

ПРОФЕССОР ГАРОЛЬД ДЖОЗЕФ БЕРМАН — МОЙ УЧИТЕЛЬ И ДРУГ

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Аннотация: В статье «Профессор Гарольд Джозеф Берман — Мой учитель и друг», посвященный яркой и благословенной памяти одного из самых выдающихся и выдающихся американских ученых-юристов, автор через свое описание первого и последующих значительных моментов его личной ассоциации с уважаемым профессором Н. Дж. Берман (юридического факультета Гарвардского университета и юридическими факультетами Университета Эмори) в Юридическом отделе Московского государственного университета, а также его почти двадцать пять лет взаимной дружбы и академического сотрудничества с ним показывает важность и плодотворность характер искренних, конфиденциальных и полезных отношений между учеными и, в частности, юристами разных стран, поколений, образа жизни и мировоззрения.

Простое существование таких чрезвычайно важных, добросовестных, дружественных, активных и плодотворных отношений между высокообразованными людьми разных поколений и образа жизни помогает нам достичь лучшего понимания разных людей и народов, а также содействовать их всестороннему и быстрому развитию. Это включает в себя развитие общего научного и культурного обогащения, личного правосознания и чувства справедливости, а также любых других творческих способностей, профессиональных навыков и личного потенциала.

Ключевые слова: ученый, профессор, духовный, университетский, друг, конституционный, сознательный, справедливый, чрезвычайно, логически гармоничный.

PROFESSOR HAROLD JOSEPH BERMAN AS MY TEACHER AND FRIEND

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Annotation: In the article "Professor Harold Joseph Berman as My Teacher and Friend" dedicated to the bright and blessed memory of one of the most prominent and outstanding American legal scholars, the author, via his description of the first and subsequent significant moments of his personal association with the honorable Professor H.J. Berman (of Harvard Law School and Emory University Schools of Law) at Moscow State University's Law Department, as well as his nearly twenty-five-year mutual friendship and academic collaboration with him, reveals the importance and fruitful character of sincere, confidential and useful relations between scientists and, particularly, legal scholars of differing countries, generations, ways of life, and world views.

The mere existence of such extremely important, diligent, friendly, active, and fruitful relations between highly educated people of different generations and ways of life helps us to reach the best understanding of different persons and nations, as well as to promote their comprehen-

sive and speedy development. This includes the development of general scientific and cultural enrichment, personal legal consciousness, and sense of justice, as well as any other creative talents, professional skills, and personal potentials.

Keywords: *scholarly, professor, spiritual, university, different, constitutional, consciousness, justice, extremely, logically harmonious.*

It quite probable and possible that it was through Divine Providence that on April, 15th, 1982, as a third-year student at the M.V. Lomonosov Law Department at Moscow State University (MSU), I had met and personally got acquainted with the honorable sixty-four-year-old Harvard Law School Professor Harold Joseph Berman (1918-2007)¹, and his lovely wife Ruth, who had recently arrived from Boston (Massachusetts, USA). Our meeting with the prominent and world-renowned Professor H.J. Berman had taken place at a special lecture on American constitutional law, where only a few ideologically-cleared and KGB-supervised professors, teachers, local communist party functionaries, and MSU Law Department upper-classmen had been invited.

On that sunny April day, my classmates and I were obligated to be present at lectures on Soviet administrative and collectivization or collective farm law (so called made up "Sovietskoye kolkhoznoye pravo"). However, because of my long-harbored desire to listen to different scholarly opinions on the essence and history of the State and Law, I, at my own risk, had decided to listen to an extracurricular, but long-awaited lecture by the well-known American Law Professor H.J. Berman, titled "Talks on American Law"², instead of the provided boring, obligatory and useless lectures. This lecture, as it had become apparent to me, comprised the spirit of true legal consciousness, as well as American legal statutes and court decisions, in action. Professor H.J. Berman truly professed "The Spirit of America" — the motto of his State, Massachusetts.

Professor H.J. Berman's two-hour English-language lecture-conversation on acting American Law, which had been constantly accompanied by thoroughly-prepared students' questions and Dr. Berman's unexpected answers, was quite unusual for me, but also rather vivid, and cherished, extremely exciting, and fascinating. After several minutes of this lecture, Professor Harold J. Berman had left upon me a very bright and deep impression, as he appeared to be the very legal scholar, as well as the long-awaited preaching professor and teacher, whom I very much wished to see and hear, especially after the first two years of my stuffy, boring, and tiresome studies at the Department of Theory of the State and Law at MSU's Law Department.

The logically harmonious and consecutive mode of thinking of the skilled and experienced American law professor, coupled with the live form and rich contents of his over-

¹ Professor H.J. Berman has received his bachelor degree (B.A.) in Dartmouth College in 1938. In 1942 he has got his law master degree (L.L.M.), and in 1947 he has got his Ph. D. scholarly degree at the famous Yale University (Connecticut). Almost forty years he taught jurisprudence at the Harvard University Law School, and more than twenty years he taught law at the Emory University (Atlanta, Georgia). He was one of the leading experts on the legal theory, philosophy and history, including the Soviet and Russian law. He visited the USSR and the Russian Federation more than forty times. In 1991 he became one of the organizers of the Central European University in Prague, and then in Budapest. In 1998 he became a founder of the Center of American Law in Moscow, and in 2000 he has founded the Institute of the World Law, initially in Budapest, and then in Moscow. He has been elected to and became an honorable Doctor of the Russian Academy of Sciences.

²See: Berman H.J. Talks on American Law. N.Y. 1970.

view lecture on the basics and real action of the American legal and justice systems, delivered by him in the best selected and refined English language, were incomparably comprehensible, clear, attracting, and useful to me. This stood in stark contrast to the usual standard and lulling lectures-monologues of many other distinguished Soviet, “ideologically tech-savvy,” unanimously voting, bureaucratic, and legalistic, local professors and teachers of the Moscow State University Law Department.

