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FEATURES OF THE SOCIO-POLITICAL AND THEORETICAL FOUNDATIONS OF THE PHILOSOPHICAL UNDERSTANDING OF LAW FROM THE MIDDLE AGES TO THE PRESENT

Abstract

The article aims to study the genesis of the philosophical understanding of the law, from the Middle Ages to modern times. The reason for choosing such a significant period of time is that the purpose of the article is to trace the dynamics of understanding the philosophy of law. The methodological basis of this scientific article was formed by the most important approaches, methods and principles of historical research. A study was carried out on the genesis of philosophical understanding of the law, from the Middle Ages to modern times. The understanding of the philosophy of law in different eras of time was considered. In addition, the understanding of the philosophy of law during the Renaissance was examined in detail. The main ideas of law in the philosophical spins of the thinkers of the Enlightenment are considered. The characteristic features of the modern philosophy of law are determined.

Keywords: philosophy, law, philosophical understanding of the law, Middle ages, modern times.

Introduction

In modern conditions of the radical transformation of public relations and the approval of the European normative legal standard of the rights of people and citizens, the role of the philosophy of law in the professional training of lawyers is significantly increasing. The actualization of new approaches explains this to the swarming of law, its purpose and content, the need of society to reform the legal system, and, consequently, in new effective schemes and mechanisms for building the rule of law. In order to implement these approaches in practice, there is a corresponding methodological basis, which is the philosophy of law. This is a synthetic science of a world outlook, orients the cognitive interest not only to the perception of social reality but also to the comprehension and implementation of the high purpose of the law as a measure of justice, freedom and formal equality.

Philosophical understanding of legal reality is of extraordinary importance, it involves the study of the nature of law, its substantive characteristics, taking into account modern concepts of legal thinking and legal creativity, and therefore, it is necessary for the formation of a high philosophical and methodological culture among future lawyers. It is no coincidence that the essential fundamental foundations of the legal theory were developed precisely by philosophers (Barac, 2015, pp. 12-15).

The teachings of Aristotle and Locke, Rousseau and Kant and many other brilliant thinkers having recreated the spirit of their era, became the life-giving soil on which all the concepts of law and state known to humankind developed and continue to develop (Kant, 1995, p. 87).

Philosophy of law is an independent area of research at the junction of philosophical and legal knowledge, provides for the study of the essence and meaning of the law, its value and significance in the life of a person and society (Schiller, 2010, p. 78). Since the law is a sphere of common interests of jurisprudence and philosophy, one of the important methodological aspects of the development of national jurisprudence is the application of philosophical generalizations of the laws of social development to the entire system of legal knowledge and the allocation in this system of a particular ideological part of knowledge about law, its essence and purpose - the philosophy of law.

The philosophy of law in the legal education system, in its relationship with other types and methods of understanding and studying law, is the highest spiritual form of knowledge, awareness and approval of its content, value and significance in human life. Philosophy of law assumes a synthesizing role in relation to cultural, spiritual, social, political and legal factors in the development of society, focusing on the human-centred, humanistic principles of all social processes.

The object of the study of the philosophy of law is the entire legal reality, the "world" of law in its universality and integrity, and, first of all, the semantic content of the law. As for the subject, it is unlikely that its definition will be so unambiguous. The most widespread opinion is that the subject of the philosophy of law is essential behind the legal foundations of law - cognitive, value, social, anthropological, and the like. According to the task of this branch of scientific knowledge, the identification and substantiation of the meaning of law should be considered.

Unlike the general theory of law, which studies the current legal system and describes its current state, the philosophy of law presents it as it should be. It considers law from the point of view of its rationality, justice, truthfulness, value, but for this, it is necessary to go beyond its limits. Essentially, the philosophy of law is looking for the truth about law. And the main defining questions for these searches are:

- What is a law as a way of human existence?
- What are the value of law and its significance for each person individually and for society as a whole?

The answers to these and similar questions are not only of theoretical interest but also of practical orientation in the process of solving urgent state problems of our time. Modern processes of democratization of society are directly related to the approval of normative legal standards to guarantee and protect human rights and freedoms, with a rethinking of the value connection "person – law - state".

The philosophy of law produces for a lawyer an integral system of views on the law as a special world, a complex, multifaceted reality with its own dimensions and logic of development. It is closely related to the whole complex of philosophical, legal and humanitarian sciences.

Studying philosophy of law will allow future lawyers to acquire insight and comprehensive knowledge of the law, its meaning, value and significance for people, society and the state as a whole. Philosophy of law can help future specialists in the development of critical and abstract thinking, reflexive abilities, skills of philosophical and legal comprehension of the processes taking place in society, and search for ways to improve modern legal institutions.

The purpose of the article is to trace the key features of the genesis of the philosophical understanding of law from the Middle Ages to the present and, in general terms, to form the main prerequisites for the formation of the philosophy of law at different time intervals.

