criminal punishment, and release the slaves etc. In the 12th and 13th centuries, two robbers were subdued for stealing the friars, and the monks in charge of the robber killed the robber for self-defense. Pope Alexander III believed that the monk was not a secular man and he should have higher moral requirements. Killing a person was a sin, even if the killed was a bad man. Jesus also warned that “and if a man will contend with thee in judgment, and take away thy coat, let go thy cloak also unto him.” Therefore, the monk should be held accountable. Another case occurred in the late 19th century when two adult men killed and ate the children for self-preservation after a British ship suffered a shipwreck in Cape of Good Hope. After returning home, the two men were charged with murder, and the defendant argued that there was no law under emergency. They claimed that anyone has an obligation to save his own life and that a person who has sacrificed others to save his own life in a state of emergency has no moral evil. The judge didn’t agree, and the law of emergency risk aversion originated in ancient Greece. However, there was no reason that British Christians should not emphasize such a noble form of altruism, as what the heretics were claiming at the time was an altruistic morality of sacrificing oneself and fulfilling others. In the 15th century, the seven sacraments of the church had created a complex set of church laws that had an effect on every aspect of life. For example, the sacrament of marriage regulated sex, marriage and family life; the sacrament of confession regulates crime and infringement, and indirectly regulated acts of contract, affidavit, charity and inheritance; the sacrament of confession and the extreme unction not only standardized charity and the poor, but it also governed a large church-based network of guilds, foundations, hospitals and other

10 John Witt, Zhong Ruihua, The Rise of the Traditional Teaching of French Religion in the West, 1 Journal of East China University of Political Science and Law 139 (2015).
11 See Matthew 5:40.
institutions serving the poor in western societies; the sacrament defined the rights and duties of the clergy and the clergy, while baptism and sacrament regulated the natural rights and obligations of Christians.

To sum up, in a particular historical period, not only is religion a spiritual belief, but also a philosophy of life, a social system, an ideology, and a general way of life.

III. “Disenchantment”: the decline of theology and the turn of ethics

The Enlightenment replaced fantasy with knowledge and dispelled witchcraft, that is to say, it is required to reject those claims that only contained sophistry and illusion without mathematical logic and did not conform to factual inferences.12 Traditional religion is questioned for lack of authenticity, and God, represented by the “three-to-one”, including faith, rationality and morality, was declared dead because of the criticism of Coperni, Darwin, Kant, Nietzsche and others. The death of God would lead to inevitable collapse of religion and its value system. Once the God no longer exists in the religious world, there will be no dependence for the immortal notions of eternity, eternal life and soul. Without god and immortality, the moral judgment of good and evil, merit and sin will lose the final basis, and the punishment of evil will also lose its fundamental effect. Therefore, a living god has a special significance for morality. Moral theory itself has an insurmountable dilemma, for instance, there are significant differences between the moral law of form and the law of substantial happiness. Virtue and happiness belong to different value systems, and the moral theory that cannot bring happiness to people is unconvincing. However, the only way to bridge the conflict is the existence of God. Kant thought that it must be assumed a higher, moral, holiest, and omnipotent being connects the two elements of perfection to make possible the supreme goodness of the earth. This idea derives from morality, not the basis of morality. Therefore, it is almost perfect moral theory that morality inevitably leads to religion, imagining an all-intellectual, all-good and

12 David Hume, Research on Human Understanding, at 145 (Guan Wenyun trans., Commercial Press, 1957).
all-powerful god who knows everything and distributes happiness on the basis of every person’s virtue, neither favour nor debt. While after enlightenment, the necessary judge is no longer there, and the basis of social ethical order is becoming increasingly fragile and uncertain. Obviously, without God, the moral requirements themselves no longer have any internal, reasonable authority, therefore, it makes no sense to obey moral demands.\textsuperscript{13} Dostoevsky was deeply worried about this, and he was convinced that:

“No one man or a nation could live without a higher idea, and there is only one such idea in the world, that is, the human soul is immortal, there is only one idea that the soul of human beings will never die...This idea means life itself, the first source of integrity and truth of conscience, and also its categorical formula.”\textsuperscript{14}

