

**PHILOSOPHICAL PROBLEMS OF HUMAN BEING IN THE
LEGAL ENVIRONMENT IN UKRAINE**

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Abstract: *Legal relations are one of the main social relations, and in some cases they regulate other relations, but not directly, they do it indirectly. The most effective regulator of social relations is law, because it is the main means of control man's behavior by the state. Legal norms are, in the vast majority of cases, created to restrict and regulate citizens' actions. The philosophical and legal justification for Ukraine's accession to Europe and the European approaches to state and law, as well as human being in the legal environment, has not yet been formed in Ukraine. The strategic direction of the philosophical-legal and political approach to the direction of the development of the state of Ukraine, which is the result of both an increase in crime and some facts of legal nihilism, has not yet been formed.*

Keywords: Ukrainian legislation, social environment, adopting regulations legal norms, lawmaking.

The existence of a person in society first of all implies that he enters into legal relations as a person with a person, as well as with state or other organizations that are created in the society for ordering its functioning. Of course, legal relationships are only one of the types of social relations, because in society there are moral, family, religious and other relationships that in the complex ensure the existence of man and his environment¹. However, legal relations are one of the main social relations, and in some cases they regulate other relations, but not directly. They do it indirectly. In addition, it should be noted that the definition of man and his place in

¹ D. Pylypenko, "Editorial", in *Astra Salvensis*, 2019, vol. 7, p. 9-10.

society, as well as his nature in the existing world has been practically not considered in terms of the legal environment^{2,3}.

M. Berdyaev suggested two ways of thinking about man – from above God and from below from the unknown cosmic and terrestrial forces that are inherent in man⁴, he did not believe that it is possible to define man in the legal environment as a social unit. K. Marx defined man as the set of all social relations (legal relations)⁵. In this case, it was stressed that man is primarily a product of the development of society, as well as of his productive forces, and he cannot be evaluated as something unknown, created on the basis of spiritual from God or the cosmic, which has not been studied at that time. Freud regarded man as an object consisting of the conscious and the unconscious. He believed that all aspects of human activity are determined by its subconscious beginning⁶.

There are other approaches to defining a person and his place in the system of being in society and the social environment. Some researchers have approached to the definition of a person in terms of material conditionality, which dictates the life and behavior of a person, as well as some influence of the standard of living and behavior on the mental state of the person too⁷.

It should be noted that the above views of scientists prove that man always remains under the influence of certain forces, which in most cases do not depend on him, so a person cannot make his own decisions about his activity and his being in society. A person can not change anything in his life and make certain decisions that are aimed at such changes himself.

² D.S. Ushakov, "The problems of country's innovative capacity and investment attractiveness growth synchronization", in *Research Journal of Business Management*, 2011, vol. 5, no. 4, p. 159-169.

³ N.B. Patsuriia, V.V. Radzyviliuk, N.V. Fedorchenko, I.R. Kalaur, M.I. Bazhenov, "Legal specifics of bankruptcy proceedings of insurers in Ukraine", in *Issues in Legal Scholarship*, 2018, vol. 16, no. 1, article no. 20180018. Cf. Iuliu-Marius Morariu, "L'androgyne chez Platon et Mircea Eliade," in *Astra Salvensis*, VI (2018), Special Issue, p. 1025.

⁴ N.A. Berdyaev, *The existential dialectic of the divine and the human*, Ymca-Press, Paris, 1952. Iuliu-Marius Morariu, "Aspects of political theology in the spiritual autobiography of Nicolas Berdiaev," in *HTS Theologiese Studies / Theological Studies*, 75, (September-December 2019), no. 4, p. 3.

⁵ K. Marx, *Capital. The process of capitalist production is taken as a whole (vol. 3)*, Politvydav, Kyiv, 1954. Cf. Sorin Purec, „Knowledge of Nature in the Thought of the Enlightenment,” in *Astra Salvensis*, VIII (2020), no. 15, p. 56.

