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GERMAN CONSTITUTIONALISM AND PHILOSOPHICAL-CRATOLOGICAL TEACHINGS

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ABSTRACT
This paper discusses the constitutionalism principle in the German philosophy and its cratological implementation. Mainly the philosophical-cratological and constitutional views of German philosophers, such as I.Kant, Hegel, K. Marx and F. Nissche are analyzed and their ideas on the statehood, government, justice and law are discussed.
KEY WORDS: *constitutionalism, independence, parliamentarism, monarchy, arbitrariness, absolutism*

Experts believe that cratological ideas about the need to create a strong royal state begin with the ideas of Immanuel Kant [1]. German classical philosophy occupies a large, unique place in the world philosophy. English and French intellectuals had philosophical-cratological and political-legal experiences and enriched world philosophy and thought with these experiences, so German philosophers have such a rich experience and heritage. This experience and philosophical-cratological teachings are so rich and colorful that their greatest representatives Immanuel Kant, Johann Gottlieb Fichte, George Wilhelm Friedrich Hegel, Arthur Schopenhauer, Karl Marx and Friedrich Nissche provide sufficient sources for our topic.

A number of researches were conducted on their works and doctrines. However, their philosophical-cratological and constitutional views have not been sufficiently revealed. The newness of the subject, the periodic requirements of the approach to it shows the need for a new approach to the philosophical heritage of I. Kant, Hegel, K. Marx and F. Nissche, to study it from the point of view of the needs of the new era. B.Russell writes: “Kant is the founder of German idealism, although he wrote some works on political issues, he himself was not of great importance in the political sense. Both Fichte and Hegel, on the other hand, produced political doctrines that strongly influenced and continue to influence history. It is difficult to understand them without first studying Kant...” [2; 327]. I. Kant “was a liberal in both politics and theology. He favored the French Revolution and believed in democracy. His philosophy was directed to the human heart rather than to the cold intellect...His principle that everyone should be regarded as an aim in himself is a theory of human rights, and his views on free will “nothing can be more terrible than obeying the will of another” is reflected in the words [2; 329].

I. Kant criticized views on natural law, especially French materialism and atheism. He published his philosophical-cratological views in his works such as “Critique of Pure Thought”, “Critique of Practical Logic”, “Metaphysics of Morals” and “On Eternal Peace”. In his opinion, the origin of the state and power is related to the voluntary agreement between the parties, consensus, that is, the parties giving up their natural freedom. It was this agreement that created imperatives such as obligation, responsibility and duty between the state, the government and the people. This means that the state is based on the law, the imperative of the law. The philosopher’s thoughts on the legal state are derived from this premise. According to Academician A. Saidov, it was I. Kant who founded the concept of legal state and interpreted legislation as the main attribute and substance of statehood, the rationalization of relations between the state and citizen, society and individuals, and the expression of the “goal” serving the development of mankind. The moral imperative and the legal imperative are a priori expressions of this “goal”. [3; 22-29].

I. Kant divided the state and power into two, i.e. existing forms of law-makers and existing forms of power. The first form includes autocratic (absolute monarchy), aristocratic and democratic governments. The second form of power management included republican (system with separation of powers) and despotic (no separation of powers) systems. The philosopher himself, as a supporter of the autocratic (absolute monarchy) form of government, tries to support this cratological model. In his opinion, the absolute monarchy is the most convenient, appropriate form of state management, in which the monarch can conduct fair activities, correct if there are

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mistakes, and refrain from injustice to the officials under his control. This cratological model was recognized by I. Kant, naturally, in Prussian king Frederick XI. It is important for us that it is easy to move from absolute monarchy to constitutional government by I. Kant. Therefore, he believes that constitutional norms and rights can be provided by the monarch. However, "the people do not have the right to oppose the supreme legislative authority" [1]. If the people oppose the supreme legislative authority or the king, do not obey them, constitutional requirements, contracts, agreements are violated, and as a result, arbitrariness turns into violence, revolutionary movements. This cannot happen in a constitutional monarchy. The management system, the contract between the government and the people, compliance with the requirements of the agreement is a guarantee of ensuring the rule of law.

