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Leon Petrażycki's criticism of the philosophy of Immanuel Kant. Analysis from the perspective of philosophy and social ethics as well as the principles of law and morality policy

Leona Petrażyckiego krytyka filozofii Immanuela Kanta.
Analiza z perspektywy filozofii i etyki społecznej oraz zasad polityki
prawa i moralności

Abstract. Leon Petrażycki's attitude to the Kantian Philosophy was negative, he found it as "mystification" in which: "darkness and complexity compete with oddity and absurdity" (Petrażycki, 1939, p. IV). In Leon Petrażycki's opinion, the philosophy of Immanuel Kant was a cause of collapse of philosophy, impediment to development and progress as well as decay of many minds. According to L. Petrażycki, an alternative shall be the accomplishment of the "common love" ethical ideal, strive for establishment of perfect society consisting of well-socialized citizens. The ethical ideal shall be accomplished in line with the law and morality policy instead of the Kantian critical philosophy and formal ethics.

Keywords: Petrażycki. Kant, transcendentalism, criticism, psychologism, ethics, morality.

Leon Petrażycki was a Polish philosopher from the turn of the nineteenth and twentieth centuries who following the publication of the *Die Lehre von Einkommen* [Petrażycki, Vol. I-II, Berlin 1893–1895] got his nickname of *der geniale Pole* in the German universities circle. Leon Petrażycki came down in history of social sciences and humanities as an originator of many research and disciplines,

among other: philosophy of law, sociology of law, psychological of law, politics and morality. The philosophy and the program of scientific policy of the Petrażycki law were shaped during the domination not only of legal positivism (Wójtowicz, 2016, pp. 96–101)¹, but also of neo-Kantianism, Marxism, liberalism, utilitarian ethics, pragmatic tendencies, historicism, sociologization and psychologization of the most areas of human life and functioning of the society. What is important and interesting from the perspective of this article is the critical attitude of Petrażycki's philosophy and the policy of law and morality to the philosophy of I. Kant and neo-Kantianism. The views of Petrażycki from the St. Petersburg period (Licki, 1985, pp. XXV–LXIII; Kojder, 1995, p. 59; Bosiacki, 2017, pp. 16–18; Walicki, 1995, p. 230), the so-called experimental and real “Petersburg school” have become a tool in discussions and polemics regarding the Kant's philosophy and neo-Kantianism, among others, of the “Moscow school” of P. J. Nowgorodcew and B. Kistiakowski (Walicki, 1995, pp. 294–295; Kowalski, 1963, p. 31). The views of the above mentioned philosophers of law prompted Petrażycki to critically study Kant's transcendental philosophy (critical method) and neo-Kantianism, which he considered to be systems: “based on unscientific empiricism and unscientific apriorism” (Petrażycki, 1902, p. 184). It can be said that Petrażycki's interest in Kant's philosophy (next to the scientific policy of law) has lasted for almost all of his intellectual activity. Thus, this article is not (for obvious reasons) a comprehensive study and analysis of criticism of Kant's philosophy and neo-Kantianism. The purpose of this text is to present the basic objects put forward by Petrażycki against Kant's thoughts and to attempt to answer the question of their legitimacy in the light of philosophy and the policy of law and morality.

Criticism of transcendental philosophy and critical method of I. Kant

Petrażycki's interest in the philosophy of I. Kant and neo-Kantians was quite early and coincided with the period of Berlin studies in the years 1890–1896. During the Berlin period, Petrażycki spoke about the philosopher from Königsberg with admirable enthusiasm for his genius. However, during the St. Petersburg period in 1897–1917, detailed studies of Kant's philosophy and neo-Kantianism forced him to radically change his attitude towards the above philosophy. Petrażycki's reaction to a series of critical articles on the concept of scientific law policy turned into an “anti-Kant obsession” (Walicki, p. 294)². According to Petrażycki, Kant was not an outstanding

¹ Legal positivist, unlike philosophical positivism, meant the negation of all forms of metaphysical and religious natural law. It was thought that only positive law really existed, where the state (legislation) is the source.

