

On the Question of “Dialogue of Cultures”

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In the article, the author substantiates the advantages of an interdisciplinary dialogue between political science, philosophy and jurisprudence. Philosophy is seen as a methodology of “understanding.” It has defined such concepts as “rule of law” and “democracy.” It has been substantiated that the official language of international politics is law and culture. The advantages of the hermeneutic method in the context of the philosophy of law are analyzed and substantiated. It has been substantiated that understanding the philosophy of law is impossible without a historical and philosophical component that restores the connection between the continuity of ideas and concepts.

Keywords: philosophy, philosophy of law, international politics, national security, human rights, the rule of law, democracy, history of philosophy

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Introduction

In this study, we will focus our research attention on three key questions. First, the substantiation of the role of philosophy as the most effective methodology of “understanding.” Secondly, a statement of the essence and purpose of the foreign policy strategy of the European Community, namely, clarification of the issue of “culture wars” of Others and Alien. Third, to analyze human rights issues in the European context and reproduce the “pro et contra” arguments as to whether concepts such as the rule of law and democracy are interrelated.

Philosophy as a methodology of “understanding”

In our opinion, today’s cycle of social sciences and humanities needs urgent updating. We need an effective methodology of “understanding” (in the language of H.-G. Gadamer) (Gadamer, 1988), which, on the one hand, promotes the growth of “intellectual capital” and, on the other hand, helps to solve specific problems.

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As philosophers, political scientists, sociologists living in a global and open world, we have no right to speak exclusively from the standpoint of "ideal theories," the world of ideas and abstract ideals, bypassing the requests and challenges of stormy reality. Following the views of the famous political and legal philosopher Otfried Hoeffe: "Philosophy should avoid both moral preaching and direct interference in life. The task of philosophy is grounded, reasoned thinking and nothing but this thinking" (Hoeffe, 2003: 240).

The above-extended reference testifies to the ideological kinship of O. Goff and G. Hegel. The latter warned philosophers against such a danger as abstraction, which he considered the greatest "sin" of thinking. Thus, Hegel's "Philosophy of Law" (Hegel, 1990) reflects a methodological guideline according to which "concrete" dominates over "abstract" so that a balance can be maintained between the laws "as it is" and "as it should be." Thus, it is obvious that the Text of the "Philosophy of Law" is neither a doctrine nor a detailed instruction, but a methodology for understanding the root causes of certain derivatives (Hegel, 2000).

We believe that philosophy's role should not be reduced to constructing ideal theories or the descriptive function. On the contrary, its task is to define concepts, substantiate, analyze and on this basis to build analytics and forecasting.

Accordingly, we hypothesize that philosophy is one of the most effective methodologies of rational cognition, which allows us to study both the nature of social relations and to substantiate them in the language of "strong arguments."

Philosophy is a science with a strict conceptual and categorical apparatus, from the sources of which other branches of knowledge and science derive the basis for independent existence. "Philosophy, precisely because it is a penetration into the rational, and is the comprehension of the existing and real" (Hegel, 1990: 53).

In contrast to jurisprudence, which for the thinker's assessment is reduced to working with contradictions, philosophy is designed to study the deep foundations of law and justify its meaning in the form of a precise, concrete, clear concept.

Summing up, we note that although philosophy is written with the predicate "as it should be" in terms of the world of ideas, it is always focused on reality itself. An example of this is its divisions, such as: "philosophy of law," "philosophy of politics," "philosophy of business," which are a practical philosophy that contributes to the qualitative progress of the strategy of social and humanitarian development of Ukraine.

In this aspect, it is appropriate to recall the opinion of M. Mamardashvili, who argued that "the ideal should always be an aspect of the real" (Mamardashvili, 2001: 203). Based on such substantive preconditions, we consider philosophy as an effective methodology of "understanding" and move on to understanding the basics of foreign policy.

Uniformity of law and "dialogue of culture" as the official language of international politics

What is foreign policy? It is, first of all, the Art of dialogue with Others based on the principles of equality, tolerance, mutual recognition, which is achieved through universally recognized and unified principles, norms and provisions of international law. This opinion is nothing but a rethinking of Article 18 of the Constitution of Ukraine, which defines the purpose of Ukraine's foreign policy (The Constitution of Ukraine, 1996). Its content is provided by the Vienna Convention on Diplomatic Relations (April 18, 1961), which enshrines the principles of sovereign equality of states and defines the common goal of the entire intellectual world community — to achieve international peace and security.