With the end of God, the religion that once taking a dominant position lost its social legal rights. There is no longer an objective, universal uniform rule and uniform answer to solve the ultimate question, such as the meaning of the world and the meaning of life. The life world presents the multi-value state, the reliability foundation of reaching the meaning consensus continues to be weakened, and the connotation is also getting thinner and even tends to dissolve. Modern society is one with multiple values, the political concept of the country is difficult to transform into the individual concept of life, and the core value of the society cannot be fully recognized by the individuals. Isolated atomized individualism has becoming more and more a trend, while the shared tendency towards collectivization becomes more and more decadent. The collapse of the holy order has plunged mankind into a void of value or into ignorance. People’s emotional world shows loss, nothingness, fear and confusion, the crisis of identity makes the human society diffuse a lost atmosphere for a long time, so that utilitarian, commercialization, consumption, hedonic and other secularization tide

\textsuperscript{13} C. Frank, \textit{The Spiritual Foundation of Society}, at 17 (Wang Yong trans., Beijing: Life, Reading, Xinzhi Sanlian Bookstore, 2003).

\textsuperscript{14} Nicholas Berdyaev, \textit{Dostoevsky}, at 99 (Taipei Times Publishing Company, 1986).
rise up, thus giving rise to a pair of adverse vortices. The first trend of thought can be regarded as a fair current, which advocates that the order of the world is moving from sacred to ordinary. The affairs of this world need no longer be justified by a transcendental concept of meaning, and secular knowledge acquires the legitimacy of autonomy and non-religious citizenship. \(^{15}\) The second trend of thought may be considered as an adverse current, there were more and more new Gods being established after the disenchantment. Voglin predicted that the new symbol which developed from the secular scientific language would replace the place of God. The rise of man-made things fulfilled his claim that goods and money eventually acquired this mystique, becoming a new world symbol. People are being controlled by more and more external things, the relationships, such as “man and the world”, “a man and another” and “man and self”, are suffering an indisputable alienation. However, the nihilism is not useless, it at least gives mankind the opportunity to formulate new values. Other theorists are well aware of the reality, and they are well aware that not only can there be no God, but if we want to keep the good, in a sense, we must throw away God, and the antitheism of religion is inevitable in this era. Without myth, religion may die, but morality must survive. Morality has lived with religion for a long time. If all the elements of religion are removed from morality, it is likely to harm the true elements of morality, and a viable way is to use scientific language to translate the true elements of morality originally expressed in religious language so that they cannot be abandoned by people because of social change. In short, we must find rational alternatives to religious ideas that carry the most fundamental morality for a long time. Ben Hofer, a representative of the modern radical secular theology school, claimed that the secularization of Christian religion and its ethical ideas was a golden age for the future of the church, namely, declaring the arrival of a non-religious Christian religion. This claim conceals God, breaks down pedantic sermons about hell, demons, and so on, leads the center of life of believers from the other shore to this life world, and God’s transcendence is transformed.

\(^{15}\) Liu Xiaofeng, *Introduction to Social Theory of Modernity*, at 497 (Shanghai Sanlian Bookstore, 1998).
into transcendentalism of this life world. The church is transformed from the monarchs who rule mankind to exist for human beings and their societies. Even the neo-orthodox theological representative, Brunel, bluntly proposed the slogan of replacing theology with Christian religious ethics. Correspondingly, the new Buddhist movement also flourished in modern times. Master Taixu who had proposed thought of rensheng fojiao, had announced the onset of a revolution in Buddhism. The thought of rensheng fojiao which required discarding the mysterious and supernatural trappings, emphasizing humanistic Buddhism, creating Pure Land in the human world. Master Taixu believed that both the brahmacarya of transcending desires in the right dharma-age and the spell of leaving desires in the semblance dharma-age would be turned back into bypass, and the mainstream of Buddhism in the last dharma-age is to close to human life and to guide the devotees to the good. The notion of rensheng fojiao that rather than focusing on attaining rebirth in the Pure Lands, this world itself could be purified by making Buddhism the basis of individual and social life. The meaning of “attaining Buddhahood” is purification and development of human nature, and accomplishing the highest form of human personality. All these encourage the monks and believers to start from the real situation, to improve the society and human beings in the spirit of “self-sacrifice and benefit people” of Mahayana Buddhism, and to realize the ideal of Buddhist land in the human world.\textsuperscript{16} Master Taixu had predicted the final stage of the social evolution, the scientific outlook of earlier stages would give way to the study of the various schools of Buddhism. During the final stage: Zhenyan Pure Land studies are a pure aesthetics. Huayan and Tiantai studies are a pure literature. Yog\text{\textsc{\textregistered}} is a pure philosophy, and a pure science. From this it can be seen that the dharma spoken of by the Buddha can encompass everything spoken of by humanity. Consequently, Master Taixu situated Buddhism at a higher level than the knowledge systems of the second, scientific stage of civilization.