² Petrażycki reacted to a series of critical articles that appeared after the text of Paweł J. Nowgorodcew (neo-Kantianism member of the Moscow school, theoretician of the so-called “new liberalism”), *Psychologizieskaja teorija prawa i filosofija jestiestwiennogo prawa*, (Psychological theory of the law and the philosophy of natural law), “*Juridiczeskij wiestnik*” 1913 (Nowgorodcew, 1913, p. 3). These were, among others, articles by B. Kistiakowski, E. W. Spektorski and N. N. Aleksiejew. The main text expressing Petrażycki's attitude to Kant are the Philosophical sketches with the addition On the so-called critical method, as well as metaphysics and practical philosophy of Kant, which appeared only in 1939. On the publishing fate of L. Petrażycki's text, see J. Finkelkraut, *From the publisher*, in: *Philosophical sketches...*, cit. pub., without indicating the pages.

philosopher, on the contrary, he was a “shameless plagiarist” who reproduced the ideas of P. L. Maupertuis and J. N. Tetens. While the neo-Kantian R. Stammler, not only “used” the ideas previously published by Petrażycki, but also misinterpreted them (Petrażycki, 1939, p. 3; Walicki, 1995, p. 295; Zachariasz, 1981, p. 98).

The core complaint concerns the main idea of Kant's philosophy, the so-called “Copernican Revolution”. Petrażycki believes that this basic thesis of *Criticism of pure reason* is a thesis advocated by earlier philosophers, among others, by Tetens. While – as Petrażycki notes – Kant not only committed plagiarism, he makes mistakes in its interpretation, which its creator did not make³. Petrażycki recognizes (from the perspective of his impulsive psychology) that the Copernican revolution is the position according to which the process and value of theoretical (scientific) cognition depends on the psychological structure of the cognizing subject, i.e. that man as the subject of cognition is placed in the centre of cognition (Zachariasz, 1981, p. 102). The consequence of this understanding of the Copernican revolution and the entire transcendental philosophy of Kant is to reduce it to a description of processes, i.e. how, with such a constituted subject of cognition, the scientific (theoretical) cognition takes place, how synthetic a priori judgements are possible (Kant, 1957, p. 79; Höffe, 1995, pp. 57–63). Kant points to two sources of cognition, phenomenalism of sensory experience and peremptoriness of conceptual (non-relative) scientific cognition. According to Petrażycki, this leads to the creation of theoretical fictions, i.e. consciousness in general or unity of apperception. In such a situation, the allegation of the secondary nature of Kant's thoughts towards Tetens and Maupertuis seems justified, and transcendental philosophy is “a superstructure that does not add up, that can be reduced to concepts and names” (Zachariasz, 1981, p. 103). According to Petrażycki, Kant committed “conscious falsehood, conscious dishonesty towards Maupertuis” (Petrażycki, 1939, p. 35), thus the belief in “moral greatness and faith in mental greatness collapsed, and now for me Kant is not only not a genius, but he is even not talented, but a very mediocre and weak philosopher...” (Petrażycki, 1939, p. 16).

For Kant, mathematics and mathematical natural science were the model of scientific cognition, which set the limit to the possibility of cognition and answering the fundamental question of transcendental philosophy, namely: “Wie ist... möglich?”, “how is it possible?” (Kant, 1975, p. 81) followed by “what can I know?”. Therefore, the question of how metaphysics is possible and what I can know about the existence of God, the immortality of the soul and freedom are an essential part of transcendental philosophy and the method of Kant's critical philosophy. It can be said that the question about the conditions of the possibility of all experience and “how is cognition possible?” determines the development of Kant's transcendental philosophy and neo-Kantianism (Zachariasz, 2006, pp. 51–68; Szulakiewicz, 1995). This means that the “Copernican revolution” finds justification in the structure and manner of learning about objects, because: according to Kant, all cognition is trans-

³ Petrażycki wrote about Tetens: “The name unknown to the majority, and for others relatively (e.g. compared to Kant or Wundt) very modest and small, but for me, compared to others (in my opinion, a great and brilliant philosopher and a great and brilliant psychologist, only robbed and postponed by other, poor people) – a great name and authority” (Petrażycki, 1939, p. 271).