Methodology

The methodological basis of this scientific article was formed by the most important approaches, methods and principles of historical research. Also, this article in the process of cognition of state-legal phenomena was used:

a) general scientific methods (formal-logical, systemic, structural-functional, concrete-historical); b) general logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modelling, etc.); c) private scientific methods (technical analysis, specification, interpretation, etc.) The most actively used method of analysis, synthesis and abstract methods, which made it possible to synthesize and generalize the existing theoretical information

Research Results and Discussions

The ancient worldview on the European continent was replaced by Christianity, which became decisive for developing the philosophy of law in the Middle Age. Christianity is becoming the spiritual force that opens up prospects for cultural development in Europe. It was the only one that represented an integral institution, helped to overcome moral turmoil and indicated the necessary worldview guidelines. The Bible and other canonized church books form the metatext of medieval culture. The church and the corresponding social cells – monasteries, chivalry, papacy – structure the world, form an integral socio-cultural space. Christian Metatext already establish the rules and norms of the community of individuals in the state, reflect the connection of a person's existence with God (Nersesyants, 2005, p. 342).

At this time, philosophy loses the leading role that it had in the ancient world and gives way to religion. So, the worldview of the "middle millennium" is inherent in theocentrism. The central place is given to God, the Creator of all things, and every step of a person is perceived from the standpoint of divine providence.

The principle of syncretism, the gravitation towards universality, also became defining for the Middle Ages. The pronounced polarization into matter and spirit, heavenly and earthly, did not prevent a person of this era from striving for understanding the world as a whole, for under-

standing it as a complete all-unity.

The attitude to time also reflected the religious orientations of medieval human. Thus, the year was interpreted as a series of events from the life of Christ and significant dates in the life of the saints. Human life was considered as part of the cosmic. Individual history was dissolved in the universal.

The attitude to human education has also changed: if ancient education was aimed at the formation of a harmonious personality, then in the Middle Ages, the main educational goal was the assimilation of the Christian doctrine for the salvation of the soul. At the same time, the religious dominant did not exclude the possibility of the coexistence of schools of different types. The Greco-Roman educational system was perfect that the leaders of the Christian church were forced to accept it as the main educational institution. In fact, the schools of the antique type existed almost to the 7th century.

The determining factor for the formation of the Christian worldview was "patristics" - the philosophy and theology of the "church fathers" in the III-VIII centuries.

The most significant contribution to the development of Western patristics was made by Aurelius Augustine (354-430) - one of the outstanding ideologists of the Christian Church, the founder of the fundamental principles of Christian philosophy. His political and legal views are set forth in the works "On the City of God", "On Free Will", and a number of other works.

In his work, he was able to give original answers to many other questions of the Christian doctrine, from cosmology to the arrangement of the church organization. It was Augustine who substantiated in his work "On the City of God" the need for the church as a mediator between God and believers. He proclaimed that the church is the supreme authority in the interpretation of divine truth, and therefore the content of divine revelation, argued Augustine, cannot be found without the support of the churchmen (Fuller, 1956, pp. 87-99).

The ideologists of the church argued that the power of sovereigns comes from God, hence the unconditional duty of Christian sovereigns to obey the supreme ruler of the Christian church. Note that the various ideological currents in which protests were expressed against the oppression of the official church, as well as the exploitation and arbitrariness of secular feudal lords in general, did not go beyond the framework of the religious worldview. True, the socio-political programs, born in the bosom of these opposition movements, sharply differed from the social-class attitudes of the ideologists of feudalism.

In the socio-cultural, and therefore legal, spacious Middle Ages, the final levelling of the bodily anthropological nature of the ancient worldview takes place. The social ideal of this era - universal spiritual harmony, which a person acquires only in union with God - gives grounds for the conclusion about the existence of a special type of medieval consciousness. The man of this era interpreted the world as a book and life as a continuous process of mastering it. He trusted more to signs and symbols, mystical vision than an independent critical mission. At one time, the Middle Ages became fertile ground for the development of peculiar political and legal teachings based on the best achievements of Christian philosophy (Hegel, 1896, p. 51).

In the XIII century, the formation of scholastic-Catholic theology focused on substantiating the postulates of faith through the human mind, was completed. An essential role in its construction was played by the Dominican monk, the theologian Thomas Aquinas, whose works became a kind of encyclopedia of the official church ideology of the Middle Ages.

Thomas uses in his teaching the Aristotelian hylomorphism, according to which everything that exists comprises matter and form.

Aquinas argued that form is only the external determination of a thing at the lowest degree of being. This should include inorganic elements and minerals.