With regard to the way religion exists in the future society, Lukeman believes that modern scientific worldviews are not sufficient to replace religion in an all-round way. Despite the near collapse of the divine order,

\textsuperscript{16} See Taixu, \textit{Book of Master Taixu}, 459 (Religious Culture Press 2005).
the value of religious existence cannot be completely denied, and the question of the significance of social and personal life can still be solved by religion rather than by science. For example, there are more and more questions in the world and life, scientific rationality is far from giving the ultimate answer to solve these endless unknown fields. In addition, it should be recognized that science and religion belong to two different fields. Science is based on knowledge, which tries to understand the mechanism of the universe; unlike science, religion is responsible for clarifying and transmitting meaning,\(^{17}\) which belongs to another series of symbol systems that has no noumenon and does not exist in the outside world. After religious reform in Europe, a new religious outlook emerged in Western Europe and North America. The new view was that religion was not meant to explain the world but to exist as a system of discipline. That is to say, the meaning of religion is not in its doctrine of conformity with modern science’s interpretation of the world, but in the psychology and human feelings it contains. In essence, it is a tortuous expression of man’s instinctive desire, wish and pursuit of the ultimate goal. In psychological, it plays a role of satisfaction, compensation and regulation for those who are in confusion, thus promoting the special function of the development of human body and mind, which cannot be denied and obliterated at will. If the enlightenment kills God, it only indicates that modern rational movements and science have transformed or debunked the primitive, witchcraft, mythical worldview of religion, while science cannot therefore be considered to have murdered all religions. In addition to the primitive, witchcraft, mythological religious theories, there are other religious theories, such as the materialistic world, the human existential world, the psychic world, the separation of the soul from the super personal God and the Great Spirit. And there are some super-rational parts of it, hidden in the future of the human collective rather than in the collective past. From this point of view, science has stripped away the naive and immature spiritual view, or the pre rational world view. On the contrary, if the cloak of witchcraft and myth is not stripped away, the higher-level super rational insights

\(^{17}\) Clifford Gertz, *An Explanation of Culture*, at 500 (Han Li trans., Yilin Press 1999).
about religion cannot be formed.\textsuperscript{18} As Einstein predicted, the religion of the future will be a kind of cosmic religion, which will transcend the personified God and be far away from all dogmas and theologies. This kind of religion, containing both nature and spirit, as a meaningful unity, must be based on the religious concept generated by the practice and experience of things, whether spiritual or natural.

In short, the modern religion is no longer able to dominate society as a whole, and no longer serves as the sole foundation of moral legitimacy, but religion that has changed its form can still play a role in today’s society. According to Luckman’s judgment, a tangible religion which used to be a social system and has a set of organizational system will be transformed into an intangible religion which is an individual’s internal belief.\textsuperscript{19} About this change, the interpretation of “Talmud” is very clear. When the Pharisees saw their temple of worshiping God destroyed, Rabbi Joshua lamented that it was unfortunate that the place where Israel’s sins had been redeemed had been destroyed. and then Rabbi John Lan comforted him: “Don’t grieve, we have a kind of redemption equal to the temple, and do something kind, just as I long for love rather than sacrifice”\textsuperscript{20}

As a result, some tolerant Pharisees have learned that they do not need a temple to worship God. The mercy inherent in the human heart is more in accordance with God’s will than the tangible temple, and their perception of religious ideas is almost transcendent, as the “song of songs” described that when two or three Jews sat to read together, God sat among them. A religious representative without God is half-consciously aware of the end of the superstitious era, and the morality existence without the Good is a most likely result.

