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ABSTRACT

This article is devoted to the work of the eminent Russian legal scholar and thinker Pavel I. Novgorodtsev. This is nearly the first time that Novgorodtsev's philosophy of law is considered as the central link in the formation of the Russian school of philosophy of law (late nineteenth–early twentieth century). The thinker's doctrine of natural law, which closely binds law and morality, serves as the basis of his philosophical–legal conception. This article draws attention to the fact that his natural law can be considered a socio-ethical theory of law, or as social ethics. It also identifies the normative theory in Novgorodtsev's work that the thinker considers not only within the legal field of relationships but also in the social reality of interpersonal communication. The article provides the definition of "law" as formulated by the legal scholar. Philosophical–legal discourses are also of interest: between the philosopher Vladimir S. Solovyov and the legal scholar Boris N. Chicherin and between Leon I. Petrażycki and Pavel I. Novgorodtsev, in particular, on the issues of correlating law and morality in social life. The article also provides a comparative analysis of interest in issues related to philosophy of law on the part of both Russian thinkers and Western European experts in the field of juridical sciences.

KEYWORDS

philosophy of law; natural law; law; morality; social normativity

Pavel Ivanovich Novgorodtsev could be discussed as a thinker whose philosophical worldview contributed to the development of that branch of knowledge we call philosophy of law and as a professional legal scholar who was less interested in discussing issues of theory and history of law than in attempting to bring the idea of constructing a legal state in Russia into

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reality. We could also discuss him as an outstanding teacher whose contributions to the educational process were every bit as significant as his contributions to sociopolitical thought.

Nevertheless, Novgorodtsev has entered the history of Russian thought primarily as a representative of the Moscow school of philosophy of law at the beginning of the twentieth century, if not its leader. Studying issues related to *philosophical* justifications of law, he came to the conclusion that *only classical* philosophy of law, an interdisciplinary field capable of synthesizing philosophy and jurisprudence, could necessarily solve the existing problems in jurisprudence. Novgorodtsev's overall conception involves expanding the possibilities of cognition of the social role of law and conducting a comprehensive rather than narrowly professional (technical) study that uses a combination of philosophical, historical, and dogmatic methods. His choice of historical–theoretical methods for studying ideas has been greatly important for research methodology in the history of social thought in general and in philosophical thought in particular. The methodological set of issues we are discussing here can be analyzed not only from the point of view of classical methods for studying the history of theoretical thought but also through the framework of stages in a complete historical–theoretical research cycle.

We should note that it is in these theoretical works by Novgorodtsev in the field of philosophy of law that we could also mark the beginnings of a *Russian school of philosophy of law*, because it was Novgorodtsev's philosophy of law or, rather, his natural law understanding, that has been one of the most brilliant and developed incarnations of the Russian school of philosophy of law. First, Novgorodtsev conducted research on the general principles of theory of philosophy of law, and the central project of his work was the idea of reviving natural law. Second, the methodological reflection of issues related to philosophy of law in Novgorodtsev's work made a substantial contribution to the development of methods for studying the history of ideas. Some are of the opinion that Novgorodtsev's judgments lie "in the mainstream of the development of European philosophy, coinciding with the conceptual development of philosophy of life and sociology of cognition, and are similar to the sociology of Max Weber."[1] Third, when addressing issues related to the crisis in juridical science and, in particular, the crisis of legal consciousness, Novgorodtsev sought to prove that it was only possible to solve problems of both juridical science and social crisis by using philosophy of law, an interdisciplinary branch of knowledge capable of synthesizing philosophy and jurisprudence, as a basis. Novgorodtsev's philosophy of law is multifaceted in structure and content: Its concerns include the philosophical–legal, the ethical–philosophical, and the social–philosophical, united by a single meaning: the *social idea*.

The concept of social normativity

Novgorodtsev's work is relevant today not so much as a historical–philosophical phenomenon among "specialized circles" but from the point of view of the possibility of bringing issues related to philosophy of law up to date for solving both theoretical and practical problems related to the understanding of the role of law in contemporary public life. In re-creating all of the historically significant aspects of Novgorodtsev's work, it is worth noting that what becomes relevant today is not so much the natural law concept developed by the thinker that, in principle, could be consider a "*socio-ethical theory of law, or social ethics*."[2] What comes to the fore is rather the *normative conception* that Novgorodtsev examines not only in the context of juridical knowledge but also in the sphere of social normativity, effectively through the prism of social, interpersonal relations. For a theoretical comparison, we might turn to the contemporary view of Ronald Dworkin, who, in particular, believed that the main problem with the general theory of law is that it must simultaneously be not only *conceptual* but *also normative*. In Dworkin's view, the normative part of the general theory of law is embedded "in a more general political and moral philosophy which may in turn depend upon philosophical ideas about human nature or the objectivity of morality."[3] His *normative* theory includes issues related primarily to theory of legislation, theory of litigation, and theory of legal compliance. For this reason, and despite the fact that Dworkin also considers the main weakness of modern jurisprudence to be its adherence to *factology and strategy*, he nevertheless commits the very same sin: He examines what are to a greater extent formal and procedural issues, whether in reference to legal proceedings or law, whether it be natural, institutional, or juridical.