From Aristotle, Aquinas also adopted the opinion that man is by nature "a sociable and political animal". The desire to unite and live in the state was originally inherent in people because an individual cannot satisfy his needs on his own. For this natural reason, a political community arises - the state. The procedure for establishing statehood is similar to the process of the creation of the world by God (Rozin, 2003, p. 190). Before starting to lead the world, God brings harmony and organization into it. So the monarch, first of all, establishes and equips the state and then begins to govern it.

The goal of statehood is "the common good", providing conditions for a dignified, reasonable life. And at the same time, the exclusion of farmers, small artisans and merchants from the sphere of politics. In general, everyone must adhere to the order established by God - the lower must obey the higher. Moreover, the essence of power is such an order of domination and subordination, in which the will of those at the top of the human hierarchy drives the lower strata of the population (Kant, 2004, p. 61).

Marsilius of Padua gave his political and legal substantiation of this orientation of burghers.

In his main work, The Defender of the World, Marsil of Padua makes the church responsible for all the troubles and misfortunes of the world. They are surmountable if only in the future the churchmen will deal exclusively with the sphere of the spiritual life of people.

The church should be separated from the state and subject to secular political power. This power and the state that represents it arose, as Marsilius of Padua believed, in the process of the gradual complication of the forms of human community. First, families in the name of the common good and by common consent are united into a clan, a clan - into tribes. Then the cities are consolidated in the same way and the name of the same goal. The final stage is the emergence of a state based on the common consent of all and is designed to satisfy the needs of all. From this interpretation of the origin and essence of the

state, it is easy to recognize the influence of Aristotelian ideas (Diev, 2010, pp. 35-41).

Marsilius of Padua defended the thesis that the real source of all power is the people. From him comes both secular and spiritual power. He alone is the bearer of sovereignty and the supreme legislator.

The adoption of Christianity and the spread of writing led to the emergence of historical and legal works of various genres (chronicles, treatises, legal collections, etc.). A cultural upsurge marked the reign in 1019-1054. Yaroslav the Wise, an active political and legal life (veche meetings in cities, the adoption of a legal collection - Russian Pravda, relationships with other countries), contributed to the development of legal thinking.

Byzantine culture created an original philosophy of state law based on Eastern Christian theology. Its practical reflection was the Code of Justinian (534), which rightfully considered Roman legislation's pinnacle.

The broad monastic community, which was famous for its rich spiritual tradition, had a significant influence on the formation of the theory of ethical behaviour. She created a specific cultural variety of the Christian East. Byzantium was an example of the reproduction of Christian culture in a highly organised state civilization, which was reflected in its legal system.

Byzantine culture tried to reduce the distance between the pagan ethics, from which the Roman law grew, and the Christian ethics, formed based on the Christian state. For this, syncretic legal codes were created, and they spread Christian ethics in various spheres of human life. However, she failed to replace punishment with repentance, nor to deprive the pre-Christian notions of duty and justice.

Political and legal thought received significant development in the works of Vladimir Monomakh (1053-1125). In 1113, during the Great Kyiv uprising, the son of the Grand Duke Vsevolod and the grandson of Yaroslav the Wise, Vladimir Monomakh, was invited to the Kyiv throne, which actually took part in governing the state during the reign of Father Vsevolod, and then had a great influence on state affairs under the Grand Duke Svyatopolk. He also became famous for his military campaigns and victories over the Polovtsians (Kissinger, 2014, pp. 2-3).

The defining trend in the development of philosophical and legal thought in Kievan Rus, the formation and evolution of its political system, was that the configuration of power in Kievan Rus combined monarchical, aristocratic, democratic and theocratic models of government, at the same time competed. It was the balance of various directions, and that ensured the unity and integrity of this state over a long period of historical time.

The aestheticism and pantheism of patristic works, to a certain extent, opposed the Christian worldview. The invincibility of the pre-Christian views of the Ukrainian, the free interpretation of works of patriotic literature objectively contributed to the denial of the theological worldview, the establishment of secular ideology. The attempts of individual thinkers to present a person as the centre of the world, as an independent person capable of free life choice, have also become significant.

The Renaissance and Reformation are characterized by the following common features: the destruction of feudal- and the emergence of early capitalist relations, the strengthening of the authority of the bourgeois strata of society, a critical rethinking of religious teachings, a powerful shift towards secularization, the development of secular culture. The ideologists of the Renaissance and Reformation drew the ideas they needed about the state, law, politics, law from the treasury of the spiritual culture of an ancient civilization. It was the ancient heritage that became fertile ground for developing those state ideas and philosophical and legal models necessary to solve new historical problems.

The ideologists of the Reformation justified the complete subordination of man to society. Its ideological concepts were developed in the form

of strict "closed" doctrines - codified religious and political programs subject to unconditional acceptance and implementation. Religious intolerance for the most prominent representatives of the Reformation is no less characteristic than for the representatives of the Roman Catholic Church.