\textbf{IV. “Replacement and reconstruction”, new order and law}

The secularization process of religion shows that the transcendental elements of religion are removed from the human knowledge structure

\textsuperscript{18} Ken Wilbur, \textit{Grace and Courage: Beyond Death}, at 171 (Hu Yinmeng trans., BeiJing: Life, Reading, and Xinzhi Sanlian Bookstore, 2013).

\textsuperscript{19} Lukman, \textit{Invisible Religion: Religious Issues in Modern Society}, at 1 (Qin Fangming trans., Renmin University of China Press, 2003).

\textsuperscript{20} C. G. Montefiore, H. Loewe, \textit{A Rabbinic Anthology}, at 430 (New York, 1976).
or moral constitution, and the foundation of knowledge or the root of morality is set in the human reason or nature, just as Rabbi Joshua questioned the voice of nature: this commandment is not longer in heaven. The domination of post religious society must not be in God’s hands. This historical change can be said to be a new spiritual era, but it is also worrying. The degradation of human religious emotion makes the traditional religion and personality worship no longer have the ability to integrate the society. The concept of Good cannot replace the worship of God and religious piety as a new emotional sustenance. The society is in a failure state due to the loss of meaning. God, who once existed, was the answer to all questions. Now his death threw all questions back to human beings. The series of events had two effects on the law: on one hand, the law gradually separated from religion. Inspired by enlightenment, the law is no longer supposed to be derived from God’s revelation and divine preaching. Instead, individual or collective rational processes set out private morality and public law. The nation-state is no longer mingled with a national church or with a covenanted people blessed by God and it is glorified for itself. Officials have become secular priests, and the Constitution and laws are sacred because they express the moral concepts and customs of the national collective culture. An inevitable trend is the transition from religious law to secular law. For example, the law of Israel stipulates that the marriage and divorce of Jews in Israel shall be carried out in accordance with the Jewish Shariah, and the Rabbinical Court shall hear the marriage matters, including marriage, divorce, upbringing, guardianship, adoption, etc., the marriage without the approval of the rabbinical court is invalid, which is a typical sacramental marriage system. However, in modern times, Protestant countries in Europe and church theologians in their colonies defined marriage and family as a “social hierarchy” or a “covenant community” in the land on earth and this new idea takes the place of the traditional view of marriage as a sacrament. Subsequently, protestant secular rulers enacted a new national law, the main meaning of which was to establish the marriage system of parental consent, state registration, and church sanctity and peer witness, which essentially abolished the church’s monopoly on marriage. At the same time, thanks to the rational and secular construction mode formed by enlightenment, the
law has been degraded to a well-designed tool for the implementation of a specific political, economic and social order, or an ability to calculate the consequences of their actions, to measure their own and other people’s interests, and to weigh rewards and punishments. Eventually, the law which only plays a certain function in post-religious society will be limited, materialized and impersonal. This mode of construction separates the law from the value entities that sustain people's lives. These values include “trust in fundamental religious and legal values” and “belief in and commitment to transcendental entities that make life meaningful”, as well as “trust in any structure and process that brings about social order and social justice.” As a result of disenchantment, the modern law cannot provide themselves with a moral obligation that people are willing to obey. However,

“A law that demands obedience to the law will be meaningless, the existence of that thing that it tries to create should be taken as a prerequisite. Which is the general obligation to serve the law, this obligation should and must be moral.”