cendental, “which deals not so much with objects, but our way of knowing, if the a priori cognition should be possible” (Kant, 1957, p. 86). That is why for Kant it is so important to study the subjective structures and conditions of possible cognition, because “the conditions of the possibility of experience are at the same time the conditions of the possibility of objects of experience” (Kant, 1957, p. 312). Hence, in the process of cognition, the formal subject conditions “how” (the condition of possibility) precede the term “what” (object) of cognition (Bobko, 2005, pp. 22–23).

L. Petrażycki directed his sharp criticism precisely towards the so-called “critical method”, to the question “Wie ist...möglich?”, stating that “the use of this method by many of its followers is very similar to the use of religious rituals by those who do not understand the meaning of what they are doing, do not know what it going on, what is important and what is not...” (Petrażycki, 1939, p. 4). The use of the critical method in all of Kant’s works was not aimed at explaining the conditions of the possibility of experience, axioms and principles of science, and – as stated by Petrażycki – but the critical justification of the basic principles of religion, faith in the existence of God, immortality of the soul and “eternal happiness of the virtuous” (Petrażycki, 1939, p. 5). These issues belong to metaphysics, not to research on the conditions of possible experience. Despite this, the so-called critical method due to neo-Kantians (among others, R. Stammler) quickly became popular in Germany and Russia, but it was the application of the critical method to issues far from general philosophical considerations and issues regarding the conditions of the possibility of experience. Petrażycki notes that since the times of Kant in philosophy, and since 1896 due to the work of Stammler (*Wirtschaft Und Recht nach der materialistischen Geschichtsauffassung*, 1896) in social philosophy, politics and jurisprudence, a special method (“a critical method”) has been increasingly more significant, to which there is no properly developed methodology, and the followers of Kant, not knowing what this method is, in a tragicomic and ritual manner repeat the way of thinking of its creator. Petrażycki distinguishes between two types of judgements: the first – objective and cognitive, i.e. theoretical, aimed at “learning what is and what it is like” (Petrażycki, 1939, p. 16). The second type – these are subjective and relational judgements, i.e. “subjective and relative judgements (...) expressing our subjective relationship to something that exists or is imagined” (Petrażycki, 1939, p. 16). Petrażycki tries to prove that Kant’s critical method is based on any and at the same time unacceptable procedure, passing of subjective and relative judgements, in which the wish and postulate is contained, regarding the judgements ruling on “what is”, i.e. objective and cognitive. According to Petrażycki, Kant, when proclaiming the separation of being and duty, does not follow this principle where it should be an elementary methodological requirement. Thus, the “critical method” is based on confusing different categories of thinking, on logical errors “chronically and systematically made in this form, that if for anyone (Kant, neo-Kantians, etc.), the existence of something or accepting something as truth seems to be a necessary, needed measure or condition in order to achieve something or implement some practical principle, what is considered practically necessary is assumed to exist or is believed to be true” (Petrażycki, 1939, p. 18). Thus, Kant rules on the existence of

various entities due to the functions of practical reason, proves the “existence of something” only because it is necessary or desirable. Practical inspirations are the basis for theoretical judgements – as added by Petrażycki – while this is a categorical confusion that Kant recognizes and raises to the rank of a critical method. However, this is not a philosophical and non-critical method, moreover, such a method is not logical, naïve and wrong, because: “it is a great absurdity to justify the existence of something with the fact that it is necessary” (Petrażycki, 1939, p. 18). Petrażycki compares this state to the situation of a hunter who, when going hunting, noticed the lack of bullets in his bag, so he starts “thinking critically”: “I came to a hunt and I am to shoot at animals, for it to be possible, it should be assumed that there are bullets in the bag, regardless of whether they are really in the bag, or whether I forgot them at home; if I am to hunt, I must assume that they are in the bag” (Petrażycki, 1939, p.18). The thing is – as noted by Petrażycki – that shooting with „required”, postulate bullets would be an innocent and harmless occupation for forest animals. However, if it is done by philosophers and scientific authorities, from whom others are to learn “exemplary thinking”, then it is not only an innocent occupation, but an overtly harmful activity.