Nicolo Machiavelli (1469-1527) was born in Florence to a family of a poor lawyer.

He was actively involved in political activities. For many years, he served as Secretary of the Council of Ten, in charge of the military and diplomacy. As part of the embassies, he visited various Italian states and Germany and France. The experience of statist, diplomatic service became decisive for the unique teaching of Machiavelli about state and law.

Observation of life led Machiavelli to the deep conviction that man is a deeply egoistic being, which is guided exclusively by her own interests in all her actions. They, according to Machiavelli, are the most powerful and almost the only stimulus for human activity. The main interest is associated with the preservation of property, property and their augmentation. The thinker argued that "people would rather forgive the death of their father than the loss of property" (The Emperor, section XVII). Machiavelli proves that man is an amazing combination of good and evil, and evil is as inherent in human nature as good (Parel, 1972, pp. 3-28).

In his works, Machiavelli concludes that the main thing for a person - is the ability to act and the will to achieve great goals and based on his selfish interests. Distancing himself from religious and philosophical reflections on the essence of man, he soberly and quite rigidly formulates the basic rules and norms of life in society.

Among Machiavelli's favourite rules of politics, the following are noteworthy:

- "You need to either not offend anyone at all or satisfy your anger and hatred with one blow, and then calm people down and restore their confidence in safety."
- "It is better to kill than to threaten - you will

be threatened, you acquire an enemy for yourself or warn an already existing one, killing - you destroy the enemy completely."

- "Better cruelty than mercy: individuals suffer from punishment and reprisals, while mercy leads to disorder, which gives rise to robbery and murder, from which the entire population suffers."
- "It is better to be stingy than generous – the generous takes from many in order to endow some, some are unhappy with the avaricious, and the people are not burdened with unnecessary extortions."
- "It is better to instil fear than love - I love sovereigns at my own discretion, they are afraid - at the discretion of the sovereign, it is better for a wise ruler to rely on what depends on himself" (Parel, 1972, pp. 3-28).

Machiavelli's works had a significant impact on the further development of philosophical and legal thought. They formulate and substantiate the main program requirements of the bourgeoisie: the inviolability of private property, the security of individuals and property, the republic as the best means of ensuring the "benefits of freedom", the subordination of religion to politics, and the like.

The thinker's search and substantiation of the theoretical foundations of an effective policy of the ruling minority inevitably led to the opposition of the principles of such a policy to generally recognized moral norms, to the substantiation of recommendations written for specific politicians. The origins of such disagreements between Machiavelli and humanism lie in the tragic discrepancy between two qualitatively different dimensions, two polar ways of social life: ethical and political. Each of them has its own criteria: "good" and "evil" - for the first, "benefit" and "losses" - for the other.

Martin Luther (1485-1546), in his works "On the freedom of a Christian", "The difference between the Law and the Gospel", proved that a person is able to realize his own sinfulness. Moreover, realizing he is ashamed of her and

turns this shame into anger directed against his own spiritual impoverishment. And then she is ready to bear any punishment, to free her from sin ... This is how the famous Lutheran doctrine of "cleansing by faith alone" (sola fide), according to which church mediation between man and God becomes superfluous, arose. The sincerity of faith and religious feeling is essential for the salvation of the soul.

Luther advocated the independence of the secular government from the papacy. He instructed his subjects to be obedient to the monarchs and not to rebel against the sovereign and humbly endure the injustices committed by him. However, he argued that the monarch rules reasonably, for whom power is not a privilege but a duty entrusted to him by God. The Christian "ruler should consider himself a servant, not a master of the people". The task of secular power is to regulate relations between people, punish the evil and protect the virtuous. The clergy is not a special "caste" separated from the secular government. (McKim, 2003, p. 19).

Paradoxically, it was thanks to the religious Reformation that the secular culture of Europe and North America developed considerably.

Jean Calvin (Jean Cowen) (1509-1564) Called the "Pope of Geneva". The Calvinist Church in Switzerland controlled all spheres of life: dances, songs, festive clothes, embellishments were prohibited. Quiet residents of Geneva who did not want to obey the new order were deprived of civil rights and expelled from the city, and sometimes executed. Thus, the Spanish Catholic doctor Miguel Servetus, who was persecuted by the Inquisition for speaking out against the Catholic Church, was accused by Calvin of heresy and sentenced to be burned at stake.

Reflecting on the essence of laws, Calvin, following Aquinas, seeks to classify laws, distinguishing among them the moral, cult and judicial. He gave a detailed explanation only regarding the moral law. This law, according to Calvin, "...contains two provisions: the first commands

us to honour God with pure faith and piety; the second is to be in a state of true love for neighbours". This law is the true and eternal rule of righteousness that God has given to all people, wherever and whenever they live. Calvin explains that he is "natural" for all humankind because he is sealed in the conscience of every believer. "Justice should be the goal, rule and crown of every law," the reformer argued (Hegel, 1896, p. 38).