Professor H.J. Berman, who was a speaker of more than five different languages, including a little bit of very precise and good Russian³, had surprised me with his unique affable ease and brightness of his live dialogue with an unfamiliar audience. I was additionally amazed at his broad-mindedness, brightness, amazing style, and manner, as well as his convincing accuracy in explaining to Soviet students about extremely essential, important, urgent, and complicated legal issues, challenges, and problems⁴. His amazing scholarly depth, multilateral nature, friendliness, openness, affability, and responsiveness to us all, at once became apparent to me upon the arrival of the long-awaited scientist and legal scholar. All of his personal attributes and abilities subsequently made him my beloved first teacher of the appropriate and everlasting idea of law and order.

It is pertinent to note that Professor H.J. Berman, together with another outstanding American law Professor, Ronald M. Dworkin, became a founding fathers of and foremost authority on so-called “integrative jurisprudence”⁵. Within the frameworks of integrative jurisprudence, there had been made an attempt at the logical, semantic, and contextual unification of the three most well-known and basic classical theories of law: “the theory of natural law,” “historical school of law,”⁶ and “legal positivism”⁷. Dr. Berman was a great contributor to this plan, as he was a very universal and versatile legal scholar, who perfectly fathomed all familiar philosophical, legal, and political doctrines. In addition, he was well-versed in the history of the State and Law of different countries particularly that of the Western European states, the pre-revolutionary Russian Empire, the Soviet Union, and modern Russia. He mastered the vast store of wisdom and knowledge that may be derived from the Holy Scripture (the Bible), as well as from the fundamental theory and history of many branches of law and national legislations. He also experienced immense positive results giving concrete legal advice and solving cases at various judicial and arbitral instances, including international arbitration cases⁸. For example, it is known, that, since the end of the 1950s, Professor H.J. Berman visited the former Soviet Union and the post-soviet Russian Federation on more

than forty occasions. While there, in addition to his other commitments, he successfully legally represented the descendants of the well-known English writer Arthur Conan Doyle, in a case pertaining to the protection of their copyrights⁹ at the International Arbitration Court and other Russian civil courts.

After this extremely interesting and useful lecture at Moscow State University, Professor H.J. Berman gave his listeners the chance to ask him various questions regarding the most pertinent problems related to the history of both Russian, and Western legal consciousness and traditions¹⁰. He also presented good examples of American and Soviet legislations, law-enforcement, and the judicial process in action¹¹. He answered the students' questions quickly and very concretely. However, he preferred to answer my two — according to him, “very childish” — questions concerning some international legal, cultural, and educational problems in the USSR and USA, only after his response to all other already given questions. To my surprise, he had not answered my two questions about the spiritual, moral, and historical prospects of the development, as well as possible convergence and reconciliation — of the so-called “Soviet,” “socialist,” and American “capitalist law.” He did not answer them after his lecture, nor did he do so after our evening meeting, which was hosted by him and his amazing wife Ruth at their apartment in the Main building of Moscow State University.

At that time, the world-renowned American legal scholar looked at me meaningfully and tried to assure me that I would find true and full answers to all of my own questions “at my predestined time,” since my best time had not yet come. He often used to repeat to me: “Your best is still ahead, and not yet come.” At the very end of his wonderful lecture, Professor H.J. Berman and his pretty, cheerful, and affable wife Ruth called me over and invited me to join them for supper, which included their tasty homemade American barbeque. Another invited guest was the well-known Soviet Law Professor from the MSU Department of Constitutional Law — August A. Mishin, who, at that time, was my professor for courses in the State law of foreign capitalist countries. He had come to join us with some profound delay and with his homemade domestic and patriotic alcoholic beverages. Our long evening meeting and appetizing supper were filled with various discussions, which brought us all the way to midnight, at which point all entrances into the MSU Main building had already been closed off by the school security guards.

As a result, having lost track of time, we continued to talk about many different topics relating to the meaning of human life. All the while, we were able to express opposing or diverging views on approaches to solving different legal, political, and social problems, not only within the framework of different unlawful, shaky, and fleeting ideological and political modes and regimes, but also in light of the proper and everlasting idea of law and order. In particular, we were all very interested in the reasons and factors behind a multitude of various forms of state, political, and legal systems in different nations at different historical time periods. At that moment, Professor H.J. Berman, as it seemed to me, knew me much better than I then knew

³ Since, as he told me once, his own grandfather and grandmother had been natives of two provincial cities in the former Russian Empire, Berdichev and Vitebsk.

⁴ Berman H.J. Talks on American Law. Revised Edition. Vintage Books. New York. 1970. Comparative Law and Religion. Oxford, 2004.

⁵ Берман Г. Дж. Интегративная юриспруденция // Вера и закон: примирение права и религии. С. 342—343. Berman H.J., Greiner W. The Nature and Functions of Law. N.Y. 1980.

⁶ Берман Г. Дж. Западная традиция права: эпоха формирования. МГУ, Норма, 1998.

⁷ Berman H.J. Law and Revolution. Cambridge (Mass), London, 1983. As well as: Law and Revolution. Vol. 2. The Impact of the Protestant Reformation on the Western Legal Traditions. Boston, 2003.

⁸ См.: Berman H.J. The Interaction of Law and Religion. N.Y. 1974. Berman H.J. Influence of Christianity on Western Law. N.Y.-London, 1980. Berman H.J. Religious Freedom and Challenge of the Modern State. Emory Law Journal. Vol. 39, No. 1, Winter 1990.

⁹ См.: Википедия // https://ru.wikipedia.org/wiki/Берман,_Гарольд_Джон#Биография

¹⁰ Berman H.J., Witte J.Jr. The Transformation of Western Legal Philosophy in Lutheran Germany. Southern California Law Review. Vol. 62, September 1989, № 6.

¹¹ Berman H.J. Soviet Criminal Law and Procedure. Cambridge. Mass. 1972. Берман Г. Дж., Рей Ч. Дж. Римское право и общее право Европы. // Государство и право, 1994. № 12.

myself in regard to my personal, creative, or scientific prospects. He was like a true prophet who had foretold that soon enough, I would become his faithful student, and probably even his good friend and scientific co-worker. As time has shown, he had been completely intuitive and right.