Unlike Dworkin, Novgorodtsev's main idea was precisely the fact that the normative principle should not be limited to the field of positive law, where law is considered *only as a form of "order"* that regulates the legal relations among individuals in a society, protecting the individual's interests against any kind of anti-legal and anti-social action. The legal scholar believed that formal analysis of law fails to reveal its essentially social nature. The social role of law is far broader, because law constitutes not only a "norm" but also the "principle of personhood."[4] In discussions about the social role of law, the thinker emphasized that we must not forget that "[m]an intrinsically sees law as a setting that depends on personal will and thought."[5]

Unlike juridical normativity, normativity in philosophy of law makes it possible not only to express a legal norm as a model of social relations and human behavior but also to identify the *imperative–attributive* essence of *legal relations* that are reflected not only in the moral consciousness of the individual but, above all, in his legal consciousness. Already in the

nineteenth century, the Russian philosopher and sociologist Leon I. Petrażycki had devoted a great deal of attention to relationships of this kind. He called his theory of law and the state "psychology," and he considered all of the differences between law and morality not from the perspective of rational judgments but from the perspective of emotional reactions elicited by the fulfillment or non-fulfillment of both legal and moral demands. Essentially, Petrażycki reduced the main differences between law and morality to a difference between the purely imperative nature of moral impulses and the corresponding imperative–attributive nature of law.[6]

Novgorodtsev substantially supplemented Petrażycki's conception with provisions about correlation of law and morality reflected in the legal consciousness of the individual. In Novgorodtsev's arguments, we can clearly trace the continuity of Russian philosophy of law in understanding the correlation of law and morality that manifested so uniquely in the works of Vladimir Solovyov as the problem of correlating laws and "the good." Novgorodtsev believed, for example, that law was not in direct opposition to morality; on the contrary, it has a moral component in the sense that both morality and law have what is practically the same goal in social space, the realization of social equality and well-being; that is, a balance of personal and public interests. Furthermore, law can only be called law when the system of socio-legal coercion corresponds to the nature, meaning, and goals of the socially organized well-being of man in society. The less obvious but socially necessary link between law and morality is a completely valid *legal-dimensional* reality in which the demands of law and the demands of morality do not simply coincide on occasion: the main and basic condition for their interaction is the fact that the *idea* of law itself—that is, the *essence of individual laws* (or *individual laws* themselves)—must comply with the demands of morality. The disagreements that arose in polemics between Petrażycki and Novgorodtsev on issues of morality and law were more about the differences in their methods of cognition: the psychological on the one hand and the rational on the other.[7]

Novgorodtsev's main idea, which in fact distinguishes his conception, consists in the fact that the social reality of law in principle cannot be attributed to one side of man's cultural life, whether that is state organization or social relations or even "mental experiences." Law, as a social norm, contains in itself not only the demand for submission to some higher principle but also the presence of social obligations assumed by the individual. In social space, a person has responsibilities that are considered both as responsibilities to other people in general and as responsibilities to specific individuals.

Social normativity, as identified in the polemic between Novgorodtsev and Petrażycki, represents the principle of correlating law and morality in public life, regulating legal relations built not only in the juridical field of interpersonal relationships (in situations like concluding a contract or adopting decisions on juridical procedures or legal offenses) but also within the framework of social relations that, for example, the contemporary French philosopher Paul Ricoeur called *institutional* (relations).[8] The basic principle of social, interpersonal communication is built on the principle of institutional (social) rights and responsibilities.