⁶ Z. Freud, *Introduction to psychoanalysis*, Osnovy, Kyiv, 1998. Cf. Iuliu-Marius Morariu, "L'androgyne chez Platon et Mircea Eliade," in *Astra Salvensis*, VI (2018), Special Issue, p. 1025.

⁷ V.I. Shinkaruk, V.P. Ivanov, *Human and the world of human*, Naukova dumka, Kyiv, 1977.

Law as the effective regulator of social relations

It can be argued that there are certain areas of human activity that man controls and can independently identify. We see a person as an independent intelligent and active being, who can change his life by creating certain organizations (state and state institutions), as well as setting certain norms of behavior that focuses in law and legislation. However, from the very beginning of its existence in society, a person independently creates a certain framework of behavior, by establishing legal rules. As we have already noted, legal norms are aimed primarily at maintaining a certain organization of society, first of all the state and state bodies^{8,9}. In the absence of such so-called civilizational rules, society may exist, but it has completely different laws that are based only on violence and cruelty.

The state is considered, first of all, in the philosophical-legal and political science as the subject of political, powerful, legal, informational and other influences on the person who created it. On the other hand, the state, as a form of organization of society, is aimed at consolidating society and resolving conflicts and overcoming emergencies, as well as at creating conditions for satisfying the needs of citizens and ensuring their social and legal protection¹⁰.

A person under the influence of the state should independently determine his own personal norms of behavior, but these norms should not violate the rights of other entities existing in society, and should not be aimed at the destruction of the state as an institution¹¹. To some extent, the state controls individuals and does not allow them to violate the rights of others living in society. Every person living in society cannot escape such control¹².

The most effective regulator of social relations is law, because it is the main means of control man's behavior by the state. Legal norms are,

⁸ O.V. Zaychuk, N.M. Onishchenko, *Theory of state and law*, Yurinkom Inter, Kyiv, 2005.

⁹ V.A. Bachinin, *Philosophy of law and crime*, Folio, Kharkiv, 1999.

¹⁰ M. Holovatyĭ, "The state and society: the conceptual foundations and social interaction in the context of formation and functioning of states", in *Economic Annals-XXI*, 2015, no. 9-10, p. 4-8.

¹¹ V.N. Kudryavtsev, *Legal behavior: norm and pathology*, Nauka, Moscow, 1982.

¹² K.R. Nurgali, J.K. Kishkenbaeva, "Nomadism as a way of life in the Kazakh literature and culture by the example of the modern Kazakh novels", in *Life Science Journal*, 2013, vol. 10, no. 12, p. 738-741. Cf. Iuliu-Marius Morariu, "L'androgyne chez Platon et Mircea Eliade," in *Astra Salvensis*, VI (2018), Special Issue, p. 1028.

in the vast majority of cases, created to restrict and regulate citizens' actions. Without the existence of law, there will be chaos in society, and there will also be no basic mechanism that develops legal rules and guards their enforcement – the state. In some cases, researchers have argued that governmental influence can be exerted outside the legal field, but there are few ways^{13,14}.

Reasons for contradictions in the relations between the state and society

However, as some researchers showed that in history of human society there were some examples when the state began to dominate over society, increased the pressure on the individual, in order to subordinate a single ideology, penetrated into all spheres of society, which lead to the destruction of both social formation and the state itself¹⁵. Such cases are characteristic of totalitarian states as it can be seen that the main feature of such states is legislation aimed at regulating all social relations. At the same time, such legislation is primarily aimed at preserving the state itself.

In Ukraine, at the present stage of society development, there are a number of contradictions in the relations between the state and society itself, which testifies to the transitional nature of both the state and society as a whole. We admit that there is a departure from the Soviet totalitarian control by the state over all social processes and reducing the influence of state ideology on society. However, this process is long and it does not always go smoothly.

