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**SERGEI KULISH**

V. N. Karazin Kharkiv National University, Ukraine

**FORMATION OF LEGAL EDUCATION AT KHARKOV  
UNIVERSITY (1805 - EARLY 70 S XIX CENTURY)**

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The article briefly considers the development of legal education at Kharkov University over a 60-year period. The University staff efforts to significantly improve the scientific and pedagogical process by gradually overcoming the legal education unscientific concepts and the lack of experienced faculty are traced. The author has come to a reasoned conclusion on the formation of the University research schools and on combining theory and practice in the educational process.

**Keywords:** *moral and political department, Faculty of Law, law, polyhistory, specialization, debates*

Problem relevance and statement. Modern period of the Ukrainian society development and signing of treaties with the EU require reforms in all spheres of public life and the system

of law enforcement authorities (courts, public prosecution service, and police) in the first place. To that end, it is necessary to train new staff in higher and vocational secondary educational establishments of the corresponding profile. At the same time, the best practices established by the Kharkov University Faculty of Law staff should not be neglected.

The aim of the article is to show the development of legal education using the examples of the Kharkov University academic staff activities within the 60-year period of the University existence.

For a long time, legal categories and concepts did not appear to be widely used because of the dominance of religious philosophy canons in the Russian Empire. As stated by K. S. Aksakov in 1855, law was considered of secondary importance, as salvation by faith was at the forefront. As emphasized by M. B. Smolenskii, the existing laws negligence was widely spread while respecting the regulations set. One can agree with P. I. Novgorodtsev, that the perfect legal status could not be an objective in Russia, not only because of the supreme power autocracy, but also because of the religious consciousness of the overwhelming majority of the population. Faith, truth, justice were considered to be more important concepts, than law provisions chicanery.

At the same time, the analysis of legal concepts historical development proves: the notion of "justice" was very often perceived not only as a moral category, but also as a legal one. The word «*justitiae*» meant both justice and jurisprudence in Latin; German «*die Gerechtigkeit*» is translated as legality, justice, jurisprudence, adherence to law. The term «*legitime*» means law, justice, legality in the French language. Not accidentally, the Faculty of Law was called the Faculty of Moral and Political Sciences (ethical and political department) in the University Statute of 1804. However, already in the 20s the name "law" could be found in various documents, apparently following the example of German Universities where the documents were not otherwise named. Let us remind that "Jus" (Lat.) is the law, and the notion "lawyer" meant legal scholar, lawyer, jurist in V. Dal language dictionary. Since 1835, the name "Faculty of Law" has become legitimate.

If German universities trained barristers, judges and other practical workers at Law Faculties, the Russian Empire adopted the Austrian model, with broader approach to general scientific education. But, until the beginning of 30s the "law art" school: a practical jurisprudence policy had dominated at Moscow University. The officials, who were experts in record keeping, secretaries, and solicitors were educated there. As noted by modern researcher S. A. Egorov, the law was not split into separate categories. The students were not given research training assignments; learning from the state institutions previous experience was considered to be the pinnacle of knowledge.

According to the subjects taught, only three out of seven departments appeared to be juridical at the Kharkov Imperial University moral and political department. It is about the departments of political, natural and national law; civil and criminal court proceedings in the Russian Empire; noblest ancient and contemporary nations' laws. For some time J. B. Schad (Ivan Egorovich, as he was called in Kharkov), Dean of the Faculty had only three lecturers: two junior scientific assistants (J. Lang, J. F. Hamperle) and Professor I. F. Timkovskii. As early as 1802, the latter compiled the "Systematic Location of Russian Laws" innovative legal document. Starting that autumn, he was to deliver lectures on civil and criminal Russian law, as well as on common and private law at Kharkov University; according to other sources, political law, the science of legislation, basic concepts of ancient and new nations' laws [1, p. 266]. I. F. Timkovskii was going to teach students two hours from 05:00 p.m. to 07:00 p.m. on Mondays, Tuesdays and Fridays, in accordance with the syllabus. As he spent the majority of time having been on business trips to supervise educational establishments of Kharkov educational area (*vyzytatorstvo*), he actually did not lecture for the most part. It is also unknown, how many students attended his lectures, as in the early 19th century they were free to choose the lecturer and the

subject. As I. F. Timkovskii spoke too ornately and in a bizarre manner, it was difficult for students to learn from his lectures. Moreover, the student number was scanty at the moral and political department. For example, in 1809 there was one graduate, in 1811 – two, in 1813 – three, in 1814 – four graduates, etc.

The Faculty insufficient staffing was also explained by the refusal of some Western law scholars to come to Kharkov. For example, a lawyer A. F. Thibault preferred Heidelberg University; a law professor, G. Tsahariia did not arrive from Wittenberg; G. Terlaych died in 1805. F. Filipovich, who was offered to deliver lectures on natural and national law in Latin, did not start classes. Moreover, J. W. von Goethe and Friedrich Schiller recommended J. B. Schad to the department of morality, natural and common public law. Instead, the latter specialized in the field of philosophy, and quite successfully. Apparently for those reasons I. F. Timkovskii became the moral and political department dean in 1807 (re-elected in 1810 and 1811). In 1807, a teacher from Voronezh, G. P. Uspenskii was invited to teach Russian history; however, he began to teach civil and criminal law, judicial proceedings in Russia. In addition, he had an extensive legal practice in Kharkov [2].

