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Koretsky Institute of State and Law of the Ukrainian National Academy of Sciences

REVIVAL OF PHILOSOPHY OF LAW IN CONTEMPORARY UKRAINE

As the century-old nation of Ukraine had regained its independence in 1991, adopted a new Constitution in 1996, and presently builds its state and civil society in a terrestrially largest European 48, 5 million country, the Ukrainian science has faced new challenges. The country's political, economic, legal systems have been reformed according to the new realities and visions of the life. Thus, scholars have been called upon to make their contribution to the process. Nowadays, as the science has become free of the state ideological control, it has embarked upon reviewing and determining its contemporary foundation. Most notably, this has resulted in Ukrainian scholars applying pluralistic methodology, reviving traditions, taking on new directions in their research. This is how the Ukrainian philosophy of law, an interdisciplinary domain of jurists and philosophers, has come to play its role of a fundamental discipline with the entrusted importance it has yet to justify.

The philosophy of law is not a new area in the Ukrainian science. In the end of the 19th and early 20th century's Tsarist Russia, it had evolved manifesting scholar's philosophical interest in fundamentals of state and law. These activities were greatly influenced and inspired by the German classical philosophy and, partly, by the national tradition dating back to the times of the Kyivan Rus and the great Ukrainian philosopher H. S. Skovoroda. Many prominent domestic jurists* of

* For example, P. G. Redkin (1808-1891) studied in Berlin by G. W. F. Hegel, P. I. Novgorodtsev (1866-1924) – in Berlin, L. Petrazycki (1867-1931) – in Berlin and Heidelberg, E. V. Spektorsky (1875-1951) – in Berlin, Goettingen, and Heidelberg, S. S. Dnistriansky (1870-1935) – in Wien, to name a few.

Generally, nationality and territoriality are not good enough the criteria for classifying philosophers. Thus, the fact that I. Kant lived in Koenigsberg (presently, Kaliningrad), the town that in his times was and is now under the rule of Russia, allows some to regard him as a Russian philosopher. The life of Eugene Ehrlich presents another example. This recognized sociologist of law, regarded as an Austrian scholar, was born and almost entire life lived and died in Chernivtsi (where, by the

that time – in the pursuit of the professional career and according to the established tradition – had gone to continue studying and researching law and philosophy abroad, chiefly in Germany, and upon their return applied their enriched expertise to the array of issues of that turbulent time.

The figure of B. O. Kistyakivsky (Th. Kistiakowski) (1868-1920) stands out among them. This prominent Ukrainian jurist and philosopher had earned his doctoral degree in philosophy in Berlin (1899) under the supervision and direction of G. Zimmel and W. Windelband, and thereafter studied with G. Jellinek in Heidelberg, made a considerable contribution to the field. Those law professors who had not come to study abroad were still influenced by the foreign philosophical thought, as taught, almost entirely, by German jurists invited to enlighten the domestic jurisprudence of the time. In fact, they trained the first generation of educated Russian jurists. Some of these jurists and philosophers wrote their works in German (consider, for example, works of P. Yurkevych (P. Jurkevyc') and many of these works remain unknown or little known to the scientific community in Ukraine for they have not been found or translated from foreign languages. So, the tradition or spirit of internationalism in the fields of law and philosophy has always been present in Ukraine.

Before the 1917 "socialist revolution" in Russia, philosophy of law was not only an area of private inquiry for many prominent jurists, but also a subject taught at many institutions. It remains unknown how the tradition of philosophy of law would develop in this part of the world if not for the turn of the history. As the "dictatorship of the

way, his home University that printed this Journal is situated), is presently located in Ukraine, and thus regarded by domestic historians of law as a Ukrainian scholar. Finally, another example presents the lives of many scholars who were born in one county, then migrated or worked in others or in diaspora. In our opinion, it is true to say, rather, that "Homo locum ornat, non ornat hominem locus" („Der Mensch adelt den Platz“, "The man ornates the place").

proletariat” had been installed in the new Soviet State, with the science of law and state being subordinated to the needs of that state’s ideology, philosophy of law served the interests of the positivistic Soviet theory of state and law. It was not that philosophy of law seized to exist but rather that its critical function was not effective objectively (with the exception of its inimical use against the so-called “bourgeois law” opposing “socialist law”). As a result, philosophy of law lost its status of an independent subject of academic study and research in the USSR, although some of philosophical issues of law and state were traditionally studied in the field of the theory of state and law.