In a similar convention, Petrażycki attacks postulates of practical reason and ideas contained in Kant's prolegomenon, i.e. the question about the existence of God, the immortality of the soul and the freedom of the will (Kant, 2005, pp. 82–104). Kant appears as a hunter shooting postulate bullets, i.e. he uses the pseudo-critical method. According to Petrażycki, through transcendental criticism of theology, Kant refutes metaphysical theology by formulating natural theology to justify the Christian religion. According to Petrażycki, “this overthrows the current »metaphysics« or rather »natural theology«, philosophical religion, in particular all previously invented by philosophy ways of proving the existence of God, the immortality of the soul, etc., and at the same time the ground is being prepared for a new construction of metaphysics or natural theology, to justify religion using the newly invented method” (Petrażycki, 1939, p. 35). Similarly, according to Petrażycki, the “hunter” (Kant) uses “postulate bullets” (critical method) justifying the principle of causality. He understands causality as a fact, because it is “needed” to determine the necessary order of phenomena in time. Thus, according to Kant, the causal relationship – as added by Petrażycki – is a subjective phenomenon, postulated, and de facto it is something objective and independent of our “good intentions” (Petrażycki, 1939, pp. 56-59). For Petrażycki, the causal relationship is an objective and dynamic moment that captures the “universal relation of phenomena”, and not a subjective and static description of the constant and unchanging “consequences of phenomena”. A separate issue criticized by the author of the Philosophical sketches... is the issue related to moral doctrine, i.e. a categorical imperative. Petrażycki interprets the basis of the moral norm in pragmatic and utilitarian categories, deriving it, in accordance with the intentions of J. S. Mill (Mill, 1959, p. 8), from the practice of social life and the principle of utility. Petrażycki does not derive the general norm of conduct from the principles of pure practical reason, but from the fact that man is a being experiencing pain, therefore striving to avoid suffering. Thus, Petrażycki's inference is a description stating facts, not a moral norm expressing obligation (Kant, 1953, p. 62).

The problems of Petrażycki related with, e.g., the issue of pessimism and hedonism occupy a separate place. However, due to publishing restrictions, this article does not cover all issues related to the criticism of Kant's philosophy undertaken by Petrażycki. Despite this imperfection, it seems that the indicated issues reveal the essence of the critical attitude of the author of *Philosophical sketches*... towards the Königsberg philosopher. However, is the above criticism justified and can it be maintained?

Justification for the criticism of transcendental philosophy

The criticism of transcendental philosophy by Petrażycki can be justified if Kant's philosophy is interpreted in psychological, pragmatic and utilitarian terms. However, is that possible? Is the interpretation of the thoughts of the philosopher from Königsberg in the above convention not a categorical shift or misunderstanding of the critical method or just a simple misunderstanding?

Petrażycki formulates the classification of sciences (skills) which should be based on the assumptions of the adequacy principle of new logic ("conduction") in order to explain what should be added to the general part of logic and to determine the classification of sciences. According to Petrażycki, in the indicated classification of skills (sciences), due to the distinguished division of courts, it is possible to further divide the sciences into: psychological and physical (Petrażycki, 1959, p. 137). Therefore, introspection plays a methodologically crucial role for the humanities and social sciences. Petrażycki states explicitly that: "in view of our inability to see or otherwise observe what is happening in a different soul (in the minds of other people), all spheres of the existence of legal phenomena (as well as all phenomena at all) are absolutely inaccessible to our observation, except for our own psyche, awareness of our own »self«" (Petrażycki, 1959, p. 61). Therefore, interpretation, i.e. self-observation, should be considered the only and appropriate method of observation. Introspection in the general sense, according to Petrażycki, is "directing internal attention to the studied mental phenomenon in the moment when we experience it" (Petrażycki, 1959, p. 61), while in the strict sense it is, for example: "(observation of hunger, thirst, toothache during experiencing these mental experiences), as well as the internal observation of images, i.e. »images« acts of this sort, previously experienced (e.g. memories of yesterday's toothache)" (Petrażycki, 1959, p. 62). Introspection can be ordinary (subjective observation) or experimental, i.e. combined with the conscious influence of the observer on the studied phenomenon. If subjective observation is used in the study (interaction), then we deal with the experimental-introspective method (experimental self-observation). Hence, the introspective method is essential to indicate the conditions for the possibility of experience and psychological (emotional) rather than transcendental theory.