The teachings of M. Luther and J. Calvin became a powerful factor in the restructuring of the relationship between church and state, the transition to a new stage of social relations. The split of the single church, the suppression of its monastic institutions and spiritual associations, as well as the abolition of canon law - all this weakened the strict control over secular power that existed in the Middle Ages. The reformers' constant emphasis on the purity of the true essence of religious experience contributed to the ingraining of the spirit of Protestantism. Thus, the church finally turned to the sources of spirituality, as for the state, the position of secular power, of course, strengthened.

Jean Boden was one of the thinkers who not only revived the ideological heritage of antiquity, but also enriched it with new ethnopolitical ideas that began to emerge as a result of the transition of mankind to an industrial society. The main ones among them were the national idea, the ideas of patriotism and the national liberation struggle, the national state and others. The philosophical understanding of law and state, perfect by J. Bodin, his theory of sovereignty significantly influenced the views of the next generation of philosophers of the Enlightenment.

Boden noted that absolute sovereign power still has limits. Having sufficiently developed the thesis that the sovereign cannot be hostage to his own law, Boden expresses the following opinion: "If we say that the one who has absolute power is not a subject of the law, there will be no sovereigns in the world. But what law are we talking about?" This becomes clear in the con-

tinuation of this thought: "...all the Sovereigns of the Earth are subject to the laws of God, nature and a significant number of human laws that are binding on all peoples" (Franklin, 1973, p. 26). Subsequently, Boden repeats this thought once again so as not to leave the reader the slightest chance for doubts: "But as for the laws of the Divine and natural, then all the Sovereigns on earth obey them and are not able to break them" (Franklin, 1973, p. 19).

Hugo Grotius is a famous Dutch lawyer, statesman and writer. Grotius is rightfully considered the "father" of modern natural law. In substantiating his concept, he was the first to turn to biological rather than religious arguments: "the mother of the natural is the inner nature of man" or "natural law is the prescription of common sense". Natural law, according to Grotius, cannot come from God himself. Thus, a progressive understanding of natural law became the impetus for its further justification on rationalistic principles in the works of the Enlighteners in the 17th-18th centuries (Grotius & Rabbie, 1995, p. 113).

The works of Thomas Hobbes remain only "one of the key descriptions of the post-renaissance European state", as noted in the "Encyclopedia of Political Thought" by D. Miller, and arise as the first systematic study of the political mechanism from the point of view of its power nature, that is, as the first conceptual analysis of the nature of power, which is at the heart of any political mechanism as such. T. Hobbes is the thinker whose interest not only does not disappear - as one might expect due to his authoritarian preferences - but is constantly growing. At the end of the twentieth century, Western philosophers and politicians started talking about the "Hobbesian Renaissance" in the modern philosophy of law (Martinich, 2003, p. 44).

In "Leviathan", Hobbes (2006) substantiates 19 natural laws, among which the following can be distinguished: in the interests of peace and self-defence, one should be content with such a degree of freedom in relation to other people,

which a person would have allowed in relation to himself; people must fulfil the agreements they have concluded because they are the beginning and source of justice; it is necessary to give up those rights that may cause discord in the state; one must be grateful, be able to adapt to others, it is easy to forgive offences (p. 67).

If in the days of Kievan Rus the problem of human behaviour was comprehended in the spirit of patriotism, then already in the Renaissance, humanistic tendencies appeared in the development of Ukrainian philosophical and legal thought. The main paradigm, "Man-God" in Ukrainian philosophy, is gradually being transformed into a new paradigm, "Man – Nature". At the same time, the idea of God acquires a new interpretation: man cognizes the Creator not through blind admiration for his power but through self-knowledge and self-deepening.

In the Renaissance Ukrainian philosophy, and therefore in that aspect of it, which concerned the idea of law and legal relations, two types of attitude to reality are distinguished: the philosophy of passive contemplation (Ivan Vyshensky, Job Knyaginitsky, etc.) and the philosophy of active transformation of the world (Yuriy Rogatinets, Stefan and Lavrenty Zizania, Peter Mogila, Gerasim Smotritsky).

Representatives of the first direction developed the national tradition in connection with its origins in the culture of Kievan Rus and the Greek Byzantine world, the ideas of neo-Platonism. Man was interpreted as a spiritually imperfect, sinful being, and her purpose was constant spiritual growth, the result of which was a posthumous merger with God. Therefore, a person should renounce material goods during his lifetime and devote himself to spiritual purification. The highest good of man was seen in the knowledge of God, and the condition for achieving absolute truth was pure contemplation. Such a worldview position deprived a person of the desire to actively change his life, to be the master of his destiny (Demidenko, 2015).