This problem may be fundamental, whether it is the rise of legal instrumentalism, the relativism of legal existence, or the public’s disrespect for the law and the loss of legal effect, the reason lies in the complete separation of law and religion. For this reason, Berman said that only by resorting to religion can we resolve the crisis of legal trust, which means religion and law need to be compounded again. But compounding is by no means a direct identity between religion and law, let alone a certain religion to govern the world. He clearly denied that we should uphold the legitimacy of the old legal system and overcome

21 Xueming Yu, Berman’s Thoughts: From Legal Faith to Reflection on Modernity, 1 World Religion and Culture 10 (2019).
22 Milne, Human Rights and Human Diversity: Philosophy of Human Rights, at 35 (Xia Yong, et al. trans., China Encyclopedia Press 1995).
23 Harold J. Berman, Law and Religion, at 126 (Liang Zhiping trans., China University of Political Science and Law Press 2003).
24 Zhong Ruihua, Harold J. Berman: The Father of Contemporary American Legal Religion, 5 Comparative Law Studies 198 (2017).
our overall crisis by various religious means and even returning to the Puritan Ethics. As a matter of fact, the religion cannot carry the task of supporting the belief in the law. Resorting to religion to preserve the law is like asking one drowning person to save another drowning person, and the religion and law face the same dilemma. However, if the “good” is as the fulcrum, it connects law and religion at the transcendental level so that the law contains not only human reason and will, but also his feelings, his intuition and devotion, and his beliefs. In this sense, the law may go beyond the rules, the tools and the boundaries of the state to become a more profound and integrated cultural system. Historically, the influence of religion on the law can be said to be ubiquitous, from abstract legal ideas to specific legal provisions, such as constitution, civil law, criminal law, procedural law, international law, etc., and then from legal methods to legal technology, all of them are involved. For instance, the original meaning of the ancient Greek word “canon” was a straight pole, which was used to measure the yardstick and was extended to “standard” or “rule and law”. For later churches, “canon” could refer to biblical canons, monks of churches or churches, an important part of worship etiquette, church decrees.\(^{25}\) Such as, the teachings of Hinduism once occupied the dominant position in the traditional Indian law system. Among them, Dharma is the core concept, which is most commonly used to mean “the privileges, duties and obligations of a man, his standard of conduct as a member of the community, as a member of one of the castes, as a person in a particular stage of life.” According to the records of the Manusmriti: The whole veda is the first source of the sacred law, next the tradition and the virtuous conduct of those who know the veda further, also the customs of holy men, and (finally) self-satisfaction. In view of this, the four sources of Dharma are Sruti, Smrti, Bhakti-Sadacara and self-satisfaction, which have distinct religious characteristics. The Bhaspatismti compares a trial case to a sacrificial ritual, which reflects the connection between justice and religion in traditional Indian law from one side.\(^{26}\) As Homer, the ancient Greek poet wrote in Iliad that it was as if the dark earth,

\(^{25}\) He Qinhua, The Essence of Religious Law, 11 Law Science 33 (2014).