During our conversations, Professor H.J. Berman had once noted that he personally had quite the Russian roots and cultural origins. His grandparents were born in the former Russian Empire and after immigrating to America, they only spoke Russian amongst themselves, and he could not understand their native language. Therefore, from his early childhood, he had not been indifferent to Russia, but felt within himself a special and lasting tender love, noticeable inclination, predisposition, and constant attention to real life in the new post-revolutionary Soviet Russia, and later to the Soviet Socialist Union, as well as the modern Russian Federation.

For a long time, he had been looking for a sincere person in Russia, a man with his own integrity and dignity, who could be an interesting and good colleague for him — a hopeful interlocutor and communicator. He had finally found such an independent, frank, diligent, and ideologically free legal scholar quite unexpectedly, as he said to me, in the Armenian-born, young law student, who was exactly forty years younger than him, not among the Russian professors and scientists whom he knew long ago. According to Professor H.J. Berman, because I was a young student, I had very little knowledge, but I did have a lot of fresh and interesting questions on different facets of human and social legal life.

After some long evening conversations, which included interesting, confidential, and useful dialogues, Professor H.J. Berman informed me, that near the city of Boston, where he had lived for a long time with his family, there is predominantly Armenian city called Watertown. In this city, about half of the inhabitants are my native compatriots — the Western Armenians, who at the beginning of the 20-th century had been compelled to run from the belligerent Turks, and finally found some refuge and asylum in the blessed American land. The reason for this was the horrific Genocide, a mass bloody slaughter of the Armenian Nation in Turkey from 1915-1918, during which about one-and-a-half million Armenians had been subjected to different kind of atrocities, violent mass deportations, torture, murder, and massacre, with the ultimate goal being total elimination. Professor H.J. Berman told me a lot of good and interesting stories about the well-known Armenian-Americans who were personally familiar to him, including those who lived in his neighborhood, used to work with him, and taught at Harvard Law School and other American law universities and institutions.

At the end of our wonderful supper, Professor H.J. Berman left me with several huge and heavy books written in English, including his capital work on legal theory, titled "The Nature and Functions of Law"¹². After one year, in the Spring of 1983, he mailed me some of his other large books, such as "Law and Revolution," and "The Sociology of Law," as well as several other very important materials on the theory, history, sociology, and psychology of law, including different scholarly articles on American constitutional, civil, criminal law and legal proceedings¹³. Thus, he

had actually made me his part-time and distant educated student, who had been taking short courses on the theory and history of American constitutional law and justice.

What followed was a series of personal meetings between Professor H.J. Berman and I, which had taken place in mid-Spring of 1983, shortly after my graduation from the Law Department at Moscow State University. We would later meet several more times in late Fall of 1984, in such familiar Moscow hotels and restaurants as the "National," "Metropol," "Sovietskaya," "Cosmos," "Godunov," «Old Tower,» "Gilyarovskiy," «Old City,» «Aragvi,» "Ararat," «Noah's Ark,» etc. Then along with some of his other law books, he gave to me, as a memorable and precious gift, a unique copy of the New Testament of the Bible, with gilded edges on its very thin pages, along with the Holy Gospel "Red Letters" of our Lord the Savior. The dark brown leather cover of the New Testament was adorned with green engravings of his personal initials: "With Love — H.J.B."

Then, I sincerely confessed to him that unlike my wise ancestors, I never believed in God and not so long ago, I successfully passed the State exams for so-called "Scientific Atheism and Communism". In his reply, Professor H.J. Berman said to me while easily and directly looking into my eyes: "Well, Boris, now you do not fathom the value of my unexpected gift for you, but in some years you will understand the exclusive meaning and importance of this Book of books, both in your personal, and your professional life. It will be very necessary and helpful to you and your people." He had truly possessed a certain above given gift to foresee and predict my personal and creative future.

Seven years prior to the full and irreversible ideological, political, and economic disintegration and complete collapse of the former Soviet Union, I had met Professor H.J. Berman several times, including four times in Moscow, — in 1984, 1985, 1986 and 1987. Then, I worked as a Chief legal counsel and adviser, and defense attorney, and advocate-lawyer in my native town of Stepanakert (Nagorno-Karabakh). In 1985, after turning 65 years of age, Professor H.J. Berman began to work as a Professor at Emory University School of Law in Atlanta, Georgia, USA, as a result of the traditionally and legally established age restrictions for all professors at Harvard University Law School.

By the time that I was about to begin my doctoral Law studies, my personal meetings with Professor H.J. Berman had become almost annual. Moreover, they had been prepared by his systematic preliminary phone calls from Boston and Atlanta to Stepanakert (NKAR), thanks to which I had learned that in a couple of weeks, he would be visiting Moscow as part of one of his numerous scientific, cultural, and other useful charitable missions. Another time, specifically on November 10, 1986, I unexpectedly ran into Professor H.J. Berman standing directly in front of a Moscow subway (Metro) cars door. It was, as he loudly exclaimed, a "real miracle," which, in his own words, had, in advance, been prepared for us by the Almighty from above. During a meeting between him and I in 1987, he gave me a signed copy of the recently-published second volume of his new book, titled "Law and Revolution: the Formation of the Western Legal Traditions"¹⁴. At that time,

¹² Berman H.J., Greiner W. The Nature and Functions of Law. N.Y. 1980.

¹³ Berman H.J., Witte J. Jr. The Transformation of Western Legal Philosophy in Lutheran Germany. Southern California Law Review. Vol. 62, September 1989, № 6. Berman H.J. The Interaction of Law and Religion. N.Y. 1974. Berman H.J. Influence of Christianity on

Western Law. N.Y.-London, 1980. Berman J.H. Religious Freedom and Challenge of the Modern State. Emory Law Journal. Vol. 39, No. 1, Winter 1990. The Impact of the Protestant Reformation on the Western Legal Traditions. Boston, 2003.