In the first quarter of the 19th century the high staff turnover took place at the Faculty of Law for different reasons. Thus, a master K. F. Mikhailovskii died at the age of 34 (he lectured on both noblest ancient and contemporary nations' law). Prof. L. G. Jacob, author of the "Fundamentals of Police Legislation and Police Institutions" textbook and competent comments to the draft Russian Empire Criminal Code of 1913, was transferred to the public service in St. Petersburg that year [3].

Generally, the course subjects were taught based on the textbooks by foreign scientists, often with the lecturer's additions. According to the University Statute of 1804, the Faculty of Law provided its students with discussions in Latin, as well as with debates [4]. However, such classes were held very rarely, as the teaching process of that period was not binary, but subject-subjective and was based on authoritarian methods.

For a long time a multidisciplinary approach prevailed at the Russian Empire universities, polyhistory was a common feature of the majority of lecturers. Until 1828, the Law Faculty students studied rhetoric, theology, philosophy, logic, mathematics, physics, Latin, Greek, French and Germans, fundamentals of economic knowledge. To partially reduce study load, the Faculty offered a new syllabus draft with a different number of weekly hours to the trustee, however it was declined. 19 lectures were scheduled weekly in the first year, 17 – in the second, 16 – in the third, but the trustee demanded another workload – 21, 19 and 18 hours respectively. Moreover, A. A. Perovskii considered it necessary to introduce one more foreign language, rhetoric, and to give students translations of institutions and pandects [5, p. 13].

The level of academic professional skills of the Faculty lecturers was, of course, different, as well as their manner of presenting material. For example, a criminal law junior scientific assistant A. K. Babichev, who had worked in Odessa till 1830, delivered lectures without any theoretical provisions. Moreover, his interpretation of real criminal cases was more of a funny story. Besides, the students had to invite him to the lectures, as he woke up too late. In 1833, the University fired him but, he obtained a Principal position in Taganrog grammar school. On the contrary, I. N. Danilovich, Professor of Diplomacy who had been teaching the Russian and provincial law since the beginning of 1835, was famous for his sound scientific scepticism and adequacy of analysis. Prof. K. P. Paulovich carried out the natural jurisprudential doctrine in his lectures and works, in support of the idea of public relations transformation [6, p. 340-342].

Before his transfer to Kharkov University, K. P. Paulovich was a teacher in Cherkasy grammar school, then in that of Slobodska Ukraine, where he taught natural history, technology, commerce, Latin. After his studies at four faculties of the University of Pesht, he got a Doctor of Liberal Arts and Philosophy degree. Since 1809, he had been giving a

course in Roman law to the officials at Kharkov University on a part-time basis and, since 1811 he had become a junior scientific assistant at the Roman law department here. He later wrote a textbook on Roman law [7].

Because of teacher shortage, K. P. Paulovich delivered lectures on 7 subjects, such as history of Roman law, natural law, criminal law, Russian law. Somehow self-confidently, he considered himself to be an expert in all juridical sciences. Taking into account that at that stage there was a continuous internal struggle between the lecturers, in 1817 the three scientific papers written by K. P. Paulovich were strongly criticized. In particular, B. Reight called them "primitive material collection" which was not true. They were by no means worse than the works of other lecturers. Moreover, they involved concepts which were advanced for that time: separation of powers into legislative, legal executive and state regulatory. As he mentioned, all unfair judgments appeared to be immoral. K. P. Paulovich advocated the necessity of the death penalty abolition, with its replacement for life imprisonment, and criticised tortures. To him, the worst crime of all was infanticide. At the same time, the comments on his lectures from students were negative. Perhaps, the reason for that was that he had a bad command of Russian and was constantly using his native Serbian. It is possible that he could not outline his scientific theories clearly to the students [8].

The teaching system of the early 19th century lacked systematic approach, conceptuality, diagnosticity, deep awareness. Therefore, it was difficult to develop the students' high level of informative and communicative skills. The lecturers could not be independent in their judgements; it was risky to criticize this or that law provision, especially if it affected the Russian laws. While explaining the history of political law, it was prohibited to tell about "some agreements" (a social contract was meant). Social structure was considered to be not the prerogative of society but of the divine providence. Social progress was to be explained solely as a result of the divine institutes in the classroom [9, p. 370-373].

On May 14, 1826 "any voluntary teaching of doctrines using groundless books and notebooks" was banned by the order of Nicholas I. In the spring of 1833, the Minister of National Education S. Uvarov established a committee to check the academic syllabi on natural law. In fact, it served as a philosophy of law then. Meanwhile, the lectures on common and private natural law, natural law of nations were suspended. 16 years later, a similar decision on state law of Western Europe was made at St. Petersburg and Kazan Universities. At Moscow, Kharkov, Kiev St. Vladimir universities it was decided not to create such a department at all [10, p. 12-15].