There is no doubt that recent developments in world politics eloquently demonstrate that regional peace is the foundation of global security. Since the goal is the same for all — peace and security, respectively, we must choose the most effective means to achieve it, namely, building a network of dialogue, “language game” (Wittgenstein’s term) and the translation of one culture to another. At the same time, this level of dialogue of mutual understanding begins only when the interlocutor recognizes the “rules of the game,” which is a sign of his “civilization.” Such a list of “rules of the game” is manifested at least in the form of a unified law system, observance of human rights and freedoms, ensuring social guarantees of the citizen.

In this aspect of basic principles and social values, such international organizations as Amnesty International and the Venice Commission operate. The latter’s goal is the introduction of democracy through the law, achieved by introducing a unified system of international law, that is, by bringing regional state institutions to the high standards of the European order.

Hence, it is obvious that law is not just a dictatorship of norms and imperatives of codes but also a compass of values that unites the entire rational world community. After all, what are the principles of freedom and equality, proclaimed back in 1791 on the pages of the French Constitution? They are nothing more than an ideological meaning, the core of values embodied in life thanks to the mechanism of norms and provisions of a unified legal system.

We are convinced that law and culture are the official languages of international politics. In our opinion, law and culture mutually condition each other and create a “picture of the world.” In this context, we are faced with another dilemma that requires critical reflection. What are “culture wars,” and what is the difference between the collision of “pictures of the world” of Aliens and Others? We are convinced that law, like other state institutions, reflects the meanings of culture.

In turn, form a kind of “frames” of perception, the culture of thinking and the culture of beliefs. Of course, it does not mean that each of the social institutions writes its history of identity, but it is indisputable that the cultural layers are somewhere at the level of the unconscious and are passed on to subsequent generations through customs and traditions. Let us recall that E. Husserl (Husserl, 2009) called such an uncritical perception of culture, traditions and prejudices the state of “natural attitude,” which can be overcome with the help of phenomenological reduction.

If this or that state builds its “cultural picture” of the world as local, homogeneous, that is, isolated, then, accordingly, the perception of another “cultural world” will always be Alien and will only cause a reaction in defense of its regional cultural world in all possible ways. In such conditions, the state’s foreign policy and socio-humanitarian strategy are reduced to a monologue of absolute values and leads to a vicious circle of struggle with strangers. Such a relapse of struggle and confrontation is insurmountable. If we are building a world of intercultural values, this means that we are ready to hear the voice of others, to perceive and respect other people’s “pictures of the world,” that is, we are ready for dialogue, for a “language game” (L. Wittgenstein’s term), communication.

Our goal is to achieve “understanding” (in the language of G. Gadamer), “understanding” in dialogue, for which we are ready to work on translating one culture into another, on a dialogue of cultures. This approach is the basic condition for a reasonable coexistence with Others based on tolerance and recognition, respect, and mutual enrichment.

Consensus language or an argument for strength? What will win in the modern world? In connection with such a controversial issue, let us turn to the analysis of Fukuyama’s article

"The primacy of culture" (Fukuyama, 1997), in which "civil society" and "culture" are ranked among the most likely opponents of democracy, the development of which is interdependent. Democracy, as interpreted by F. Fukuyama, is based on four pillars (Fukuyama, 1997): 1. "ideology" (normative beliefs); 2. "institutions" (constitutions, the judiciary, the party system, market structures and political struggles for power and awards such as legitimacy) 3. "civil society" (spontaneously created social structures that function within political institutions but outside the state) four "Culture" (from family to religion and moral values).

It is a culture that is an indicator of the development of "civil society," and the effectiveness of the functioning of democratic institutions depends on it. Consequently, the "conflict of interpretations" that liberal democracy will have to face will arise at the levels of "civil society" and "culture." Fukuyama rightly points out that the difficulties affecting the quality and safety of life in modern democracies cause social and cultural deviations from the norm, which, according to the researcher, go beyond institutional decisions, that is, beyond the framework of state policy (Fukuyama, 1997).

