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CONFERENCE REPORT: 1ST INTERNATIONAL WORKSHOP ON LAW AND IDEOLOGY (WROCLAW, 29-30 MAY 2014)

*RAFAŁ MAŃKO**, *WOJCIECH KAUCZOR***, *WOJCIECH ZOMERSKI****

On 29-30 May 2014 the University of Wrocław Faculty of Law, Administration and Economics hosted the 1st International Workshop on Law and Ideology, organised by Michał Stambulski (University of Wrocław) and Rafał Mańko (University of Amsterdam) in collaboration with the Legal Philosophy Society, a students' association of the Wrocław law faculty. The Workshop was opened by the Dean of the Faculty, Professor Włodzimierz Gromski, who welcomed the initiative. Speaking on behalf of the organising committee, M. Stambulski pointed out that the principal aim of the Workshop is to foster the exchange of critical ideas on law, as well as to set up an informal network of scholars interested in critical legal studies.

On the first day of proceedings, Professor Adam Sulikowski (University of Wrocław and University of Opole) delivered the keynote lecture devoted to *"Affirmative Amnesia" and Rightist "Crits": Some Remarks on Critical Legal Thought in Poland*. Professor Sulikowski's lecture focused on the relationship between academic and political discourse in Poland. In the ensuing discussion, participants pondered whether critical legal thought could have an impact on political discourse, and they analyzed the current political situation in light of the concept of the political in Chantal Mouffe's theory.

The first panel, devoted to *Psychoanalytical Perspectives on Law and Ideology* was chaired by Dr. Cosmin Sebastian Cercel (University of Nottingham). M. Stambulski delivered a paper entitled *The Critique of Ideological Reason: The Unconscious Dimension of Legal Discourse* in which he aimed at applying the principal notions of Slavoj Žižek's theory to

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legal discourse. The next speaker, Dr. Martin Škop (Masaryk University, Brno), spoke on *Preferred Means of Interpretation*, focusing on the influence of mass culture on law. The last paper in the panel was delivered by R. Maňko. In his presentation entitled *Reality Is for Those Who Cannot Sustain The Dream: Fantasies of Self in Legal Texts*, he explored the phenomenon of ideological interpellation through law, pointing to such examples of subjectivities sustained by the legal discourse as “consumer”, “citizen”, “foreigner” and “employee”. His fundamental methodological assumption, based on Žižek’s critique, was that the function of ideology is not to offer a point of escape from social reality, but on the contrary, to offer social reality itself as an escape from a traumatic, real kernel of the fundamental social antagonism which resists symbolization. In conclusion, he found that law plays a key role in sustaining the hegemonic ideology, and that interpellation of individuals into subjects is of utmost importance in that regard. The discussion following the first panel focused on differences between mass culture and popular culture, the consequences of the distinction between the notions of a ‘citizen’ and a ‘people’, as well as differences between the Žižekian and Marxist critiques of ideology.

The second panel on 29 May, chaired by Xenia Chiaramonte (State University of Milan), focused on *Positive Law as an Instrument of Ideology*. The first speaker, Dr. Michał Gałędek (University of Gdańsk), introduced a historical example taken from 18th and 19th-century Germany, discussing *Juridization as an Ideology of Polizeiwissenschaft*. The next speaker, Samir Forić (University of Sarajevo), presented a paper on *Power of Form and Form of Power: Legal Reproduction of Collectivistic Ideology in the Example of Bosnia and Herzegovina’s Constitutional Law* in which he gave a socio-legal analysis of contemporary Bosnian constitutional law. Forić argued that the Marxist-Leninist ideology of actually existing socialism, hegemonic in Yugoslav times, has been replaced by the ideology of collectivism. The final paper in the panel was presented by Dr. Dace Šulmane (University of Geneva), and was devoted to *Legal Tools for an Ideological Machinery in Latvia? Contemporary Concerns*. Dr. Šulmane analysed the socio-legal changes in Latvia occurring since the collapse of the Soviet Union, pointing out that whilst Latvians were initially enthusiastic about reintegration with European legal discourse, the situation changed in 2009 due to the economic crisis, which led to a revival of nostalgia for Soviet times.

After a lunch break, the third panel, chaired by M. Stambulski, was devoted to *Law and the Political*. The first paper was presented by Jakub Łakomy (University of Wrocław), who spoke about *Liberal Ideology Demystified: Carl Schmitt’s Views on Legal Interpretation*. In his paper Łakomy underlined the fact that Schmitt was, in many respects, a forerunner of critical legal thought, and emphasised his contemporary significance for legal theory. The second paper in the panel was delivered by Dr. Cerel (University of Nottingham), who spoke about *From Form to Force: Law, Ideology and Repression in Late Capitalism*. Taking as a point of departure the John Huston film *The Maltese Falcon* (1941), his paper examined the status of law in contemporaneity by insisting on law’s inherent duality as both as an ideological state apparatus and as a repressive mechanism. Dr.

Cercel's paper applied psychoanalytical discourse and critical theory in exploring the nexus between law and violence in late modernity. In the next paper, Dr. Paweł Skuczyński (University of Warsaw) focused on *The Concept of Community in Law and Social Sciences: Ideological and Critical Functions*. Dr. Skuczyński presented a reconstruction of the notion of a 'community' in socio-legal discourse, pointing to three models: pre-modern, modern and post-modern, as well as critical strategies of resorting to the notion of a 'community', in particular those aiming at recognition and liberation. The discussion following the panel on *Law and the Political* focused on the contemporary significance of Carl Schmitt for legal theory, as well as on the interplay between politics and ethics in the historical evolution of the notion of a 'community'.