The Russian Federation, which has chosen the path to return to the Soviet past and shapes its internal politics under the slogans of stability above all, has a great influence on the formation of the philosophy of human being in the legal environment. The main goal of such philosophy is to preserve stability but such stability does not lead to the development of society¹⁶. These philosophical attitudes are actively implemented both

¹³ A.S. Romanova, *Being human in a natural environment*, Liha Press, Lviv, 2015.

¹⁴ R.A. Abramov, R.T. Mukhaev, M.S. Sokolov, "To a question about the criteria and parameters of the effectiveness of the government in democratic countries", in *Journal of Advanced Research in Law and Economics*, 2016, vol. 7, no. 6, p. 1248-1262.

¹⁵ M. Holovaty, "The state and society: the conceptual foundations and social interaction in the context of formation and functioning of states", in *Economic Annals-XXI*, 2015, no. 9-10, p. 4-8.

¹⁶ F.M. Medvid, Ya.B. Melnichenko, A.I. Tverdokhlib, "Administrative-legal doctrine of general provisions of national security of Ukraine", in *The International Scientific and Practical*

by the mass media and produced in relations between Ukrainians and Russians. To some extent they are successful.

The main philosophical approaches in this case are based on the unity of the Slavs, who have a common history and religion, which is different from other European countries. In addition, the thesis that topics about the collapse of the family institute in Europe, e.g. same-sex marriage, etc. are being actively used. At the same time, the role of the state, which actively promotes the protection of citizens, is emphasized and therefore it should be strengthened. Accordingly, the opinion that the best leader of this state is Vladimir Putin is also subconsciously formed.

On the basis of such influence, there are political forces in Ukraine which support the return of Ukraine to the non-existent Soviet Union now it is the Russian Federation and the unification of both the legal base of the state and other norms of social life. At the same time, they have considerable support in certain territories of the Ukrainian state, as evidenced by the results of the 2019 elections to the Verkhovna Rada of Ukraine¹⁷.

On the other hand, there is an opinion in Ukrainian society, as well as a certain group of ordinary people and politicians, which is aimed at annexing Ukraine to Europe and European values, and this philosophy is widespread. In this case, it can also be argued that the philosophy of being human in the legal environment also aims at stability, but the stability of gradual development and increased well-being. The state in this case is considered only as the coordinator of such stability.

As we consider being of a human in a legal environment taking into account these areas in mind we see such results. The legislation of the Russian Federation and its followers provides for stable legislation, which does not always allow for rapid reconstruction of both the state and the individual. However, legislative provisions adopted by the state are not always aimed at welfare. Their focus is more on the state, which in turn must ensure the well-being of citizens. But the state often does not perform its tasks. In Ukraine we were trying to change the legislation and put the person on the first place.

However, in the current legal field of legislation in Ukraine there are still many such norms, some have even been adopted in the last century

Conference Legal Practice In EU Countries And Ukraine At The Modern Stage, January 25-26, Izdevnieciba Baltija Publishing, Arad, 2019, pp. 399-402.

¹⁷ Official results of the 2019 parliamentary elections on party lists, 2019. Available at: https://24tv.ua/parlamentski_vibori_2019_rezultati_golosuvannya_vibori_u_verhovnu_radu_n1180469.

and they are still valid today. For example, the Code of Ukraine on Administrative Offenses, which was adopted in 1984, has undergone many changes, but the basic philosophical focus of the Code remains Soviet¹⁸. The philosophical direction of the development of human being, which aims to join Europe, has a slightly different direction. Legislative norms are aimed at developing citizens' initiative, their abilities and capabilities. In this case, the state is seen as a regulator that regulates citizens' lives to some extent, but the legislation is more free and progressive, which helps to identify directions for self-development. We consider that the state should less regulate the independent activity of man, but only promotes such activity.

In political science, as early as 1977, researchers N. Furnis and T. Tilton, who outlined the system of social protection of the population in the state and the purpose of the state, identified three types of states in the Western world¹⁹. Briefly analyzing these types of states, we can say that they are different from the model that currently exists in the Russian Federation, and therefore it can be considered that supporters of Western-style states in Ukraine see Ukraine as one of such states.