¹⁴ Berman H.J. Law and Revolution. Cambridge (Mass), London, 1983. Berman H.J. Comparative Law and Religion. Oxford, 2004.

I had already begun my postgraduate studies at the Institute of the State and Law of the Academy of Sciences of the USSR (1987-1990), and his new law books and other scholarly materials were very useful to me for my future writing and public defense of my Law Ph.D. dissertation on initial, traditional and perspective legal transformations and future development.

During the years of Gorbachiov's so-called "Reconstruction and Publicity," Professor H.J. Berman would inform me about his firm intention to continue writing the third volume of his new book "Law and Revolution" in the same high and light spirit as the previous two volumes. In turn, I had informed him of my hard and intense work as a legal counsel and adviser, defense attorney, and trial advocate. I also informed him of my potential future successful completion of a Ph.D. dissertation on "The Transformation of Jus (the Proper Idea of Law) into Lex (legal statutes): the Spiritual, Scientific and Practical Aspects" (Moscow, Mach 26, 1991)¹⁵. I remember well that he had first been extremely amazed by this news of mine, and he consequently asked me, with deep concern and undisguised astonishment, how I could embrace such an incredibly huge and unimaginably deep scholarly topic, which already comprises in itself many theses for a doctoral degree. He just cut to the chase: "Well, my friend, you could never embrace what initially is immeasurable, supernal, and not embraceable." He had really been convinced, that for someone of my young (at the time), such a huge work represented a rather impudent attempt to "hug what is vast" or "measure what initially is immeasurable" by overcoming the heavy and restrictive chains and inextinguishable burden of physical and material space and time.

From 1987 until 1991, we communicated to one another by mail. My next meeting with Professor H.J. Berman took place after the full disintegration of the former Soviet Union (USSR). We met on November 15, 1992, in Atlanta, Georgia, USA. Shortly before this meeting I had been preparing and enhancing the level of my professional knowledge and practical skills as a legal scholar and trial advocate at the newly created Department of International and Constitutional Law of the Central European University in Budapest (Hungary). By the way, one of the academic founding fathers of the CEU Legal Departments was my beloved teacher, and now also my close and good friend Professor H.J. Berman. In November 1992, Dr. Berman, accidentally having learned that I was studying law in Budapest, had, with my preliminary consent, taken all necessary measures for officially prompt inviting me to Emory University School of Law in Atlanta (Georgia, USA). It had been one of my long-cherished dreams to visit and study law in the best American universities and law schools.

This time, I had arrived to America from Budapest (Hungary) by invitation as a social scientist ("visiting legal scholar" with J-1 Visa) to conduct scientific research at the Emory University School of Law for six months. Incidentally, it was actually my first, but luckily not the last, scientific and educational visit to the USA. In fact, afterwards, having been a member of the Union of Advocate Lawyers of the Republic Armenia I had again arrived in the USA, this time in the State of Oklahoma. There, I had been taking special courses for the enhancement of professional qualifications of trial advocacy and defense lawyers at the

Sarkis University Law School in Oklahoma City. At that time, Professor H.J. Berman had been continuing his work at the Emory University School of Law, and he personally helped me by supervising my research in the spheres of fundamental theory of law and constitutional jurisprudence.

Having been in Atlanta, I visited and stayed with Professor H.J. Berman several times in his wonderful and spacious country house, including during such traditional American holidays, as Thanksgiving and Christmas. In one of my visits to the Berman's family, his hospitable wife Ruth had prepared a huge and tasty turkey, which we were eating together with gratitude and pleasure, while drinking aged dry red wine. At this time, I was introduced by Professor H.J. Berman to his younger son John, who was a professional musician. He appeared to be a very sincere, light-hearted, affectionate, cheerful, and interesting person.

At the Bermans' house, I also saw many different musical instruments, including an accordion, a guitar, and different types of flutes. During the holiday, Professor H.J. Berman unexpectedly, but very easily, merrily and fervently, played on the accordion and sang some cheerful Christmas songs and carols with his beautiful wife, son John, and his two charming little granddaughters. I was accompanying them on the guitar and the soprano flute and, having been in a very high spirits, was singing some quiet popular songs from the Beatles, the Rolling Stones, and the Russian poets and bards I. Annensky and B. Okudzhava, as well as some popular and lyrical Armenian songs. I am certain that these celebratory evening dinners at the Bermans' home remained in our memories as wonderful and unforgettable bright moments.

At a somewhat later date, during a trip to Pasadena, California, Professor Berman introduced me to his younger daughter, Suzanna, whose personal calling and vocation had been those of a good painter and fine artist. It was in March of 1993 that I arrived in Pasadena, from the heavily Armenian-settled city of Glendale to participate in a conference on the peaceful resolution of international conflicts which had been organized by the Armenian American Bar Association (AABA). Prior to arriving in California, I attended a similar conference at the President Carter's Center for international Conflict Resolution in Atlanta, GA, titled "Resolving Intra-National Conflicts: A Strengthened Role for Intra-Governmental Organizations." Professor H.J. Berman was also very helpful for me to edit the reports on "The Constitutional Guaranties for International Security"¹⁶ that I presented at the abovementioned international peacemaking conferences.

Professor H.J. Berman constantly shared his new scientific revelations, insights and ideas with me by presenting me with his latest scholarly articles and books as gifts. Around the time of my visit to the United States, he had given me his newest acclaimed publication, a book titled "Faith and Order: The Reconciliation of Law and Religion"¹⁷. After doing this, he also provided me with a few of his unpublished (at that time) scholarly articles pertaining to "World Law" and "Integrative Jurisprudence," which, though merely intellectually enticing at first, subsequently

Berman, H.J. Comparative Law and Religion //The Oxford Handbook of Comparative law / ed. M. Reimann, R. Zimmerman. – New York, 2008.

¹⁵ См.: Осипян Б.А. Трансформация права в закон: духовные, научные и практические аспекты //Государство и право. 2006. № 8. С. 43-50.