Continuing the Russian tradition, Novgorodtsev's student, the philosopher and legal scholar Ivan A. Ilyin, proposed a concept of legal consciousness with levels of development he called *axioms of legal consciousness*. According to Ilyin, the main axioms of legal consciousness are the law of spiritual dignity (self-affirmation), the law of autonomy (the ability of self-commitment and self-governance), and the law of mutual recognition (mutual respect and trust among people). Ilyin correlated the development of legal consciousness with the internal spiritual development of the individual and believed that what was foundational in knowledge of law is the fact that "being cognizant of law is not the same as having a tangle of subjective emotions." The person who knows the laws and the person who consciously follows the rules of communal living are not the same. It is therefore necessary, according to Ilyin, that *everyone* "*see with blinding clarity the objective significance of the law*."[9] Only in that case would it be clear that behind the external form of legal norms is not a formal will but a completely concrete human will, the conviction of man himself, the culture of his behavior.

Philosophical–juridical discourse: Arguments and interpretations

We can express the basic principle of Novgorodtsev's creative idea in general terms through the thesis that *the thinker, not limited by the framework of juridical science, brought the study of legal problems into the field of general philosophical problems, searching for the ethical–ontological basis of law*. In this, of course, he was following in the tradition outlined by the discourse between the legal scholar B.N. Chicherin and the philosopher V.S. Solovyov, who, in turn, drew on the rich experience of the West European tradition of natural law, which created the theoretical foundation for a fruitful polemic around issues of philosophy of law and, in particular, around the issues of correlating law and morality.

We should also note that the polemic between Solovyov and Chicherin not only was historically significant for thought on philosophy of law but also largely determined the scope of creative reception of philosophical–legal issues. The most substantial part of this polemic was that Solovyov, in

proposing his doctrine of "justification of good," practically laid out the intention of the ethical direction in both philosophical and juridical thought in Russia in the late nineteenth and early twentieth centuries. It was, in fact, the influence of his ideas that determined the evolution of legal theorists' views in the direction of and interpretation of the ideas of natural law in the spirit of traditional Christian values. Solovyov's philosophical–legal conception became the foundation of an active polemic among the majority of professional legal scholars, philosophers, and social philosophers around issues related to philosophy of law. This was actively joined both by supporters of the so-called positivist trend in juridical science—G. F. Shershenevich, N.M. Korkunov, S.A. Muromtsev, M.M. Kovalevsky—and by the theorists of the so-called Moscow school of natural law under P. I. Novgorodtsev's leadership—E.N. Trubetskoy, N.N. Alekseev, I.A. Ilyin, A. A. Yashchenko, B.P. Vysheslavtsev—who, in turn, not only took part in these discussions but simultaneously developed their own theories of a natural law revival.[10] It was Solovyov's philosophical–legal conception that brought his polemic with Chicherin beyond the narrow framework of their dispute over Solovyov's professional or nonprofessional competencies. In his estimation of or conclusions related to Solovyov's views on legal issues, Chicherin never missed the opportunity to emphasize the philosopher's lack of legal competence, although Solovyov was far from ever trying to compete professionally with Chicherin. In the end, in fact, it was Chicherin who absorbed the very *philosophical* foundation of their discourse despite all of their polemical clashes and contradictions, the result of which was his book *Philosophy of Law*, published in 1900.[11]

The theoretical content of Chicherin's and Solovyov's polemic elicited an enormous response in their contemporary Russian cultural and social life and practically defined Russian culture's *own* trajectory on issues of philosophy of law. The nature of their discussion in the history of Russian thought has been considered a grand event in intellectual thought, as the most ambitious and interesting of all philosophical–legal disputes. We should note that, even today, the issues involved in this polemic are of great theoretical interest and, most important, are relevant for scientific thought. Though each pursued his own path in positively establishing their classic scientific systems of Russian philosophy of law, Chicherin and Solovyov used their works to reflect, in general terms, the contradictions that had arisen from the previous development of modern European political–legal thought, expressing the main ideas of classical legal naturalism "on Russian soil." Historically, their works are considered the "two culminating points in the development of Russian idealist philosophy of law."[12]

The extensive literature on jurisprudence and philosophy highlights to a greater extent the substantive aspect of their discussion, mainly assessing and analyzing Solovyov's and Chicherin's philosophical–legal conceptions

of the relationship of law and morality and the borders of individual freedom and equality. No less important, however, is the issue of their incompatibility in *worldview* and *methodology*. It is quite clear that, when it comes to philosophical–legal issues, the main condition for studying them is an understanding of the interdisciplinary nature of philosophy of law. Identifying juridical science with philosophical knowledge is, of course, impossible by any criteria, and so, a priori, we must acknowledge the conceptual difference in approaches to studying law and legal reality, a difference that is not so much foundational as it is due to the features of these sciences themselves. In this case, we must acknowledge a conceptual difference in approaches to defining both the topic of research and the research method itself, respectively, and we must engage with the worldviews that directly affect the nature of that research.