Representatives of the second trend supported

the reformist tendencies in the Orthodox Church, the traditions of early humanism, and the cultural and educational activities of the brotherhoods. A person by representatives of this trend was perceived as physically and spiritually perfect, able to enjoy the joys of earthly life, the beauty of the earth, and bodily sensations. The improvement of such a person consisted not in ascetic self-purification and alienation from the world but in active socially useful behaviour. According to the personal good was comprehended inseparably from the public good. In these views, the Renaissance ideal of a person is justified, strives to achieve perfection during life, and the meaning of human life is determined by the rational use of earthly life assigned to a person to achieve the common good.

The thinkers of the era of the Ukrainian Renaissance defended the need to raise and develop the idea of man, the value of his life, the protection of the dignity of the human person, the establishment of the principles of equality, brotherhood, and justice. In this, the idea of protecting human rights is actively developing, and although understanding its little theological connotation, because, for example, the equality of all before God the Creator was asserted, nevertheless, the work of outstanding representatives of philosophical thought of that time became an essential step towards the development of Ukrainian philosophy of law.

The Enlightenment is a crucial stage in developing European ideology and culture in the late 17th and early 19th centuries. The etymology of the word "enlightenment" (from "light") indicates the main direction of the activities of representatives of this ideological and aesthetic movement - to dispel the darkness of ignorance and ignorance, to teach, educate a person, equip it with scientific knowledge.

The philosophical and legal doctrine of B. Spinoza is the first theoretical foundation of democracy in the ideology of modern times. His desire to free the doctrine of law from moralizing, bring into it all the best from the laws of na-

ture, mind, and substantiate the "boundaries of state power" as a whole testifies to the progressiveness of his views.

Spinoza's reasoning about the law is based on the concept of freedom, which is characteristic of rationalism: the subordination of all to a reasonable law. The creation of laws cannot be entrusted to monarchs, dignitaries, or other persons, whose whims will inevitably prevail over reason because of the weakness of human nature. Personal aspirations and private interests often contradict each other - all this fades away at a general meeting, where smart laws should be born (Bibikhin, 2002, pp. 34-47).

John Locke is the founder of the liberal democratic tradition in Western political thought. In fact, the substantiation of natural rights, which expressed the basic requirements of the bourgeoisie in the field of law (freedom, equality, property), brought Locke the glory of the founder of liberalism. His works are the fertile ground on which the theories of natural law, constitutionalism and tolerance grew. This influence can be seen in the American constitution and the manifestos of the French Revolution, and later in the development of modern liberalism. Locke's theory of property remains the starting point of many discussions in philosophical circles (for example, between J. Rawls and R. Nozick), and the emphasis on the role of labour as a source of property rights gave impetus to the development of the economic theories of Adam Smith and Karl Marx (labour theory of property).

Voltaire (François-Marie Arouet) (1694-1778) - philosopher, writer, human rights activist, historian. Voltaire's merit lies because he:

1. systematized the program of the French Enlightenment;
2. laid the foundations for educational criticism of religion;
3. consistently defended the interests of the liberal bourgeoisie;
4. actively opposed the feudal order;
5. promoted "enlightened absolutism";
6. prepared a theoretical basis for the further de-

velopment of political and legal doctrines in Western European philosophy of law.

The classical understanding of the scientific picture of the world, based on the achievements of Copernicus, Galileo and Newton, determined the development of philosophical thought for many years. It is characterized by the identification of the world with a mechanism, was once brought in by the creator and later developed according to the laws of dynamics. World processes were interpreted as linear and unambiguously determined by the past. The explanation of all natural phenomena is based on cause-and-effect relationships, which excluded any chances for their development. The recurrence of time was decisive in the statement about the sameness of all states of the mechanistic movement of bodies. Space and time in a person's perception had an absolute character and were in no way connected with human activity and were a stationary phenomenon for them. The existence of subjects was interpreted as isolated from the influence of other systems, and the laws of higher forms of motion of matter were reduced to the laws of mechanistic motion. The world, as a simple and homogeneous mechanistic universe, stood in the form of a clockwork with the deterministic behaviour of its subsystems, which obey universal laws (Rawls, 1999, p. 12).

This idea of the uniqueness and homogeneity of the mechanistic universe was transferred to other branches of human activity: to the structure of government, to the organization of the production process, to the legal system. The end of the industrial era testifies to the failure of the mechanistic model of reality, which was criticized initially. The science that brought technological progress into human life could not fill the vacuum created by the loss of faith. The crisis of the spiritual world of man in the 19th century is clearly reflected in the statement of F. Nietzsche: "God is dead!" Man's loss of his only support - God - led to the loss of his place, his own space. A new type of thinking, which will later become the religion of the twentieth century, is repre-

sented in the philosophy of A. Schopenhauer (1999, p. 120). Man is understood by him as helpless, lost in infinite space and infinite time, a value that, by virtue of its finitude, will always be only a relative and never an absolute sense of the time and place of its being. She seems to be out of time and space, without past and future; this is a person with a heightened sense of uselessness and loss in an endless world (Kirkland, 2010, pp. 55-78).