Thus, the interpretation of Kant's transcendental philosophy by Petrażycki is contrary to the assumptions of transcendentalism. The psychological and utilitarian interpretation leads to misunderstandings and absurdities in the interpretation of Kant's philosophy. Kant clearly emphasized the difference between practical (prag-

matic) and theoretical knowledge (forms and categories of pure reason and power of judgement). There is a fundamental difference between the issues of practical reason and “knowledge related to practical action (...), resulting from the principle of utility of social life” (Zachariasz, 1981, p. 107). According to Kant – “doctrinal faith” and “pragmatic faith” are different things, the first is related to the category of pure practical reason, the second is due to the fact of man being in the world, from everyday life. Thus, Petrażycki's arguments that Kant shoots “postulate bullets” seems unjustified, for example, the postulates of practical reason are the necessary conditions for the existence of, e.g., religion, because “is religion and morality possible” with the exclusion of God, freedom and immorality? Kant's transcendental philosophy, the Copernican revolution, shows that our cognition is independent of psychological structures shaping subjectivity and independent of the object of cognition. Thus, the transcendental perspective of cognition depends on the conceptual conditions (judgements, categories, forms) that allow you to practice science, gain certain overbearing knowledge. Kant finds conditions of cognition on a completely different plane than Petrażycki. For Kant, what is important is the plane of obligation, establishing the necessary conceptual conditions beyond which science and theoretical cognition are impossible. Petrażycki, on the other hand, considers gnoseological issues in the sphere of empiricism, material and mental forms of existence, thus his theory functions in the Kantian way of thinking about science and theoretical cognition, i.e. not separating duty from being.

Petrażycki's understanding of philosophy

Understanding philosophy, developing a policy program of law and emotional (impulsive) theory of law and morality, in the Petrażycki's system, was preceded by a belief in the need to reform science and concerned the entire humanities. In the history of science – as noted by Petrażycki – many different and divergent classification systems have been created (for example, the systems of W. Wundt, R. Stammler or H. Rickert), which have not gained widespread recognition in science, at most brought disappointment as to their use (Petrażycki, 1939, p. 11). Hence, the principle of adequacy and classification of sciences, “classification of judgements and skills” (Petrażycki, 1939, p. 11) gained the greatest significance and publicity in the reform of science and Petrażycki's methodological assumptions. The principle of adequacy is a class of judgements in relation to which the relevant ruling is not only right, but contains what constitutes the competence of this class and not some “broader class to which the given ruling should be addressed” (Petrażycki, 1939, p. 11). The principle of the appropriate subject class is the principle of adequacy or proportionality, i.e. judgement and class of subjectivity in relation to the scope. According to Petrażycki, the condition of adequacy is not met by everyday language or contemporary scientific concepts that designate too narrow or too broad classes (limping or jumping theory), such theories cannot be useful for building a scientific theory (Woleński, 1969, p. 166).

Hence, at the basis of thinking about philosophy in the concept of L. Petrażycki there are methodological assumptions, the principle of adequacy, theory of concepts and judgements, which determine the subject, method and purpose of philosophy. According to Petrażycki, by distinguishing between what is mental and physical for the subject, one can create a theoretical discipline capturing what is common to them – “scientific philosophy”. According to the principle that if we have: “ n species of objects (...), there should be $n+1$ theoretical sciences or theories in general; e.g. when there are 2 species, we need $2+1=3$ sciences” (Petrażycki, 1959, pp. 132–133). Thus, the project of developing a scientific philosophy called “theoretical philosophy” forces the validation of “practical philosophy”. Practical philosophy is a discipline which subject is the “highest goal of life” and adequate measures and norms of conduct. Thus, theoretical and practical philosophy can merge and form unity. This means that philosophy in Petrażycki’s understanding is: “the theory of the highest generic class (of what exists) + practical science with the highest purpose”, *philosophia* = *summa theoria* + *summa teleologia* (Petrażycki, 1959, p. 159).