Freedom in the legal environment

Freedom in the notion that exists in the philosophical, legal and political views in the Western world and the attempt to build such relations in Ukraine is positive, however, it should be noted that in Ukraine individual citizens do not always behave themselves accordingly the restrictions set by the state by adopting the relevant norms in different areas. Most citizens in Ukraine today take the legal environment in a peculiar way and believe that if there is freedom, it should be unrestricted. As a result, not only an increase in crime, but also some chaos and a decrease in the regulatory influence of the state on society, which also does not always lead to the desired consequences immediately²⁰.

¹⁸ Code of Ukraine on administrative offenses, 2018. Available at: https://uristua.net/кодекси/кодекс_україни_про_адміністративні_правопорушення/.

¹⁹ N. Khoma, "Basic approach to model typology welfare state", in *Visnyk of the Lviv University, Series Philos.-Political Studies*, 2014, no. 4, p. 81-88. Cf. Cf. Iuliu-Marius Morariu, "L'androgynie chez Platon et Mircea Eliade," in *Astra Salvensis*, VI (2018), Special Issue, p. 1028.

²⁰ S.A. Vegeera, "Personality, the state and society: mutual responsibility", in *Current Problems of the Economy*, 2013, vol. 5, no. 143, p. 8-24.

In Ukraine, this approach active influences on lawmaking. Citizens and legislators believe that the adoption of appropriate regulations that regulate certain legal relationships can guarantee the reform of the state and its restructuring to serve the person. However, adopting regulations that are often the opposite does not lead to the desired result.

It should be noted that the legal environment in Ukraine in some cases is also formed under the influence of certain oligarchic clans who propose legislators to pass laws that are favorable to them. Such actions give rise to the philosophy and practice of removing citizens from lawmaking, deepening legal nihilism and forming the view that only oligarchs can govern society. In addition, the adoption of regulations is influenced by both philosophical and legal approaches, both pro-Russian and pro-Western. The influence of two philosophical trends existing in Ukrainian society gives rise to another phenomenon. This is the number of laws and regulations adopted in Ukraine.

Each composition of the Verkhovna Rada of Ukraine adopts a large number of laws, which are in some cases repealed or amended by the deputies of the next composition of Verkhovna Rada of Ukraine. For example, in the period 2014-2017, 580 plenary sessions were held, 2734 legislative acts were adopted, including 987 laws and codes²¹. It should be noted that the new Verkhovna Rada of Ukraine is now beginning to adopt new laws that, according to their authors, are more “correct”. Thus, for the ordinary citizen who does not always have time to keep track of changes in the legislation, there are two problems. The first is to actively study and analyze the legislation and try to understand it, implement it, or propose changes, or simply fail to comply with the requirements of regulations, because they may be amended over time. This is a straightforward path to legal nihilism.

Thus, by analyzing human being in the legal environment in Ukraine, we can draw the following conclusions:

1. The legal environment in Ukrainian society is constantly changing and there is a certain category of citizens, who do not have time to follow its changes, and therefore they form the opinion that everything is disorderly in the state, and therefore there is chaos.

2. A rather large impact on the human being in the legal environment in Ukraine is exercised by the Russian Federation, where the legal environment remains largely Soviet. This influence is actively used by

²¹ M. Holovaty, “The state and society: the conceptual foundations and social interaction in the context of formation and functioning of states”, in *Economic Annals-XXI*, 2015, no. 9-10, p. 4-8.

the media and the notion that we need to return to the Soviet Union. It is actively being introduced into public opinion, because it was "better" then and the changers are bad for all.

3. Unfortunately, the philosophical and legal justification for Ukraine's accession to Europe and the European approaches to state and law, as well as human being in the legal environment, has not yet been formed in Ukraine. This philosophical and legal justification is under development.

4. The strategic direction of the philosophical-legal and political approach to the direction of the development of the state of Ukraine, which is the result of both an increase in crime and some facts of legal nihilism, has not yet been formed.