The development of industrial capitalism in the first half of the 19th century led to an increase in the number and organization of the class of wage workers. This means that there were publicists, scientists and public figures who sought to protect the interests of the working class from the "bullshit capitalists". In their works and public speeches, they portrayed the image of a worker who requires decent living conditions and proper payment for their hard work. Based on these claims, doctrines were formed, the programmatic part of which provided for a radical change in the social structure, the replacement of capitalism with a social system without the exploitation and oppression of the masses by the bourgeoisie.

Marxism, as a set of various theoretical and philosophical systems that spoke on behalf of the working class and claimed the role of the only proper methodology of scientific research, took the form of an independent doctrine in the second half of the 40s of the XIX century. Its founder was Karl Marx, who developed the fundamental principles of historical and dialectical materialism, and together with F. Engels, created an integral political, economic, philosophical doctrine (Marx & Engels, 1955, p. 290).

Despite all the disagreements and splits in the circle of its supporters, Marxism escaped the fate of doctrines and dogmatic theories of the first half of the 19th century. They became the property of narrow circles of like-minded people. The spread of Marxism and its formation as an influential direction of political and legal ideology was facilitated by the organization of the Interna-

tional Workingmen's Association (International). Through this organization, Marx and Engels obtained the opportunity for a broad ideological influence on the labour movement for that time. Moreover, since the "Manifesto of the Communist Party" Marxism has been firmly oriented not towards any particular country but towards the world proletarian revolution (Marx & Engels, 1955, p. 420).

In the struggle for influence on the labour movement, the theoretical and journalistic activities of Marx and Engels were of considerable importance, especially the publication of the first volume of Capital, which was rightfully called the last word in political economy.

The work of I. Franko is a vivid example of the reproduction of the philosophical thought of the second image of Modernity, which has not yet been distorted by totalitarian practices. The image, which asserts the need for fundamental social transformations, praises the revolutionary progress of the people in its monolithic unity and in which individual existence loses its significance compared to the collective. A rebel, full of strength to fight for a better future for his people, Frank in his philosophical search for just social order, perhaps unwillingly, took the first step towards rejecting the personal subject and affirming the priority of the collective over the individual, towards denying the ontology of subjectivity in the name of the ghostly ideal society (Frank, 1992, p. 110).

Some of the views and ideas of I. Franko remain relevant today. These include his demands on the inviolability of the fundamental law of the state - the Constitution, the statement that the government must meet national traditions and are aimed at ensuring the rights and freedoms of every person. Franko's postulate that the law was created exclusively for people, and not people should adapt to the norms of the law.

Conclusion

Medieval culture is the culture of the text, which the Bible symbolized. The man of the Middle Ages constantly identified himself with a certain biblical model of life or an image taken from religious texts. This approach was reflected in the legal worldview of medieval man, for whom the law of God was the primary and foremost thing. The key to the creativity of thinkers at this time was the motive of the struggle between secular and spiritual authorities for a dominant position. In general, the question of which power structure should be the main one: spiritual (church) or secular (state), is decisive for developing the medieval legal worldview. The ideologists of the first were Augustine, Thomas Aquinas, the second - Dante, Marsil of Padua. However, despite these contradictions, the monarchist idea remained unshakable.

In the XV-XVI centuries, which absorbed the reform movement and cultural revival, civil society's legal and political foundations were established.

As the 18th century is often called, the Age of Enlightenment was a period of rapid development of humanistic and rationalistic principles in philosophical and legal thought. The acute crisis of feudalism, the inevitability and proximity of revolutionary transformations in the most developed European countries, the alliance of the bourgeoisie with the people in a common struggle against feudalism led to a widespread idealistic conviction that after the abolition of feudal inequality and despotism, an era of universal happiness, peace and prosperity would come.

The second half of the 19th - early 20th century were marked by a fierce struggle based on educational traditions, a rationalistic worldview, spiritual and religious philosophy. For all the relevance of generalizations, the postulates of spiritual and religious philosophy did not at all coincide with the far from ideal realities of the life of that time. Idealism also lost its positions with the development of science and, according to its representatives, could not satisfy experimental natural science as an adequate methodological basis. Accordingly, in philosophy, philosophy of law,

such a complex mixture of key philosophical ideas as individualism, anthropocentrism, objectivism, hedonism, utilitarianism, evolutionism has been actualized.