Theoretical philosophy is the theory of everything that is real. Petrażycki derives the following consequences from the above statement: first, philosophy is not a “systematic compilation” of the content of all sciences. Philosophy is an independent discipline separate from the sciences, whose subject cannot belong to another science. This means that the “theoretical rulings” of philosophy should be fundamentally different from the rulings of other sciences (Petrażycki, 1959, p. 137). Secondly, the proper tasks of philosophy include the search for the common nature of everything that exists as a real phenomenon. However – as observed by L. Petrażycki – so far, it has not been possible to discover the common “nature” of everything and to validate such claims in scientific terms. Two directions clash in philosophy: materialism and idealism. Materialism is the direction that L. Petrażycki is interested in, and its content is brought down to the statement that “everything that exists has an identical, namely material nature” (Petrażycki, 1959, p. 137). Physical and mental phenomena can be reduced to matter and its movement, while the doctrine of materialism is not a “scientifically justified theory”. Thus, materialistic philosophy does not have the status of “scientific philosophy”. The situation is similar with the status of science of idealistic philosophy, which doctrine is expressed in the statement that “everything that is real has a spiritual nature, is a manifestation of one common spiritual element” (Petrażycki, 1959, p. 137)⁴. Thus – according to Petrażycki – idealistic philosophy as “scientific philosophy” does not exist, because so far no common idealistic “nature” of everything has been discovered and no such claim has been justified scientifically. However, it should be emphasized that scientific knowledge is developmental, variable, so it cannot be excluded that in the future the above statements about the nature of things can be justified.

Petrażycki recognizes that the foundation of philosophy should be the assumption that the object of philosophy (theoretical cognition) can only be “things” and not “relations”. Assuming that the relations of what is physical and mental could be

⁴ L. Petrażycki adds that some “spiritualists, e.g. Schopenhauer, Hartmann, Wundt, seek this element in the will (voluntarism), while others in reason, intellect (intellectualism)”.

the subject of philosophy, then such an object can be considered only from a genetic and gnoseological perspective.

The psychological character of Petrażycki's concept is revealed here, because stimulation of human action is based on the appropriate selection of impulses and feelings, depending on whether they relate to the strengthening of altruistic features or the elimination of egoism (Petrażycki, 1968, p. 45). In other words, knowledge of the ethical and mental nature of the individual and society is necessary to implement the program of the policy of law and morality. However, the ultimate goal, the ideal of scientific law policy, will be: "achieving a perfectly socialized character, total reign of active love among people" (Petrażycki, 1959, p. 15).

Ending

It should be noted that the criticism of transcendentalism from a psychological and pragmatic perspective is a misunderstanding, although it may be justified by the interpretative diversity of Kant's philosophy. However, then the question arises about the legitimacy of this interpretation, and not a different one, not the allegation of unoriginality and plagiarism. Petrażycki criticized Kant's philosophy and neo-Kantianism for its transcendentalism and the pursuit of certain knowledge, but he nevertheless sought absolutely certain knowledge. At the same time, thinking about philosophy was close to pragmatism and evolved into instrumental treatment. According to Petrażycki, human nature develops in two opposite directions: sociocentric and egocentric. Thus, the learning process depends on the socially and historically shaped psyche.

Petrażycki was aware of the maximalism of his methodology, but from the perspective of emotional psychology and the philosophy constructed on it, as well as the policy of law and morality, he wrote that: "in order to escape (...) the absolutely defective theories, there is no need to create completely correct classes and class concepts (...), but it is enough, generally speaking, not to state things that are not there, base on facts, experience and observation, and abstain from any fantasies and fiction" (Petrażycki, 1959, p. 152).

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