\(^{26}\) Gao Hongjun, Law and Religion: The Central Position of Religious Law in Traditional Indian Law, 1 Tsinghua Law 16 (2019).
which was oppressed by the storm and groaned. In the cloudy autumn, showers of rain fell from the sky. This is the rage of Zeus to the guilty people, because the assembly was forced to carry out an unfair trial, regardless of the truth, without fear of God’s severe punishment. These verses express the dissatisfaction of Zeus, the God of law and order, for those disregards of justice and misuses law in adjudication. A similar role in ancient India is Varuna. The god of heaven, Varuna has been described in “Rigveda” can gain insight into all the realms of the earth, regulate the four sides of the heavens, bind the realms with ropes, watch the realms of the gods and all the work of the mortals, and all the gods obey his decrees. Apparently, Varuna is the guardian of the world order, who is mainly responsible for supervising and punishing the behaviors of breaking the order. The “Deuteronomy” contains a large number of claims on secular areas, independent justice, constitutional monarchs, among which the most valuable is on judicial reform. In accordance with the mandate of the elders of the traditional factions to enforce the law in the local shrine, the reform calls for the appointment of magistrates in all municipalities and the establishment of a Supreme Court in Jerusalem to hear questionable cases. It also limits the prerogatives of the monarch, making it his sole duty to read the written law and obey it as much as the people do. The codification of Roman law could illustrate the relationships between the religion and law. Christianity wanted to systematize the law to unify the laws of different religions in the Roman Empire. The act of codification is regarded as an expression of God’s fraternity, and the amendment of relevant legal provisions is basically handled according to Christian doctrines. When Rome was under siege, a group of well-known priests took great risks to collect and treasure the models of Roman law, and preserved them intact by recitation or oral transmission later. From the whole process of the compilation, revision, protection and dissemination of Roman law, the spiritual power of Christianity can be described to be extremely in depth. Similarly in Britain, the concepts of God and “God-made law” make the law above the king, and finally born the idea of the rule of law. The most glorious example is the formulation of the Great Charter. At the request of the church and the aristocracy, the Great Charter promised to give the church, the freedmen, the magistrates and their
courts, the king and the royal courts in England all kinds of freedom and rights, including procedural rights. These charters of rights which cited by Catholics, Protestants and Enlightenment revolutionaries became an important theoretical prototype against autocracy in the early modern era. *The Good Samaritan act*, which has far-reaching influence in some countries in North America and Europe, is directly derived from the allegory in “*The Gospel of Luke*”: a Jew is injured by a robber on the road, lying on the side of the road, and the priests and religious people who are both Jews don’t pay attention to it, but are rescued by a Samaritan who is regarded as a heretic by the Jews. This is especially true of the United States, which enjoys the reputation of a State of law. The spirit of the United States Constitution and the original form of the terms were set by several Puritans on their way across the sea. These Puritans played an important role in guiding people’s lives and creating social systems in the early colonies. There’s also a saying that, the early Puritans were forced to migrate to the new world, directly or ostensibly because of religious persecution in England. However, the fundamental is puritan’s pursuit of the city of God. As a result, Tocqueville couldn’t help to admire the fact that puritanism is not only a religious doctrine, but in many respects corresponds to the most absolute doctrine of democracy and republic. Different from other religions, Weber called Christianity a unique urban, especially civic religion, and he emphasized that it was Christianity that formed the pattern of civil society, and eventually the modern society.

There are also numerous examples of the transformation of religious ethical content into legal norms, for example, such as “Accidents” and “Emergency Hedging” in legal defenses, which are translated in Anglo-American law as the act of God. And the reason why “Emergency Hedging” is not illegal is the principle of “No law if necessary”, which is derived from medieval church law.27 The author who proposed the idea of “freedom of conscience” was Arabella, a famous scholar of the French medieval period. Its original intention is that the believers produce an inner moral consciousness and the ability to judge right

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27 Zhang Mingkai, *Expansion of the Criminal Law Motto*, at 284 (Peking University Press 2013).
and wrong according to their belief in God. This principle leaves a space for Western society to transcend the spiritual freedom of secular law, which can be transformed into the core of the constitutional system. The right of civil liberties can also be expressed as the social and political rights of “Civil Disobedience”. The spirit of the contract also goes back to the Bible’s “Rainbow Covenant” between God and Noah and his children: I have made a covenant with you that all flesh and blood will no longer be destroyed by the flood, nor will there be any destruction of the land by the flood. Through several agreements, the relationship between God and man has been changed. The “Last will and testament”, a charitable gift that Catholics have been trying to save themselves, has now become a means of adjusting social and economic ties. The personal rights, freedom of speech and publication, freedom of religious belief, defense system, jury system, referendum and “No forced self-incrimination”, which are familiar to modern people, are also closely related to the Protestant thoughts that were deeply influenced by the society at that time. Calvinists in the late period deduced rights from the Ten Commandments and other moral norms of the Bible, which laid a certain foundation for the western theory of democracy and human rights. The doctrines of the Koran are littered with norms of economic behaviors, such as: Don’t use deceit to eat away at other people’s property; Don’t bribe officials with other people’s property; Don’t bribe officials; Prohibit interest; Remaining interest should be waived; Orphans’ property should be returned to them, as well as the provisions that stipulate drinking and gambling as great sins, are of great practical significance in today’s society. The Statute of the Squatter and the Congregation System in Buddhism, that is, “a day without work is a day without food” and the idea of educational punishment in the Dharma of repentance is also valuable for modern law. In the United States, many early evangelical believers combined personal belief behavior and sanctification process with national legal reform and moral improvement. Many evangelical believers participated in various social movements with others, such as, national anti-slavery, duel law,