¹⁶ See: Osipian B.A. The Legal and Constitutional Bases of International Security//International Law and the International Organizations / International Law and International Organizations. - 2014. - № 2. - P. 245-254.

¹⁷ Berman H.J. Faith and Order: The Reconciliation of Law and Religion. Emory University Studies in Law and Religion. William B. Erdmans Publishing Company Grand Rapids, Michigan/Cambridge, U.K.,1993.

helped me to begin confidently the writing of my future spiritual and legal treatise, "The Spirit of Lawmetry, or the Foundation of the Measurology of Law"¹⁸. In this capital spiritual and legal work, I had to overcome mentally the two major factors that were enchaining me and holding down my creative imagination — the physical space and time through the true Spirito-Fideo-Gnostic, i.e. spiritual and faith-teaching legal consciousness and understanding of the proper and everlasting, eternal or perpetual idea of law, as well as faithful, hopeful and stable social order.

Despite the fact that my insights on the proper and eternal idea of law and order essentially differed from his views on the theory and philosophy of law, I nevertheless told him frankly that without his scholarly views, I would have never had such a deep and extremely wide continuation of his scholarly views on the true and appropriate idea of law, lawful statute, justice, and social order. In fact, I told him the following: "Harold, your theory on «Integrative» and «World Law» is like the beautiful, colorful and fragrant flower in the field of the general theory and history of law. Meanwhile, my fundamental and mentally-charged Spirito-Fideo-Gnostic or Spiritual and Faith-Teaching Theory of Law, «The Spirit of Lawmetry,» is like an absolutely immature, unripe, sour, still unformed and ugly fruit that had naturally emerged from your miraculous and wonderful flower. It is my wish that my theory and philosophy of law would one day become a worthy and exalted continuation of your «law-deifying» legal theory by deifying only God. So then I, as life shows and I suppose, the direct spiritual and organic continuation of any great idea could never be the same as, or even too similar to, its own beginning stages. Furthermore, I believe that this is a very good thing because to me, any objective and real progress, both in a science and in our creative lives, is made through such scary contradictory processes." At that moment, it seemed to me that, although Professor H.J. Berman was deeply concerned and exhibited no detectable enthusiasm, he had decided to agree with me in prolonged silence.

At the end of my stay at Emory University School of Law for the purpose of conducting scholarly research, as well as upon my graduation from Central European University's Department of International and Constitutional Law (CEU, LEG's, 1993), I received two strong and good personal recommendations from Professor H.J. Berman. These were to be used for the purpose of further continuing my serious training in the leading prestigious European and American educational establishments. He had even offered to help me with future employment by hiring me as an apprentice at one of the biggest American law firms, located in the city of Atlanta. Unfortunately, at that time, I could not remain in the US for too long because of my prior personal engagements and, therefore, I could not use his recommendations or take him up on his job offer.

However, I carefully saved Professor H.J. Berman's good recommendations, as well as several other favorable recommendations from other well-known legal scholars, who, at the time, were my professors for courses in comparative jurisprudence at Central European University. I had received these recommendations from: the venerable Colombia University Professor John Palmer, who taught courses on trial advocacy; professor of constitutional law at the University of Chicago, Dr. Stephen Holmes, who taught courses on the theory and history of constitutional law; Harvard University and Stanford University professor

Lawrence Lessig, who taught courses on the protection of constitutional human rights; and, finally, Dr. Alexander Blankenagel, a well-known German professor who taught German constitutional law courses at the Department of Public Law at the Humboldt University of Berlin (FRG).

During more than twenty-five-years' friendship with Professor H.J. Berman, we would often share with one another our most kind empathetic insights, thoughts on meaningful, purposeful and creative human life, and scholarly legal revelations. Similarly, we would also share our achievements in the advancement of the general theory and history of law, as well as that of the various branches of basic and comparative jurisprudence, such as theories and histories of international law, constitutional law, administrative law, civil law, criminal law, law enforcement, procedural law, correctional and penitentiary law.

During one of our last personal meetings, Professor H.J. Berman noted the following: "Boris, we always were looking at the many problems of legal and practical life perfectly, but in different ways, quite often, even from quite opposite sides. However, we also both understood that we were confidently lifting the fundamental science of law upwards, onto a new and higher spiritual, moral, and faith-teaching plane, as would the two opposite wings of the same living and flying organism or creature, for instance, those of a peaceful and salving white dove." It is not accidental that in the New Testament Gospel, the omnipresent Holy Spirit was represented only in the image of the simple white dove, condescending unto the people on Earth from the Heavens¹⁹.

In the mid-1990s, which were uneasy for the new, post-Soviet Russia, I personally was able to communicate much less with Professor H.J. Berman, mainly because of his extensive professional obligations and other commitments. However, he attentively continued to supervise the progression of my legal research, especially that which was related to my essential book, "The Spirit of Lawmetry, or the Foundation of Measurology of Law"²⁰. My scholarly activities at the time had initially seemed incredible and improbable to Professor H.J., since he had considered my new scholarly goals to be unrealizable in one lifetime, for the excessive depth of the sphere of my investigation into the various problems of State and legal phenomena. At first, he was even amazed that I had already finished a draft of my vast, newly developed spiritual and legal treatise, which he was able to preview when I sent him the conceptual plan, a table of contents, and some completed parts of the book in 2001.

Having learned the scope of my scientific interests and new undertakings in the field of theory and history of law, Professor H.J. Berman was assured that I would not have enough time to actualize my academic goals, because of the immense novelty and complexity of the spiritual and legal phenomena that I had decided to survey and resolve. He frankly admitted to me that he did not understand the name of my innovative book, which comprises many new word constructions and expressions and unuttered neologisms that were quite unusual and unfamiliar to him. For instance, he hardly fathomed my new concepts, defini-

¹⁸ Осипян Б.А. Дух правометрии, или основание межерологии права. Монография. М., Юрлитинформ. 2009. 656 С.