It was difficult for lecturers and students to systematically update their knowledge because of the lack of publications in the library and book shops. Some students took very detailed notes of the professors' lectures, although it was hard to read them because of poor handwriting legibility. In that case, the students had to publish lithographic editions of lectures, and often in the large amount: up to 700 - 1200 pages. But there were other examples: student P. K. Skordelli took notes of the lectures on civil legislation by Prof. S. V. Pahman by quite a calligraphic hand. It was he who made notes of Prof. D. I. Kachenovskii's lectures on international law in 1868 (with the aid of students Golitsyn and Viskovich). The records listing state-authority powers, their features in different countries and containing the legal form of the executive power subject activities, etc. are very detailed. The evolution of shaping French people, their difference from British ones is presented accurately and in an interested manner. The author's deep sympathy for the French is quite apparent in the text. There are a lot of marginal additions, examination questions are highlighted [11, p. 29, 44].

Among the Law Faculty lecturers there were as devotees of science, romantic idealists as well as those who didn't want or were unable to become highly qualified educators. For example, A. V. Kunitsyn had a reputation as a talented scholar, but he lectured in an

extremely boring, listless, monotonous manner [12, p. 619]. On the contrary, S. V. Pahman, who taught police and civil law, often questioned his students to find out their level of learning. If the answers revealed that some legal regulations were understood not well enough or misunderstood, the explanations followed. Such easy deviation from the acroamatic method facilitated close contact between lecturer and audience, as well as student understanding of certain complex legal concepts [13, p. 41-42].

In the 70s, the declamatory pathetic style of teaching used by a majority of teachers, passed into oblivion. Although Prof. L. E. Vladimirov lectured on criminal law and court procedures almost poetically, using sophisticated metaphors and counterintuitive examples, at the same time he taught his listeners to be skilled in creative investigation. In particular, he conducted 'court hearing' simulations with them, which were followed by error analysis. As for Prof. K. K. Gattenberger, he opposed picturesque phrases and any mysterious conflicts, not by any means trying to be liked by his audience. His lectures were not easy to listen, they required continuous mental efforts. K. K. Gattenberger often held debates on the problems of police law, persuading the students to independently find scientific solutions, to develop critical thinking and to identify contradictions in scientific theories [14, p. 15-17].

In 1805-1863, 66 theses were defended at the University Faculty of Law. The scope of specializations was significantly extended, having caused a shortage of lecturers (by 1917 there were 25 of them, including 7 freelance university lecturers). Whereas G. S. Gordeenko gave psychological grounds for the dogmas of criminal law, I. N. Danilovich focused on the historical and philosophical foundations of jurisprudence. Prof. A. I. Poliumbetskii used the Hegelian theory in presenting the material. The historical and law schools of D. I. Kachenovskii, M. M. Kovalevskii, A. M. Stoyanov, M. N. Petrov, M. I. Petrov appeared, what served as evidence of the significant progress in theory and practice, in teaching juridical disciplines.

Thus, for the 60-year existence of Kharkov University, by gradually overcoming unscientific concepts of legal education, the faculty laid the foundations of law, set up scientific schools and prepared a number of teaching staff.

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**КУЛІШ С.**

Харківський національний університет імені В.Н. Каразіна

### **ФОРМУВАННЯ ПРАВОВОЇ ОСВІТИ В ХАРКІВСЬКОМУ УНІВЕРСИТЕТІ (1805 - ПОЧАТОК 70-Х РР. XIX СТ.)**

У статті стисло розглянуто процес розвитку юридичної освіти в Харківському університеті протягом більше ніж 60 років. Простежено, як поступово, долаючи антинаукові концепції правової освіти, брак досвідчених викладачів, колектив університету домагався суттєвого

поліпшення науково-педагогічного процесу. Автор дійшов мотивованого висновку щодо формування в університеті наукових шкіл, поєднання у навчальному процесі теорії та практики.

**Ключові слова:** морально-політичне відділення, юридичний факультет, право, енциклопедичність, спеціалізація, диспути.

**КУЛИШ С.**

Харьковский национальный университет имени В.Н. Каразина, Украина

### **ФОРМИРОВАНИЕ ПРАВОВОГО ОБРАЗОВАНИЯ В ХАРЬКОВСКОМ УНИВЕРСИТЕТЕ (1805 - НАЧАЛО 70-Х ГГ. XIX В.)**

В статье кратко рассмотрен процесс развития юридического образования в Харьковском университете на протяжении более чем 60 лет. Исследовано, как постепенно, преодолевая антинаучные концепции правового образования, отсутствие опытных преподавателей, коллектив университета достигал существенного улучшения научно-педагогического процесса. Автор пришел к мотивированному заключению касательно формирования в университете научных школ, совмещения в учебном процессе теории и практики.

**Ключевые слова:** морально-политическое отделение, юридический факультет, право, энциклопедичность, специализация, диспуты