28 Shan Chun, On the Relationship between Western Religion and the Rule of Law Society, 12 Journal of China University of Political Science and Law 12 (2013).
freemasonry law, gambling law, alcohol law, Sunday Mail law, Sabbath breaking law, industrial exploitation law, and corporate corruption law, etc. In the late 19th century, they also participated in the struggle for the rights of liberated blacks, poor workers, women political supporters and union organizers, all of which promoted the rights of the individual and the civilization of society.

Religion and law overlap and coexist in history, the concept of sacredness is also interdependent with the concept of justice. In the long-term interaction, they both overlap and share the same concepts, such as fault, debt and covenant, sin and crime, righteousness and justice; they also overlap and share the same methods, such as interpretation of texts, determination of deductive principles, systematology of organizing materials methods, teaching method of imparting skills and ideas. Not only that, they share authority and express the characteristics of tradition and ceremony together. In religious societies, it is very common to express and carry out religious doctrines by law. For example, in order to implement the Shariah of Koran and the Hadith, the Islam has created a special Kadi court to be responsible for the trial of civil, commercial and criminal proceedings between Muslim parties. In order to implement the Code of canon law, the Christian Church Law not only stipulates the criminal procedure law and the civil procedure law, but also stipulates the procedure law similar to administrative litigation in modern and modern secular law. The relationship between religion and law has a long history. Under the collapse of religious order, people are full of reverie about the alternative significance of law in modern society. The replacement of the religious order by the legal order is now only a fragile statement, and the emergence of a new order requires a long process. The interaction between religion and law is very meaningful, and its significance is not only to save religious ethics, but also to reconstruct the consensus of modern society. Modern law contains important values, such as human rights, freedoms, justice, rights, procedures, etc. However, the basic orientation of these values is abstract, external, impersonal and unnatural. Therefore, they are often lack of effectiveness. Accordingly, every legitimate legal system

29 He Qinhua, The Essence of Religious Law, 11 The Science of Law 28 (2014).
should have the inherent sanctity, that is, to obtain political authority and public fear, obedience and respect. For instance, the reason why the church courts were popular in the medieval is that it expresses the inherent sacred value of man, which includes the special care given to widows, orphans, the poor, the disabled, abused wives, neglected children and distressed servants. So that these persons are entitled to appeal in church courts, to testify against their superiors without their permission, to get relief and asylum from ill-treatment and deficient, and to have the opportunity to get a pious, protected profession in the minor seminary. It also includes providing a way for individual believers to reconcile with God, their neighbors and themselves at the same time. The church courts examine both the legality and morality of the conflict, “Code of canon law” is also known as the mother of exceptions, the mother of righteousness and the epitome of the law of love. The remedies provided by the Church Court make the parties “righteous” and “just” not only in their relations with the other party and the rest of the Community, but also in their relations with God.\textsuperscript{30} The future law will be deeply integrated with religious ethics, and justice and mercy, rules and balance, punishment and benevolence will also be balanced and complementary. Then a new order will emerge in modern society. This new order is very similar to the Spirit given by Asoka’s Rock Edicts, Rock Edicts are scattered all over the world, written in Pali Language, and painted with animal images and similar figures of Dharma Chakra. The first part of each edict is called “Beloved-of-the-Gods, King Piyadasi”, which mainly preaches ideas of Non-Violence and moral influence. In 262 B.C., Asoka’s armies attacked and conquered Kalinga, the loss of life caused by battle, reprisals, deportations and the turmoil that always exists in the aftermath of war so horrified Asoka that it brought about a complete change in his personality. Beloved-of-the-Gods, King Piyadasi, spoke thus:

\emph{“Indeed, Beloved-of-the-Gods is deeply pained by the killing, dying and deportation that take place when an unconquered}

\textsuperscript{30} John Witt, Zhong Ruihua, The Rise of French and Western Religion in Western Traditions, 1 Journal of East China University of Political Science and Law 142 (2015).
country is conquered. But Beloved-of-the-Gods is pained even more by this — that Brahmans, ascetics, and householders of different religions who live in those countries, and who are respectful to superiors, to mother and father, to elders, and who behave properly and have strong loyalty towards friends, acquaintances, companions, relatives, servants and employees — that they are injured, killed or separated from their loved ones. Even those who are not affected (by all this) suffer when they see friends, acquaintances, companions and relatives affected. These misfortunes befall all, and this pains Beloved-of-the-Gods.”