¹⁹ The image of such white dove and the Divine Light breaking through from the above on the background of an earthly gloom has found its place on the cover of my capital book «The Spirit of Lawmetry, or the Foundation of Measurology of Law», published in Moscow, 2008.

²⁰ See in the the Russian State Library (Российская Государственная Библиотека): Осипян Б.А. Дух правометрии, или Основание межерологии права. М., 2009. <https://search.rsl.ru/ru/record/01004260520>

tions, and notions, such as the following: "lawmetry," "measurology of law," "law immanence and identity," "law imageness or conformity," "lawfulness of the State and its statutes," "lawful statute and legislative arbitrariness," "the proper and everlasting (eternal or perpetual) idea of law," "the dual nature, character, and limits of the action of a lawful statute," "the basis and system of legal responsibility," "the lawful criteria for the drafting of statute laws and system of legislation," "the idea of a self-developing legal system," "the universal dual-track objectives of the proper and eternal idea of law as an instrument for imposing and maintaining a stable social order for possible salvation of sinful soul of each human", and so forth.

Amazingly enough, in 2005, Professor H.J. Berman had prophetically predicted that hardly anyone among the well-known legal scholars, especially those in the USA, would perceive and understand my extreme and sophisticated neologisms, new definitions of the main legal notions, strange linguistic dimensions and active vectors of the idea of law, and mystical images on the State and Law. In particular, he was shocked by my vision of possible bilateral legal transformations of Jus (the proper idea of law) and Lex (positive State legislation), as well as the perspectives and outlooks for the global development of the idea of law and legal consciousness of all civilized people and nations in the world²¹.

These metaphysical objective and subjective processes of the transformation of the idea of law into State rules and legislation occurs simultaneously from above and from below: on one hand, the highest and proper idea of law is predetermined and descends from above through the Holy Spirit in the form of the immediate Truth and Revelation (e.g. as "first-hand, still unheard human knowledge"), to be included into the national legislators' and judges' legal consciousness and sense of justice; on the other hand, at the same time this movement from above, the corresponding concrete human rights and responsible freedoms, which are necessary and useful for the potential rescue of each reasonable person's guilty soul, — ascend from below.

These constitutional human rights and freedoms are then reasonably, legally, and expediently exalted and advanced, shall officially and publically be imposed and put into positive legislative norms and rules, and then transformed into lawful positive statutes via a merging and united with the highest and proper idea of law. For example, in the spirit, sense, and general context of my proposed Uniform Theory and Philosophy of Law, Based on the Spiritual and Faith-Teaching Way of Consciousness,²² the main transformative twofold, binary or dual-track goal of the appropriate and enduring idea of law is aimed and directed to establish the proper social order for possible spiritual release (liberation) and rescue (salvation) of any

guilty soul of each God-Imaged, diligent and reasonable person²³.

It seems to me that it was precisely because of misunderstandings with Professor H.J. Berman that we would suffer and endure an almost semi-annual crisis, accompanied by an aloof and cold silence in our usually warm and friendly interrelations. It was really difficult for him to fathom the positive perception of my new spiritual and conceptual ideas from the viewpoint of those American legal scholars whom he knew very well, especially the legal positivists who usually voluntarily confuse the idea of law with unlawful statutes. That is why he had exhibited resolute skepticism in regard to the viability and possible staying power of my scholarly research on the Spirit of Lawmetry and Measurology of Law. To such a well informed and highly educated individual with an experienced soul, my theory and philosophy of law seemed strange and sounded absolutely mysterious and senseless, or for that matter, extremely odd, unacceptable, and crazy enough. However, after some time had passed, I suddenly received a letter from him, asking me to urgently send him some completed parts and results of my theory and history of law. He also requested several scholarly articles on different branches of the Armenian and Russian legislations, statutes interpretations, law-enforcement processes, and justice administration.

So, at his personal request, I emailed Professor H.J. Berman an updated table of contents and a summary of the first seven chapters of my spiritual and legal treatise on the "Spirit of Lawmetry." In addition, I also sent him the abstracts for several of my other main monographs, such as "The Possibilities of the Strengthening of the Legal Bases of the Russian State by the Bodies of Constitutional Justice"²⁴, "A Lawyer (Advocate) as a Reliable Adviser, Intercessor, and Defender of Each Person Who Requires Justice"²⁵, "The Doctrine on the Notions and Reasons of Crimes and Punishments"²⁶, "The Doctrine on Civil Law Transactions and Contracts, Responsibility, and Harm Compensation"²⁷, "The Russian Legal Consciousness and

²³ See: Осипян Б.А. Право как верный путь к порядку и душе-спасению, или направления действия надлежащей и непреходящей идеи права //Религия и право. 2015. № 3. С. 28-38. Два главных вектора действия идеи права и правомерного закона //Вестник развития науки и образования. 2015. № 4. С. 4-20. Надлежащий социальный правопорядок как первооснова и конечная цель действия человеческого правосознания и правомерного закона //«Чёрные дыры» в российском законодательстве. 2016. № 1. С. 24-32.

²⁴ See: Осипян Б.А. Возможности укрепления правовых основ российского государства органами конституционного правосудия. М., 2009.

²⁵ See: Осипян Б.А. Адвокат как Человек, Ходатай и Защитник всякого нуждающегося в правосудии потерпевшего или обвиняемого лица //Журнал «Аналитика» 2017. № 5. (Казах) 03.05.17. <http://www.zakon.kz/4856807-advokat-kak-chelovek-khodataj-i.html>

²⁶ See: Осипян Б.А. Понятие, признаки и элементы состава преступления //Юридический вестник ДГУ, 2016, № 2. С. 110-120. Критерии правомерного различения понятий и составов гражданского правонарушения (деликта), дисциплинарного проступка, административного правонарушения и преступления //Юридическая наука и правоохранительная практика. 2016. № 4. С. 14-24. Юридическое определение понятия уголовного наказания //Юридический вестник ДГУ. 2017. № 1. С. 113-123. Правомерные критерии законодательного определения и судебного назначения разных видов и размеров уголовных наказаний //Гражданин и право. 2017. № 10. С. 65-77.