The last panel of the first day of the conference, devoted to *Law and Ideology in Historical Perspective*, was chaired by Dr. Šulmane. Dr. Paulina Świącicka (Jagiellonian University, Kraków) delivered the first paper entitled *Interpreting Under the Gaze of Ancestors: Mores Maiorum as an 'Ideological' Limitation of Jurists' Discretion in Ancient Rome*. Dr. Świącicka approached the Roman notion of '*mores maiorum*' (customs of the ancestors) from the point of view of ideology in Althusserian terms. Referring to Artur Kozak's understanding of the limitation of lawyers' discretion, she emphasised the importance of *mores maiorum* for legal interpretation, in particular its limiting role. The following paper on *Ideology and Debasement in the Nazi Legal System* was presented by Simon Lavis (University of Nottingham), and offered a critique of the mainstream narrative about the Nazi legal system. The final paper in the panel was delivered by Natalia Karolina Michałowska (University of Warmia and Mazury, Olsztyn), who spoke about *The Ideology of Family Over the Centuries*, comparing the definition of family in Roman and contemporary law. The discussion following the panel focused on the ongoing significance of Artur Kozak's juriscentrist legal theory, and the methodological importance of the notion of ideology in the analysis of the evolution of family law.

The second day of the conference (30 May) was opened by a keynote lecture delivered by Professor Leszek Koczanowicz (University of Social Sciences and Humanities, Faculty in Wrocław). Professor Koczanowicz spoke about *Catastrophe and Ideology*, applying Bakhtin's notion of ideology and Badiou's notion of the Event to the catastrophe of the 2010 presidential airplane crash in Smoleńsk. The keynote speech was followed by a lively discussion which touched upon the contemporary political situation in Poland.

The first panel of the second day of the Workshop was devoted to *Ideology, Power, Hegemony* and was chaired by R. Mańko. Paweł Snopek (University of Wrocław) spoke about *Neoliberalism and its Ideology of Social (In)justice*. The speaker focused on Leszek Balcerowicz's notion of freedom, subjecting it to a critique in light of the writings of David Harvey and Janusz Reykowski, as well as statistical data regarding the growth of social inequalities. Dr. Hanna Dębska (University of Warsaw and

Pedagogical University in Kraków) presented the second paper titled *The Symbolic Power of the Law: Beyond the Ideology in the Marxist Sense*. Dr. Dębska focused on the notion of symbolic power in the understanding of Pierre Bourdieu, which she contrasted with the Marxist notion of ideology. The discussion following the panel focused on the differences between the Marxist tradition and Bourdieu's critical sociology, and explored the potential of referring to Bourdieu within critical legal studies.

The following panel on *Ideology Between Legal Interpretation and Literary Criticism* was chaired by Dr. Dębska. Dr. Anna Klimaszewska (University of Gdańsk) presented the first paper entitled *The Ordinance of 1667: Ideology of Modern Codification as a Political Tool of Louis XIV*. The speaker focused on codification treated as an instrument of political struggle. The second paper on *The Right to Tell the Story: Law, Ideology and Identity Politics* was presented by Justyna Jezierska (University of Wrocław). The paper focused on the notion of narrative identity built on the basis of the linguistic method, and indicated the possibility of applying the concept for the purposes of analysing legal institutions. The final paper in the panel was presented by Markéta Klusoňová (Masaryk University, Brno), and was titled *Is Hamlet a Scandinavian Crime Fiction?* The speaker analysed the possibility of using literary fiction in legal discourse, pointing out that this mode of argumentation is popular in common law jurisdictions, but also can be found in the case-law of Czech courts.

J. Łakomy chaired the penultimate conference panel devoted to *Ideology in Legal Reasoning*. The first speaker, X. Chiamonte, spoke about *Legal Complex and Governmental Societies*, analysing the interrelationship between Althusser's notion of ideology and Foucault's notion of discourse. The speaker underlined that the two traditions make use of different conceptual frameworks, and it is necessary to ascertain whether these can be combined. Jack Meakin (Oñati International Institute of the Sociology of Law) presented the second and final paper in the panel, which focused on *Reasoning in Practice: The Judge as Individual Actor and the Artificiality of Legal Symbolism and Autonomy*. Resorting to Bourdieu's methodological framework, J. Meakin focused on the notion of judicial neutrality, subjecting it to a critique.

The last panel on *Liberty, Conflict and Ideology*, chaired by J. Jezierska, gave voice to students of the University of Wrocław active in the Legal Philosophy Society. Wojciech Zomerski spoke about the *Marxist and Žižekian Definition of Ideology: The Position of Ideology in Modern Times*, contrasting Orwell's *1984* with Huxley's *Brave New World*, and analysed the notion of a post-ideological era. Filip Rakoczy delivered a paper on *Liberty as Power: Positive Liberties as a Means of Ideologisation of Law*, in which he analysed the use of the notion of liberty in legal discourse, referring to the works of Berlin, Dewey and Hayek. The last paper was delivered by Maciej Krogel, who spoke about *The Troublesome Duties? Jus Post Bellum Postulates and Ideology*. The speaker applied the notion of ideology to international law, pointing to the controversies regarding *ius ad bellum*, *ius bellum* and *ius post bellum*.

Speaking on behalf of the organisers, M. Stambulski concluded the conference, expressing his gratitude to the students of the Legal Philosophy

Society and their supervisor, Dr. Michał Paździora, for their extensive help in the organisation of the event. In truly Lacanian style he summarised the Workshop proceedings by stating that "On the Imaginary level it went from doxa to episteme, thus acquiring knowledge; on the Symbolic level it was organizing ourselves; and in the Real: it was pure pleasure".