A striking and existentially tragic example of the clash of "cultural civilizations" is the problem of ethnic conflicts and migration, which significantly change the political map even before the recent traditional foundations of democracy. They are transforming discourse from the values of intercultural pluralism to the radicalism of far-right beliefs. Such a change in political attitudes and electoral preferences in the language of culture is translated as a response of aggression to aggression and is increasingly acquiring the features of a "frozen cultural conflict" of our time. F. Fukuyama notes that although "fascism, Islam, neo-Bolshevism" will not become global ideologies, they will build up their potential in the local-regional dimension (Fukuyama, 1997). We believe that the functioning of state institutions is based on the effectiveness of social values, which are reflected in the beliefs of their carriers and are reproduced in their daily practice. The main social values include freedom, the boundaries of which are determined by a "categorical imperative" and make the arbitrariness of the elect impossible, responsibility, as well as rights — duties that initiate a dialogue of trust and contribute to the qualitative development of political culture.

Obviously, not a single worldview and value model can find the ultimate limit of its justification, be absolute, exhaustive. We must take into account that the source of values is not only positive meanings but also prejudices. It is evidenced by the national historical picture's interpretation, overloaded with a number of Soviet clichés and Soviet symbols. Although the first steps on the path of decommunization have already been taken, they should not be limited to the spontaneous destruction of granite-monumental monuments of the past. To reach the level of ideas, the level of qualitative development of values as a system of beliefs and practice of actions. Accordingly, the evolution of values should be determined by a natural evolutionary path and by a purposeful basis for developing a social and humanitarian strategy for modern Ukraine, a smart postulate of its foreign policy.

On human rights in the context of a global world of challenges and change

We can derive a semantic connotation of the concept of human rights from well-known laws and regulations, such as the 1789 French Declaration of the Rights of Man and Citizen and the Virginia Bill of Rights of 1776, which proclaim the basic teaching principles of human rights. However, the idea of human rights was formulated back in the distant 17th century by

J. Locke. Human rights received their institutionalization and normative significance only in the twentieth century, becoming an indicator of humanity. On December 10, 1948, the UN General Assembly adopted the Universal Declaration of Human Rights. The preamble to which clearly states that the Second World War's barbaric experience was the decisive impetus for the proclamation of "human rights as a common ideal that all peoples and nations should strive for" (Lohmann & Gosepat, 2008: 15).

The last document recorded the meanings of law and axiology, became a normative-value compass of the civilizational choice of a reasonable world community, and has universal significance in public policy. However, public policy is not always synonymous with real action, just as deeds do not always support spoken words.

It is not without reason that it can be argued that the state policy of some countries is an imitation of such a civilizational choice and in no way reflects European values. The modern open world is characterized by such an effect of "simulacrum" / imitation (Jean Baudrillard), and it is indicated by a chronic "conflict of interpretations" (Paul Ricoeur) when those who commit terrorist acts condemn them at the same time. The diplomatic language of leading international institutions, in particular, such as the UN Security Council, is turning into a symbolic role that only restrainedly condemns the very fact of violence. According to O. Hoeffe, "The United Nations of Europe could be more effective than a glass palace in New York" (Hoeffe, 2003: 214).

Despite the growing threats in the global and continental world, the obvious security problems that should unite a reasonable community, on the contrary, we see that there is disunity. The polarization of the Others and Alien world is intensifying and constitutes a "frozen conflict." Accordingly, the specific issues of ensuring human rights remain in a precarious position. We find confirmation of this in the sphere of international politics. This is Britain's withdrawal from the European Union (Brexit) and an increase in the rating of ultra-right parties, particularly the Popular Front party in France (Front National), which build their election rhetoric contrary to the shared values of the European Community and international law. Such tendencies are indeed dangerous because they reinforce the tendency towards building boundaries rather than building effective dialogue.

