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THE ROLE OF I.FICHTE, G.HEGEL AND A.SCHOPEHAUER'S PHILOSOPHICAL-CRATOLOGICAL VIEWS IN THE FORMATION OF GERMAN CONSTITUTIONALISM

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ABSTRACT

This paper highlights the ideas of german philosophers on the government, contitutionalism in German statehood. Furthermore, the philosophical-cratological views in their works are analyzed.

KEY WORDS: *revolution, absolutism, senate, consul, idea of a free state*

Philosophical and cratological views of I.G.Fichte are related to such realities as the state, its origin, mechanisms of power, and freedom of trade. According to the philosopher, any state power, management should first be organized as a trade organization, and then as a political and legal organization. The task of the state is to provide its citizens with cultural freedom, to protect them from "external influences", especially aggression, violence and unjustice [1]. According to Fichte, trade is the main task of the state, but it carries out this task within the framework of the laws, but also on its territory. Experts call it a "closed trade state" [2, 3].

I.Fichte's subjectivist views on the state, power and law are based on the concept of natural law. All relations in society are carried out within the framework of the will of individuals and applicable norms and procedures, but based on legal requirements. These legal requirements, based on the mind's perception, are reflected in people's actions and activities. If something is not reflected in external actions and activities, and remains an internal affect, it is not a right or a legal reality. Even if the philosopher is a supporter of subjective idealism, he interprets legal laws in practice, in external existence, that is, as the results of practical activities of people related to society, state, and management institutions. Binding laws create a legal entity. Acts that do not have such an effect remain in the ranks of warnings. If I.Kant sees the power of rights and laws in the moral imperative, I.Fichte emphasizes the power of coercion and thus seeks to justify the coercion used by the institutions of power. But the philosopher does not imagine that since not all coercion is a law, a right, limiting it, in our opinion, to the level of the state can lead to monarchical rule.

Hegel has a special place in the formation of philosophical-cratological views on German constitutionalism. It is he who, as a supporter of the constitutional monarchy, emphasizes the need for a "just constitution", that is, the participation of members and systems of society. Hegel expressed his philosophical-cratological views on the principle of constitutionalism from his first philosophical-legal works to the last work of his life "On the Reforms of the English Bill" (1831). In his work "The Constitution of Germany" (1798-1802), he comments as a supporter of class representative monarchy [4; 65]. In his work "Yen's philosophy" (1805 1806) he interprets the constitution as a means of "reasonable legal organization of all spheres of state life" [5; 287-362]. In another place, Hegel shows that there is a deep and great meaning in creating a constitution [6; 285]. The philosopher was aware of the French Revolution and the constitution adopted under its influence, as well as the principles of US constitutionalism. He tends to view German constitutionalism on this continuum.

Human will and development is implemented through deeply understood objective reality and its objectification in social existence, that is, through the institutions of the political system, mechanisms of state power management, support and coercion methods. The ideas of free will and equality are central to the principle of constitutionalism, but they are the same, not to the same extent, in the common citizen as in the monarch. State administration itself requires them to be of different size and scope. Sometimes there are thoughts that this idea of freedom and equality is equal for everyone. This is a narrow approach resulting from a lack of familiarity with the immanent features of public administration. Even at the lowest level of state administration, an official and an employee are not equal and equally free, otherwise the executive activity of the official will not be effective. What will happen to the constitutional rights of the people, citizens, and the fact that everyone has equal rights? If the official and the employee, the people and the government institution do not have equal rights, will not the constitution become a fiction? Although the constitution makes everyone equal, it does not reject differentiation in practical activities. There are specific aspects of practical activity, that is, everyone performs his task not according to his own knowledge, but based

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on the social characteristics and objective needs of this activity. These social features and objective necessity make it necessary to carry out practical activities from the point of view of the laws and procedures established by society and the state. Understanding these laws and procedures, following them means regulating the behavior of individuals.

Hegel supported the principle of separation of powers of the French Enlightenment. However, its separation of powers is aimed at preserving the constitutional monarchy. According to him, the division of power in Germany is divided into legislative, executive and monarchical power. The next one is the higher-level authority that combines the previous two authorities [7; 311]. It is true that Hegel also mentions judicial power [7; 310]. In the next classification, he considers it to be related to the executive power. "The transition of the state to the development of a constitutional monarchy... is a new world affair. The monarch is one, the executive power is a few people, and the majority participates in the legislative power..." [7; 312]. Although the philosopher is not a supporter of democracy, he does not deny its existence. Republican governance is a sign of democracy, but it is also important that the right to govern the state exists "for its own sake" and that the phenomenon of law applies to the people as well. "It is necessary that a law or a legal system should exist, that it should be adequate to the existing law... Therefore, it is impossible to give a constitution or a legal system to a certain people a priori" [7; 444]. Therefore, it is an objective requirement that apostreori, that is, a certain political-legal experience exists in the spirit and mind of the people as a set of constitutional laws. "So the ruler's power is not exactly violence; but, on the contrary, it is a decision that comes in accordance with the requirements of the objective students, that is, the laws of the constitution, the monarch"[7; 472]. Also, Hegel civil society, state building, tasks of the monarch and citizens, the influence of "idea" on the phenomenon of centralizing power and authority, self-management, consciousness and thinking in connection with affective processes, the features of manifestation in laws, the expression of philosophy in legal consciousness, the people expresses opinions about diverse realities, such as a collection. "Absolute freedom, free spirit" expresses the integrity of state power, its "authenticity". "This is the state in which the subjective soul finds its satisfaction, in which it realizes its fullest and most profound realization, by setting itself against external existence, as its definition. In this way, he reconciles with himself" [7; 483]. Hegel concludes his philosophical-cratological and political-legal views with the conclusion that he is far from these subjective, that is, objective requirements.

In the philosophy of Arthur Schopehauer, he thinks about the will of man, freedom, happiness, will, the will of the world, intelligence, power, the mind and will in a person, the way of thinking, which is under the command of the general will etc. and gives his views on each of them. This general will regulates and controls the entire existence and subjugates people to its will. The volition of the world, or the will outside of man, mythologically owns existence, which can be perceived, understood as god, transcendence, nature, supernatural force (i.e., irrational will). Human intelligence and thinking are under the command of the will. Therefore, the will can express itself without these subjective realities [8]. A. Schopenhauer writes "all our life in development is nothing more than a manifestation of will...All things that happen in our life, our actions, motives, aspirations and desires aimed at achieving something are all nothing more than will, the objectification of will" [9; 201]. "Will is freedom in relation to itself, everything itself, the basis of everything" [9; 472]. Because "if thinking is destroyed or the brain is removed from all the beginnings, the whole universe will end. Please do not take this as a joke. I'm serious. Because man exists only as our thinking (of all creatures). There is no world outside of these imaginations" [10; 354]. Here it is noticeable that the philosopher indulges in radical subjectivism, even relativism. Saying "There is no world outside of our imagination" is an attempt to understand existence at the level of individual consciousness. So, the will controls everything, human life and behavior, governs changes in existence. Such a broad, irrational understanding of will leads us to interpret human will and desires through the phenomenon of will, which can lead us away from the mechanisms of authority, state, and law.

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