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SUBSIDIARY CHARACTER OF POSITIVE LAW IN EASTERN LEGAL TRADITION

The conducted analysis allows highlight the following: legal systems of the Eastern countries has the following common features as: transcendence of law non-differentiation of law, religion and moral, legitimation of state and law, subsidiary character of positive law, multiple sources of law, independence of law from government policy, superiority over the government policy and its commitment to the law.

Singling out the signs of the Eastern tradition of law, first of all, attract the attention of Western scholars. American lawyer H. Berman, emphasizing the contemporary crisis of Western law, calls for overcoming the crisis through dialogue with non-Western law. Here are his thoughts on the matter: “What is new today is the challenge to the legal tradition as a whole, and not merely to particular

elements or aspects or it; and this is manifested above all in the confrontation with non-Western civilizations and non-Western philosophies. In the past, Western Man has confidently carried his law with him throughout the world. The world today, however, is suspicious – more suspicious than ever before – or Western “legalism.” Eastern and Southern Man offer other alternatives... Finally, a social theory of law must move beyond the study of Western legal systems, and the Western legal tradition, to a study of non-Western legal systems and traditions, of the meeting of Western and non-Western law, and of the development of a common legal language for mankind. For only in that direction lies the way out of the crisis of the Western legal tradition in the late twentieth century”.