Of course, the question remains, what will prevail in the modern world? Values or private interests? An idea or ambition for higher ratings? The wording of such a rhetorical question convinces us even more than in the sphere of international politics, international law, which is the value-ideological and axiological-eidetic wall of security of the world order, cannot be dominated only by private interests. Let us recall Rudolf von Iering (Iering, 1874) (1818-1892), who defined law as a field of the struggle of interests against those who try to maintain the monopoly of their private interests. From this, R. Iering concludes that our readiness to defend rights testifies to our legal maturity and is an indicator of the nation's qualitative development. It is in the struggle for the right that the legal meaning and legal responsibility are tempered. It should be noted that the protection of the law, the fight against arbitrariness and legal nihilism is "the commandment of moral self-preservation — a duty to society," which is gaining universal significance (Iering, 1874: 24). Unwillingness to defend rights is synonymous with moral indifference. Thus, Iering substantiated that in matters of international politics, dialogue on human rights, we should proceed not from private interests but from the idea of the common good. Accordingly, in this publication, we address human rights issues in the context of international politics's challenges (Iering, 1874).

At the beginning of the study, we mentioned O. Hoeffe, who noted that "philosophical theory does not offer specific recipes, it strives for knowledge and understanding" (Hoeffe, 2003: 240), which is a sign of such a philosophical discipline as hermeneutics. In addition, such a key concept, the central category of Hoeffe concept is "justice," which is "a fundamental condition of public life" and the only criterion for the legitimacy of social coercion (Hoeffe, 2003: 241). Since we have remembered such a concept as "coercion," it is necessary to clarify its meaning. To do this, let us turn to I. Kant, who argued that the state in relation to a person could apply coercion and various norms of an imperative-attributive order, but a person should have the right to understand the prerequisites for the legitimacy of a specific decision.

Accordingly, I. Kant, along with the requirement of submission to the state mechanism, also protects the limits of human rights, namely the requirement of a reasonable person to understand how this or that kind of coercion is legitimate. A person who has the courage to use his own mind is able to know the nature of this competence. Moreover, on the pages of the work "Answer to the question: What is Enlightenment?" (Kant, 1966) (1784) Kant emphasizes the ability to publicly use his own mind to comprehend legislation and express his thoughts regarding its improvement (Kant, 1966: 34), applying his ability of critical judgment in a constructive form. Thus, the people's priority rights include the right to freedom of the printed speech, which is the only "palladium" of the rights of the people.

However, every freedom must have boundaries so that it does not turn into lawlessness, and these boundaries in the philosophical and legal concept of I. Kant are reasonable. In the end, Kant argues that the observance of the law is an unconditional obligation. Moreover: "the human right should be considered sacred, no matter what sacrifices it may cost the ruling power" (Kant, 1966: 302). Thus, I. Kant tries to substantiate the a priori value of legal principles and illustrate their application in relation to legal empiricism. Let us return to the reflections of O. Hoeffe, in whose concept the central category is "justice," which is the main condition for the equality of all in the social hierarchy. The formula for such "justice" is the following conclusion: "If everyone, refusing something, receives something equivalent, then the exchange itself is fair" (Hoeffe, 2003: 242). Thus, "fairness" is based on a mutually beneficial exchange.

"Democracy" vs. "the rule of law" in the interpretations of O. Hoeffe

What is the rule of law in the understanding of O. Hoeffe? It is, first of all, a combination of human rights and democracy. The rule of law and democracy in the concept of Hoeffe are organically interrelated concepts. At the same time, Hoeffe maintains a critical distance in relation to the subject being studied and in no way idealizes democracy. Democracy is the basic condition that allows us to ensure and guarantee human rights and protect our legal subjectivity as a citizen, but at the same time, it is not the last foundation that serves the self-justification of the rule of law. The classic project of building "justice" belongs to J. Rawls, in contrast to which O. Hoeffe speaks about the principle of "justice" of an exclusively democratic rule of law without trying to achieve its all-encompassing and absolute significance.

The project "justice" does not exist outside a specific historical context and without taking into account its regional specifics. Let us dwell on the three main senses of the concept of O. Hoeffe. The first of them is that organized joint cooperation with Others in the form of law is nothing more than "the embodiment of practical or social reason" (Hoeffe, 2003: 8). Secondly, A. Hoeffe does not reduce the definition of law to only one of its attributive characteristics —

anthropology, the normative nature of the imperative order, or the monopoly on legal coercion. Law is an organic connection between the anthropology of law and the ethics of law, the theory of law with social philosophy. On the basis of which the thinker speaks about the emergence of a new discipline — normative social philosophy (Hoeffe, 2003: 8). The task of which is to assess the positive law. By the way, this function of assessing positive law from the point of view of the "world of ideas" is classical for representatives of the concept of "natural law." O. Hoeffe talks about intercultural legal discourse in the context of international politics.