Presently, as the “wind of change” blows in Ukraine, there is a great interest to philosophy of law among jurists and philosophers. With hundreds of them declared their interests in the field, many already made their contributions. Several textbooks were published, most notably those edited by M. V. Kostytsky and B. F. Chmil, O. G. Danliyan and S. I. Maximov, P. D. Bilenchuk, V. A. Bachinin and M. I. Panov as well as monographs by L. V. Petrova, V. V. Shkoda, A. A. Kozlovsky, S. I. Maximov, S. S. Slyvka, K. K. Jole, V. I. Kuznetsov appeared, to name a few. A bit more than half a decade has lapsed since the philosophy of law was designated as an independent (separate) field of specialization in both legal and philosophical sciences. Under the established tradition, providing that those pursuing their degrees should defend their dissertations in specialized councils and then have those councils’ decision approved by a special governmental body, as of September 2003 twenty researchers were awarded the so-called “candidate of juridical/philosophical studies” degrees (an equivalent of a Western Ph.D.) and independent research or full doctorate (so-called “doctor of juridical/philosophical studies”) degrees. These full doctors are L. V. Petrova, A. A. Kozlovsky, S. I. Maximov, S. S. Slyvka, and O. O. Bandura. It should be noted, however, that there is a number of specialists who have researched in philosophy of law and some related areas, currently working and publishing their research on philosophy of law issues (P. M. Rabinovych, M. I. Koziubra, Y. M. Oborotov are among most recognized).

The contemporary Ukrainian philosophy of law issues relate to such already established domestically sub-areas of the field as legal ontology, legal gnoseology (epistemology), legal axiology, and legal anthropology. They also deal with those issues in legal phenomenology and hermeneutics, legal ethics and logic, other areas as well as legal

sociology that develops within this field. In general, the variety of philosophy of law issues mirror the contemporary discourses in the field internationally.

Philosophy of law has regained its status of an academic discipline. It is read at several institutions of higher legal education in Ukraine (e.g. the Y. Mudry National Law Academy, the National Academy of Interior of Ukraine, T. Shevchenko Kyiv National University, I. Franko Lviv National University, Kyiv University of Law, to name a few). The subject, either compulsory or optional, is primarily read to graduating law students or those pursuing their master degree.

March 15, 2003 became a historical date in the development of the Ukrainian philosophy of law for at least three reasons. First of all, that day saw a first specialized “round table” entitled “Contemporary Philosophy of Law Issues”, organized by the Ukrainian National Academy of Sciences’ Institute of State and Law and Institute of Philosophy, which brought together for a discussion more than hundred domestic jurists and philosophers. It proved to be a successful event that gave an impetus to the development of the field in Ukraine. Secondly, that day there was a presentation of the first volume of the “Anthology of the Ukrainian Legal Thought”, edited by Y. S. Shemchuchenko, V. D. Babkin, and I. B. Usenko, including the works of eighteen native scholars of the 18th through early 20th century and dedicated to the issues on the encyclopedia, philosophy and general theory of law. As noted by one of its compilers, Professor V. D. Babkin, the volume is a sort of “memoirs of the future” for it will promote the comprehension of unutilized ideas expressed by the prominent Ukrainian jurists that were left unattended and are so worthwhile in the pursuit of contemporary research. Thirdly, it was that day when the idea of founding a philosophy of law journal, expressed by Professor A. A. Kozlovsky, found a universal approval by the members of the academic community attending the “round table”, which is now realized with the publication of this volume of the “Philosophy of Law Issues”.

The Journal “Philosophy of Law Issues” is country’s first specialized periodic publication in the field. Its first volume primarily publishes theses submitted by the participants of the “round table” (therefore, they are short) as well as some relatively more extensive author’s compositions. As publications’ headings indicate, it presents an array of philosophy of law issues and thus invites a more extensive discourse in the field. The Journal, collegially represented by revered mem-

bers of its editorial board and international editorial council, positions itself as an *international* journal in the field of philosophy of law, inviting and publishing compositions in six languages (Ukrainian, Russian, English, German, French, and Spanish) in order to promote the international discourse in the philosophy of law, that know no borders. The recent formation of the Ukrainian As-

sociation of the Philosophy of Law and Legal Philosophy and its endorsement as a part of the IVR is another attestation of the said thesis.

In sum, the establishment of this Journal is another piece of evidence affirming the revival and further development of the philosophy of law in Ukraine, extending its effect not only domestically but also internationally.

V. S. Bihun

ВОЗРОЖДЕНИЕ ФИЛОСОФИИ ПРАВА В СОВРЕМЕННОЙ УКРАИНЕ

В кратком англоязычном изложении отмечаются нынешние тенденции развития философии права в современной Украине. Возрождение отечественных исследований в этой области связывается с знаменательным событием основания и выхода в свет данного журнала, который задуман не только как форум для заинтересованных философией права в Украине, но и с целью служить ареной для международного философско-правового дискурса.

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This English language note presents a brief survey of the current tendencies in the development of philosophy of law in the contemporary Ukraine. The revival of Ukrainian studies in this area is connected with and marked by the celebrated establishment and publication of the present international Journal, which is thought not only as a forum for those interested in the philosophy of law in Ukraine, but also as a means for facilitation of the international discourse in philosophy of law.