I.Kant emphasizes the category of law or legal state. For him, both the state and the relations of people are regulated by law. The most important thing is that the right, the law does not allow the state to interfere in the life of the individual. In a democratic society, it is implemented through a democratic constitution and constitutionally based laws [4]. Obedience to laws, even if they are sovereign, made and enacted by the state, is primarily the duty of the state. Not only citizens should be forced to obey the laws, but also the state should be forced to obey the laws. This is the principle of democratic constitutionalism. Obedience to external order and laws is the duty of citizens and the state, and it is in this dialectical reality that their interests, actions and desires can be combined. It is necessary that "the law is a legally superior authority". The relations that arise between states, people, and their peaceful existence must also be based on the principle of democratic constitutionalism [5; 257-301].

I. Kant enriches his thoughts about state power and law and legislation with conceptually important theses about the person or "citizen status". According to him, "The state of citizenship, considered only as a state of law, is based on the following a priori principles:

1. everyone in society is free as a person;
2. his equality corresponds to the equality of other people;
3. independence of each member of the community as a citizen. These principles are given not only by the existing state, but also by pure reason, external law and laws that apply to man, form the state" [6; 79].

Even in order to make a person happy, the state cannot transfer its judgment to a person, allow despotism, the search for happiness is the desire and need of every citizen, and therefore, it means the right of citizenship. This postulate of the philosopher is directly related to the social state, because in the social state, the main task is to support citizens, protect their rights, and especially to provide necessary assistance to those who need help. The principle of "civil independence" is to provide assistance only to the helpless, sick, and those who have lost their close people in a difficult situation, and all other people should use their independence to support themselves and make themselves happy. In the second half of the 20th century, the "miracle" of Chancellor L. Erhard was when he connected the principle of "civil independence" to every German and every German family made it possible, supported their economic freedom.

Although I. Kant divides into forms of government (republic, democracy), autocracy (constitutional monarchy), despotism, he comes to the conclusion that it is not the form of government, but the way the government is governed [5; 270]. It is possible to manage both in a monarchy and in an aristocracy in the republican method [5; 274, 292-293]. This postulate of the philosopher: first, democracy is a universal reality, it is not related to the form of government of a particular state, but the reality related to the management methods that serve the general purpose; secondly, associating democracy with absolutism or headship, arbitrariness, shows that he was a supporter of a constitutional monarchy that serves the common interests, the people, and not democracy, but a monarchy that takes responsibility.

In the works of I. Kant, different opinions are expressed about law and morality, law and moral imperatives, justice and experience, "internal order" and "external necessity". The reality manifests itself in external relations. In this interpretation, the law expresses the external relationship of one person to another person, secondly, the arbitrary attitude of one person to another person, and thirdly, the right in this relationship expresses the attitude of one person to another person's actions from the point of view of the general law. So, according to I. Kant, the right is the conformity of the actions of one person to the actions of another person from the point of view of the general law [7; 253]. Also, the philosopher said that "any right, in the narrow sense, is related to coercion, at the same time, the right can be viewed in a broad sense, in which coercion is not determined by any law. This form of true and false right is two: justice and the right arising from extreme necessity; the first of them refers to the application of rights without coercion, and the second to coercion without rights" [4; 79]. Of course, I. Kant's and other experts' views on jurisprudence, state and power management are part of his philosophical legal and cratological views on freedom, independence, state, monarchy and parliamentarism, republicanism, they are, in a broad sense, related to constitutional monarchy. Freedom is a reality that is given to man from the beginning, that belongs to the human species, but also recognizes the freedom of others. A person is born free, but his freedom is not absolute, it is related to the recognition of the freedom of others. Belonging to the human species determines one's freedom and, at the same time, one's obligations to others.

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