Earlier, we talked about the problems of "cultural wars," from here, we will allow ourselves to formulate a sophistic question: "Do we have the right to impose on other cultures such a dominant Western legal form as a democratic rule of law?" Is this not a continuation of the long-condemned cultural imperialism? (Hoeffe, 2003: 9). In search of an answer to this question, it can be noted that the basic principles of the rule of law that characterize the Western tradition erase specific, exceptional features and are a sign of civilizational choice. This is confirmed by the fact of the spread of the universal language. Let us recall the words of Umberto Eco, according to which — "the language of Europe is a translation" (Krepon, 2011: 11). According to Mark Krepon, who studies the problems of European otherness, "Europe" is far from cultivating any "essence" of its own; on the contrary, it is the environment that cultivates universal values. Mark Krepon notes: "The triumph of Europe was not a triumph of some kind of identity, confident in itself and in its prerogatives," Europe was created "through transformation, that is, the flow of exchange, borrowing, translation" (Krepon, 2011: 17). Accordingly, the identity of Europe consists of the circulation of mutual influence, the dialogue of which is based on endless translations.

Continuing the theme of "identity," let us recall such a representative of the Italian national liberation movement, Guiseppe Mazzini (1805-1872), who speaks of the supremacy of humanity, not the superiority of identities. First of all, we are people, and this unites all of us, "break down the barriers that divide you. Overcome, guided by reason and morality, all privileges ... Be yourself, be as equal as possible ... With the growth of any inequality, tyranny increases proportionally, "the thinker argued" (Mazzini, 2005: 277). This thinking opens up for us the discourse of intentional duty, the point at which all nations converge. In support of this thesis, we note the following: "Therefore, we protest against any inequality, against any oppression. We do not divide people into Others and Strangers. We distinguish only between justice and injustice" (Mazzini, 2005: 273).

The human right to life, to such social guarantees as proper medical care, access to education, decent work are the basic principles, the value of which is common for each of us. A democratic legal state is not ideal. Still, it is characterized by the effective functioning of social, civil, and public institutions that maintain a balance of justice in society, making it impossible to usurp power and not depend on indulgences of the elect. Each of the forms of the state regime, both democratic (liberal, conservative...) and undemocratic (authoritarian, totalitarian), acquires specific features at the moment of its functioning in a particular picture of the world. Ideal theories exist only on paper. However, in reality — deviation from generally accepted truths is possible. At the same time, when comparing various forms of government, the most acceptable is how public and civil institutions function effectively, which gives rise to talk about the rules, about the value of law, about human rights, about the value of citizenship. Accordingly, legal institutions, the value of law are the main measure that unites the entire reasonable world community. Otfried Hoeffe argues that intercultural discourse is nothing more than "an integral part of the global peace strategy" (Hoeffe, 2003: 11). Since for a reasonable

world community, there is one value — the achievement of peace, the therapy of violence, we should moderate the dialogue and not cultivate the monologue of national ideologies. The task of intercultural discourse is complicated by the fact that it must be conducted "not only with African but also with other, for example, Islamic states" (Hoeffe, 2003: 45). By the way, the fact of this precaution lies in the fact that international agreements on the observance of human rights "after the adoption of the UN Declaration in 1948 were ratified by only a part of the Islamic states" (Hoeffe, 2003: 45). To start a dialogue, such as a "language game" (L. Wittgenstein), it is necessary to accept uniform "rules of the game," before which we are all equal and talk about the value of a person, cultivate the idea of his safety, a satisfaction of basic needs and observance of social guarantees and protection their right to be a citizen, endowed with freedoms and responsibilities. "Threatens not with general human principles of law, but consists in the" export "of models of behaviour, consumption habits and foreign culture" (Hoeffe, 2003: 48), which can cause a personality crisis. Meanwhile, universal human values are only general tendencies; they do not deny specific features. The substantive and semantic core of the institution of law is equality, and the anthropological specificity is that a person is born in a certain culture, a "mixture" of cultures that determines a person" (Hoeffe, 2003: 51). Thus, traditions and habits form the types of perception and models of behaviour. There are no "unbiased eyes." For "a full-fledged life, the state is nothing but the limits, conditions and opportunities for a decent human life" (Hoeffe, 2003: 67). It is an environment of coexistence with Others on the basis of equality and mutual recognition.