As a result of the approval of new ideological guidelines, the philosophical understanding of law acquires the following features: sociocentrism and rational structuring, a rigid centralized, hierarchical correlation of its components and dimensions; the monistic principle of building integrity; rejection of historical experience or a selective attitude towards it, with an emphasis on those moments from the past that reinforce class hatred; collectivist type of consciousness built into social life; the subordination of human life and society to the functional imperatives of impersonal structures and institutions.

The modern legal space is characterized by openness, mobility and isolation; legal situations develop according to the principle of nonlinearrity, opens up new opportunities for a person and at the same time leads to additional risks. The functioning of the invariant component of this space involves global natural processes, energy and information flow. The absence of such a Center frees up space and opens up opportunities to develop new ideas, new personalities capable of self-development and self-actualization. A person from an object of manipulation turns into a conscious subject, independently forms his life strategy.

References

Barac, A. (2015). *Human dignity, the constitutional value and the constitutional right*. Cambridge: CUP.

Bibikhin, V. V. (2002). *Yazyk filosofii* (Language of philosophy, in Russian). Moscow: Languages of Slavic Culture.

Demidenko, V. V. (2015). *Ponyatie politicheskikh tekhnologii: sushchnost', formy i vidy* (The concept of political technologies: Essence, forms and types, in Russian). *Nauchno-politicheskii zhurnal: Vlast'* (Scientific-Political Journal: Power, in Russian), *12*, 140-142. Retrieved from https://www.jour.fnisc.ru/index.php/vlast/article/view/3160

Diev, V. S. (2010). *Upravlenie, Philosophiya, Obshestvo* (Management. Philosophy. Society, in Russian). *Voprosy filosofii, na russkom yazyke* (Philosophy Issues, in Russian), *8*, 35-41.

Frank, S. L. (1992). *Spiritual foundations of society*. Moscow: Republic.

Franklin, J. H. (1973). *Jean Bodin and the rise of absolutist theory*. Cambridge: University Press.

Fuller, L. L. (1956). Human purpose and natural law. *The Journal of Philosophy*, *53*(22), 87-99.

Grotius, H., & Rabbie, E. (1995). *Hugo Grotius: Ordinum Hollandiae ac Westfrisiae Pietas* (Hugo Grotius: Ranks of the Piety of Holland, and the Westfrisiae, in Latin). New York: Brill.

Hegel, G. (1896). *Hegel's philosophy of right.* London: G. Bell.

Hobbes, T. (2006). *Thomas Hobbes : Leviathan*. Published by Rogers. London: Bloomsbury.

Kant I. (1995). *Osnovy metafiziki morali. Kritika prakticheskogo razuma; Metafizika morali. Immanuil Kant; per. s nim* (Foundations of the metaphysics of morality. Criticism of practical reason. Metaphysics of morals, in Russian). Saint Petersburg: Nauka.

Kant, I. (2004). *Critique of practical reason*. (Th. K. Abbott, Ed.). New York: Dover Publications.

Kirkland, P. E. (2010). Nietzsche's tragic realism. *The Review of Politics, 72*(1), 55-78.

Kissinger, H. (2014). *World Order*. New York: Penguin Press.

Martinich, A. P. (2003). Thomas Hobbes. In *Dictionary of Literary Biography, Vol-*

ume 281: British Rhetoricians and Logicians, 1500–1660, Second Series (pp. 130-144). Detroit: Gale.

Marx, K., & Engels, F. (1955) Manifest Kommunisticheskoy partii. Kompozitsii. (Manifesto of the Communist Party. Compositions, in Russian) (2nd ed., Vol. 4). Moscow: State Publishing House of Political Literature.

McKim, D. K. (2003). The Cambridge companion to Martin Luther. Cambridge companions to religion. Cambridge: Cambridge University Press.

Nersesyants, V. S. (2005). Filosofiya prava (Philosophy of law, in Russian). Moscow: Publishing Law of RF.

Parel, A. (1972). Introduction: Machiavelli's method and his interpreters. In N. Machiavelli & A. Parel (Eds.), The political calculus (pp. 3-32). Toronto: Uni-

versity of Toronto Press. Retrieved from https://philpapers.org/rec/PARI-MM

Rawls J. (1999). The law of peoples. With 'The idea of public reason revisited'. Cambridge, MA: Harvard University Press.

Rozin V. M. (2003). Genezis prava: metodologicheskiy i kul'turologicheskiy analiz (Genesis of law: Methodological and cultural analysis, in Russian). Moscow: NOTA BENE Media Trade Company.

Schiller, F. (2010). Letters upon the aesthetic education of man. Montana: Kessinger Publishing LLC.

Schopenhauer A. (1999). Sviet jak volia i ŭjaŭliennie: tvory ŭ 2 tamach (The world as will and representation: works in 2 volumes, in Ukraine) (Vol. 2). Minsk: OOO "Potpourri".