²⁷ See: Осипян Б.А. Контракт как добровольный, свободный и ответственный совместный путь договаривающихся сторон, ведущий к реализации идеи права //Гражданское право. 2011. № 3. С. 34-41. Нравственно-правовые основания заключения гражданских сделок и договоров в России //Гражданин и право. 2017. № 3. С. 27-40.

²¹ See: Осипян Б.А. Трансформация права в закон: духовные, научные и практические аспекты (посвящение светлой памяти проф. В.П. Казимирчука) //Государство и право. 2006. № 8. С. 43-50. Право как верный путь к порядку и душе-спасению, или направления действия надлежащей и непреходящей идеи права //Религия и право. 2015. № 3. С. 28-38. Два главных вектора действия идеи права и правомерного закона //Вестник развития науки и образования. 2015. № 4. С. 4-20. Надлежащий социальный правопорядок как первооснова и конечная цель действия человеческого правосознания и правомерного закона //«Чёрные дыры» в российском законодательстве. 2016. № 1. С. 24-32. Перспективы глобального развития права //Современное право. 2004. № 2. С. 44-48.

²² See: Осипян Б.А. Смысл истинной теории и философии права //Вопросы правоведения. 2010. № 2. С. 59-77.

Statute: From the «Russkaya Pravda» to the Russian Constitution²⁸, “The Essence of the History of the Armenians» Legal Consciousness²⁹,” and “The Ways for the Perfection of the European Law and Justice³⁰.” I also sent him several of my other then-unpublished scholarly articles concerning: the uniform theory, philosophy, and history of law; the lawful criteria for the formation and development of international and constitutional law; and the spiritual sources and foundation of modern criminal, administrative, executive, penitentiary, civil law and processes.

In 2003, at my request and the approval of my fellow MSU alumium, Professor A.P. Ljubimov, who have been and now is editor-in-chief for the Russian Federation State Duma’s law and political journal, “The Representative Power — the XXI Century,” Professor H.J. Berman became an Honorary Member of the Board of Experts for the aforesaid periodical. At that time, I was working as a special correspondent (2003-2008) for this widely circulated monthly law and political journal, and I had the opportunity to conduct an interview with Professor H.J. Berman on the prospects for the global development of law³¹.

One time, when Professor H.J. Berman, his smiley and cheerful wife Ruth, and I had all gathered as guests at Professor A.P. Ljubimov’s home, I bluntly asked him: “Harold, do you happen to have some currently unpublished scholarly articles of yours, written in English?” I then said to him, “if so, then with your consent, I could personally translate one of them into Russian and, after your thorough verification I could try to have the translation published promptly in our law journal.” So it had come to pass that one month after our long and exquisite dinner at Prof. Ljubimov’s home, we published my Russian translation of his article, titled “The World Law: Ecumenical Jurisprudence of the Holy Spirit³².” Professor H.J. Berman had remarked that the Russian translation of his newly published article had appeared to be much better than his original English version. He had attributed this to my additional adaptations and specifications of his thoughts, some of which, nevertheless, I had not been in agreement with because of his unconditional belief in the slightly deified and publicly legalized forthcoming positive “World Law.”

Professor H.J. Berman’s immeasurable contribution to both global and Russian legal consciousness, education, and skill training had been highly esteemed. As a result, it was officially recognized in early July of 2006, soon after he was finished lecturing to the upperclassmen from the Moscow State University Department of Law and the Moscow State Law Academy. This took place as a result of the necessary organizational help of the constitutional law

²⁸ See: Осипян Б.А. Истоки русского правосознания //Современное право. 2008. № 3. С. 53-59.; № 4. С. 55-59. Пути исследования духа русского права //История государства и права. 2009. № 4. С. 44-47. «Русская Правда» как зародыш русского права //«Lex Russica». 2011. № 4. С. 651-667.

²⁹ See: Осипян Б.А. Первый проект «Конституции Духовного Дома Армян» 1184 года, или «Армянский Судебник» совечного и святого учёного богослова Мхитаря Гоша //Право и жизнь. 2016. № 7. № 8. № 9. С. 227-258.

³⁰ See: Осипян Б.А. Пути совершенствования европейского права и деятельности Европейского Суда по правам человека //Вопросы правоведения. 2014. 2014. № 4. С. 3-12. Правомерные возможности защиты прав российских граждан в Европейском Суде по правам человека //Международное право и международные организации / International Law and International Organizations. — 2015. - № 1. - С. 54-67.

³¹ See: Осипян Б.А. Перспективы глобального развития права //Современное право. 2004. № 2. С. 44-48.

³² См.: Перевод Осипяна Б.А. статьи с английского на русский язык //Берман Г.Дж. «Мировое право: экуменическая юриспруденция Святого Духа» //Представительная власть - XXI век. 2005. № 1 (61). С. 9-13.

Professor and Head of the MSU Constitutional Law Department, Dr. S.A. Avakian. It was also made possible through the tangible assistance of the late founder and rector of the Moscow State Law Academy (MSLA), Academician of the Russian Academy of Sciences, Professor O. E. Kutafin.

Specifically, for his long years of scholarly legal works and endeavors, Professor H.J. Berman had been presented by the aforesaid Russian legal scholars with the International Medal for “Life on Earth.” At the end of the high-level official reception, Professor H.J. Berman ironically and joyfully declared the following, in his metaphorical and laconic manner of speech: “The first medal that I had ever received was my wartime «Bronze Star Medal» for the efficacious and successful decoding of confidential messages transferred by the Nazis using the Enigma coding machine³³. I received that medal in the Spring of 1945, when I was quite a young man, conducting my military service with the USSR-allied Army of the United States, in the European battlefields of Normandy (France). Now, I have received my second medal, this one during peacetime. That makes it two medals, one for the “World War,” and one for the “World Peace”. Next, I would like to, and could perhaps, receive a third medal for my “World Law.”