In the concept of "justice" by O. Hoeffe, the legal form is more important than a democratic organization, at the same time, it is quite obvious that the legal form, which is characterized by free access to fair justice, equality of all before the law, is the main sign of the effective work of social institutions. If such characteristics can be achieved in a different form of government, then it will be acceptable. The only indicator of the effectiveness of the system is the satisfaction of the interests of citizens and the procedure of legitimation. Let us formulate a sophistic question. Are there other forms of the state, besides the democratic rule of law, which recognizes a person's value and ensures both its basic and constitutional rights and freedoms? Obviously, there are none. Only within the limits of a democratic rule of law is it said about meeting the needs of not only a consumer but also, most importantly, a person — a citizen who is endowed with a critical mind and responsibility for his choice.

Referring to the topic of the social contract, the author claims that this is a European tradition. The contractual theory involves a combination of legitimacy with the consent of everyone. "Only public authority remains obligatory, the highest manifestation of which is "State," and the meaning is the world" (Hoeffe, 2003: 208). Civil society is a condition of the social contract. The state is made legitimate, not so much by nominal features as by the protection of human rights and popular sovereignty.

An independent and self-sufficient state is a state that ensures and guarantees its citizens human rights and, along with this, protects the rights of minorities and lives peacefully with its neighbours. In contrast, totalitarian states force their citizens to remain in the country "behind a wall and an iron curtain." The philosophy of the Enlightenment, along with the cult of critical reason, opposes this to the human right to migration. To the number of Europe belongs, everyone who chooses and everyone, "who, firstly, wants it and, secondly, is perceived as such by others." (Hoeffe, 2003: 212). The European legal order requires both a common environment that keeps on a kind of community of values, which "Fosters a sense of We" and a forum for public discussion of common values (Hoeffe, 2003: 216). This is the guarantee

of the openness of the political principle. The first condition — "value community" — has already been fulfilled. There are no clear-cut geographic or identity-forming borders (Hoeffe, 2003: 217). Ukraine has also reached the historical, value and cultural level of belonging to Europe. At the same time, we still have to go through the path of reforming basic institutions in accordance with the standards of the European Union. In this context, it is appropriate to recall the words uttered back in 1861 by N. Kostomarov in his work "Two Russian Nationalities" that "Ukrainians are a deeply democratic people" who are close to the spirit of tolerance and tolerance (Kostomarov, 1920: 38). These words' meanings should be taken into account both within the domestic policy and in the context of Ukraine's foreign policy.

Undoubtedly, the norms of international law are unified and uniform for the entire human race. However, recent events in world politics and domestic politics (military operations in the East of Ukraine, illegal annexation of the Crimean peninsula) illustrate that legal culture's evolution is still ongoing. The language of international politics is law and rules, a dialogue of equals, and not despotism and monologue of the elect. Modern international politics is an arena of struggle between barbaric freedom and reasonable freedom, between the arbitrariness of the elect and the value-normative principles of unified international law, which do not have geographical borders and regional borders, but, unfortunately, are slowed down by the "shaky" experiments of restoring "empires" in the 21st century. This indicates that the unified legal system, like the "idea of eternal peace" by I. Kant, is not reality itself but is the ideal to which we strive, a regulatory idea, a pointer from the position of the eternal principles of the mind. At the same time, it is quite obvious that the quality of education, the potential of human capital, the achievement of Enlightenment of the mind and culture, the values of democracy must overcome the force of arms and the despotism of authoritarian "truth." Otherwise, if the intelligent world community fails to achieve at least a shaky peace, albeit not an eternal peace, then it will end up in the "gigantic cemetery of humanity" (in the language of I. Kant). Such a struggle for freedom, dignity, values of humanity, the growth of "intellectual" and "human capital" is the goal, task, and purpose of Ukraine's social and humanitarian strategy as part of a single whole — a reasonable world community.

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