Therefore, Asoka ordered that edict to be carved on a large cliff, in order to alert those warlike kings, the war must be initiated in accordance with humanity, and the victory should hold the desires of tolerance and light punishment. Asoka considered the best conquest was conquest by Dharma, the Dharma here is different from the Buddhist doctrines or Yoga about “No-self”, but the virtues of good deeds and benevolence. And whatever efforts Beloved-of-the-Gods, King Piyadasi, is making, all of that is only for the welfare of the people in the next world. Even all this effort seems to respond to Grotius’s original conviction that even without God, natural law can still exist, however, what’s the more worrying is how does it exist?

V. Conclusion

Berman had asserted that western legal science was actually secular theology, which was quite appealing in modern society after the collapse of religious order. Law is a key force in the construction of new order in the post-religious era. The result and manifestation of secularization of religion means the rise of legal order. However, is this order comparable to the God? Perhaps there are problems in the way of expression of religion, and the thought of ultimate concern and self-transcendence

31 The fourteen rock edicts, https://www.cs.colostate.edu/~malaiya/ashoka.html?from=timeline.
32 Karen Armstrong, Axial Age, at 409 (Sun Yanyan trans., Hainan Publishing House 2016).
contained in it is still of far-reaching significance. It leads human beings to transcend limitation and scarcity, pursue infinity and perfection, make people have good thoughts and dare to face the uncertainty of fate. Perhaps in a sense, we have to admit that religion is closer to the people than law. Although the law itself contains important values including freedom, justice, rights, procedures, etc., the basic orientations of these values are abstract, dehumanizing, outward and skeptical of humanity. The external value and the corresponding system design cannot perfect the individual personality nor establish the moral ideal of the society, which is the reason why the law cannot become the perfect order eventually. Law has gained a dominant position in modern society. It doesn’t need to share the glory of God, but the guidance of higher value can make it in a good state, just as the role which natural law once played. The secular ethics of religion can play the role of this higher law, thanks to the filling of religious value, the law of post-religious era may dominate a new world order.

REFERENCES

1. Armstrong Karen, Axial Age (Sun Yanyan trans., Hainan Publishing House 2016).
2. Berdyaev Nicholas, Dostoevsky (Taipei Times Publishing Company 1986).
3. Berman Harold J., Law and Religion (Liang Zhiping trans., China University of Political Science and Law Press 2003).
4. Eliade Mircea, Sacred and Secular (Wang Jianguang trans., Huaxia Publishing House 2002).
5. Frank C., The Spiritual Foundation of Society (Wang Yong trans., Beijing: Life, Reading, Xinzhi Sanlian Bookstore 2003).
6. Hume David, Research on Human Understanding (Guan Wenyun trans., Commercial Press 1957).
7. Lukman, Invisible Religion: Religious Issues in Modern Society (Qin Fangming trans., Renmin University of China Press 2003).

33 What Gramsci says is that religion is closer to the people than philosophy.
34 Yu Xingzhong, The Rules of Law, at 123 (Law Press 2015).
8. Morgen Tim, *Understanding Utilitarianism* (Tan Zhifu trans., Shandong People’s Publishing House 2012).

9. Mueller Max, *The Origin and Development of Religion* (Jin Ze trans., Shanghai People’s Publishing House 1989).

10. Qinhua He, The Essence of Religious Law, 11 *The Science of Law* 28 (2014).

11. Taixu, *Book of Master Taixu* (Religious Culture Press 2005).

12. Witt John & Ruihua Zhong, The Rise of French and Western Religion in Western Traditions, 1 *Journal of East China University of Political Science and Law* 142 (2015).