Concurrently, an increasing number of new legal revelations, insights, and systematic ideas continued to emerge, in both his research and mine. In late Fall of 2007, after the publication of my new scholarly article “The Russian Language as the Key to Learning the Spirit of the Russian Law³⁴” in the esteemed “Modern Law” Russian journal, Professor H.J. Berman, on his own accord, made me an unexpected offer. He proposed that him and I work together to compose a huge spiritual, legal and historical treatise on the religious and linguistic dimensions (measurements) of international and national legal consciousness, sense of justice, and lawful statutes³⁵. The proposed treatise was to be formulated using examples from seven languages that both him, and I together were proficiently familiar with, specifically Hebrew, Latin, Greek, English, German, Russian, and Armenian. He informed me that he had already sufficiently collect the necessary financial, material, technical, and organizational means for the fulfillment of this joint plan.

However, early in November of 2007, I received an unexpected phone call from Professor Berman’s assistant Patricia Thomas. She informed me that Professor H.J. Berman had recently been urgently hospitalized at “Martha’s Vineyard’s Hospital in Oak Bluffs, Massachusetts. She told me that Professor H.J. Berman would very much like to talk to me over the phone and I, being a concerned close friend, instantly agreed to hear his voice.

The first thing that he told me, was the following: “Dear Boris, I cannot speak with you for a long time because of my Dysphasia, but I want you to speak to me for as long as you can, and very loudly please, so that I can hear you well.” Therefore, I spoke to him in a very loud voice for approximately half-an-hour about many most important things, including the start of our noble joint endeavor.

³³ It is known, that during the Second World War (1942-1945) Professor H.J. Berman took part as an interceptor and decoder the confidential German “Enigma” coding machine, and had been awarded the «Bronze Star Medal»

³⁴ See: Осипян Б.А. Русский язык как ключ к познанию духа русского права //Современное право. 2007. № 9. С. 23-29.

³⁵ See: Осипян Б.А. Языковые измерения надлежащей и непреходящей идеи права и правомержного общеобязательного закона. //Вестник развития науки и образования. 2015. № 5. С. 56-73.

However, he regretfully let me know that our grandiose and beautiful plan to coauthor a seminal book on the spiritual and linguistic dimensions (measurements) of the appropriate and everlasting idea of law, would have to be fulfilled without him. He seemed certain that I would overcome all obstacles and make it through despite everything. Then, I ironically noted to him that it is not so good to leave one's old and close friends alone and in trouble, prior to such hash ordeals and serious life tests.

Subsequently, in a barely audible voice, he told me some encouraging words that were full of deep spiritual and moral sense. He said "Boris, it is very likely that we will not meet here anymore, on this Earth, but I very much hope for us to meet again over there in eternal life." A few days after that talk, I received the sorrowful news of his death, which occurred on November 13, 2007.

On February 13, 2008, when Professor H.J. Berman would have been exactly 90 years of age, I received an email message from his faithful disciple and colleague, the head of the Emory University School of Law Center for the Study of Law and Religion, Professor John Witte Jr. He had asked me to write a tribute article dedicated to the loving memory of my years-long creative friendship with Professor H.J. Berman. The reverential article was to be published in "Emory Law Journal"³⁶. I, of course, enthusiastically accepted his kind proposal and, within a few days, had sent him my devotional and tribute article, which was subsequently published alongside tribute articles by other beloved former students and colleagues of Professor H.J. Berman.

In my article, I paid tribute, with great gratitude and respect, to the blessed memory of my first personal legal teacher, close friend, and colleague, who was an unimaginably influential and versatile person, as well as a world-renowned prominent legal scholar. This was done by means of a detailed description of the first moments of our personal acquaintance, as well as that of our quarter century friendly and cooperative academic mutual relations. My personal meetings and dialogues with Professor H.J. Berman had essentially affected not only my entire individual development, but also all my subsequent spiritual, scientific, legal, and other creative life, as well as everyday social activity.

I am very glad that not only for me, but also for all other accomplished legal scholars, especially for Harvard and Emory University teachers, students, graduates and alumni, my first law teacher and faithful friend Professor H.J. Berman is now considered to be the God-given, spiritually chosen, dignified, worthy, diligent, hardworking, versatile, and creatively fruitful image of a classical modern legal scholar, not only in the USA and Russia, but in all other legally educated, enlightened, and civilized parts of the world³⁷. All persons who were longtime coworkers of his, as well as those who were closely familiar with him, truly considered him to be a wise and brilliant representative of the theory and history of contemporary legal science, particularly that of "integrative jurisprudence," and "world law."

Professor H.J. Berman, who would be turning exactly one-hundred years old on February 13, 2018, has continuously blessed us with his creative spirit, vast legal knowledge, and extensive life experience, all of which are

necessary for the proper juridical education of students and law scholars of all nations. He has been able to achieve this by utilizing all of the revelations and insights from his personal, professional, and academic life, in addition to his many useful initiatives and scholarly works. I am quite sure that we all continue to unflinching love and highly appreciate his great human integrity, scholarly creativity, and academic fruitfulness. Moreover, I am confident that he will always remain with us, along with his Love, his living Faith, and his best Hope in the Highest Truth ("Veritas" — the motto of Harvard University), which has been justified by his great creative legacy, as well as his other kind, beautiful, and everlasting deeds.

In conclusion, in memory of my wise teacher and beloved friend, Professor H.J. Berman, I would like to devote to him, as still living and acting with, one of my most recently poetical quatrains, which he would surely enjoy were he still here with all us today:

*We all were born not for temptation,
And earthly lusts, and bloody wars.
We all were born for inspiration,
For Harmony with Heaven's Laws.*

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³⁶ See: Boris A. Osipian. How Professor Harold Joseph Berman Became My Teacher and Friend // Emory Law Journal. 2008. Vol. 57. № 6. P. 1433-1437.

³⁷ Berman, H.J. Comparative Law and Religion // The Oxford handbook of Comparative law / ed. by M. Reimann, R. Zimmerman. — New York, 2008.