All of these features are undoubtedly manifested very clearly in the polemic between Chicherin and Solovyov. Understandably, Solovyov's philosophical–legal views are located on a different plane than Chicherin's juridically formulated worldview. Solovyov considered Chicherin's juridical schematism particularly untenable. For Solovyov, jurisprudence is a science that allows for abstract schematism and to some extent even requires it, but one could not extend "schematism" into philosophy or ethics. The desire to limit oneself to a solely *formal* understanding of law leads to the loss of law's actual content, because law cannot be interpreted as an absolute principle independent of morality. Therefore, the philosopher's main aspiration in that regard was his desire to find some commonality for linking law and morality.[13] Solovyov does not treat the impossibility of thinking of law outside of its moral sense as a requirement of a moralizing philosophy, which his opponents accused him of doing, but this impossibility is a direct consequence of his understanding of the very essence of law.

Chicherin, meanwhile, entered the history of legal thought as the patriarch of Russian state science and as one of the creators of the "state school" of Russian historiography, although his diverse works demonstrate an interest not only in history or politics. Chicherin's philosophical–legal conception is based on general philosophical understandings about law; for example, he believes that the philosophical foundations of law should serve as the guiding principles for juridical practice. As a legal scholar, however, Chicherin nonetheless adheres to the opinion that a state develops according to its own laws and represents the *external* facet of historical life, while moral issues are the *internal* facet of human life. In opposition to Solovyov, he attempts to prove the multidirectional nature of the concepts "law" and "morality," adhering firmly to his conviction that there are, in addition to moral laws, other laws to which morality itself *must* conform.[14] Chicherin fundamentally disagreed with Solovyov on this matter, both because he was a legal scholar and professional lawyer and because, as

a classical liberal, he defended individual autonomy above all, fundamentally criticizing the communal all-unity of Solovyov's conception of ethics. However, we should not generalize Chicherin's protest against identifying law and morality with a positivist approach to law, which holds that law is an expression of power and balance of interests (in which case law is class based by nature).

In fact, Solovyov should not be reproached for not drawing a line separating law from morality. Like Chicherin, he recognized the autonomous value of law, but at the same time he fundamentally insisted that a mutual relationship between the moral sphere and the legal reality was one of the foundational questions of practical philosophy (ethics). He interpreted this relationship as the link "between ideal moral consciousness and actual life."[15] The philosophy of law in Solovyov's understanding "is one of the philosophical disciplines adjacent to ethics or moral philosophy (in its applied form)."[16] This is why Russian philosopher and legal scholar A.S. Yashchenko argued that Solovyov's "doctrine of law" does not exist "independently of his general ethical views."[17]

Chicherin's sociopolitical ambitions were fundamentally different from Solovyov's position on moral philosophy. Chicherin, for example, was not seeking to create a conception of moral philosophy and did not view moral philosophy as the meaning of life. The main idea in Chicherin's work is a desire to provide a "definite" understanding of reality through the prism of understanding the legally rather than ethically enshrined personal rights and freedoms of the individual and, accordingly, their protection from any infringement. Thus, Chicherin's fundamental criticism of Solovyov's ethical conception largely comes down to a critique of its assumed primacy of the whole over the part, of communal all-unity over individual freedom, which Chicherin thought could endorse a particular form of real-life despotism. Chicherin naturally defended the principle of autonomy in both jurisprudence and ethics from the position of classical liberalism, arguing that individualism is "the cornerstone of every truly human edifice."[18]

Nevertheless, and despite the obvious disagreement between Chicherin and Solovyov in defining the nature of law and the relationship of law and morality, there are features that unite their philosophical–legal conceptions: their shared anti-positivist and anti-historicist orientation. For example, in his philosophy of law, Chicherin develops a consistent critique of contemporary positivist legal theories that deny metaphysics in cognition, emphasizing that any political theory not based "on philosophical principles" is untenable, because it would distort the true essence of law.

Clearly, Chicherin's understanding of "rigorous knowledge" did not coincide with Solovyov's "living knowledge," and the "primacy of rationalism" in Chicherin's thought was "so strong that it was somewhat difficult for him to understand the synthetically attuned Solovyov."[19] All of this

directly or indirectly affected the content of their polemic, such that differences appeared not only in their interpretations of the subject of philosophy but also in their determinations of the possibilities and boundaries of philosophical knowledge. Most important, essentially, two methodologies clashed in this theoretical discourse: the methodology of philosophy "as a rigorous science" relying on logic as the basis of a metaphysics of spirit and being and what was in fact the emergent method of *non-classical* philosophy based on a *religious–existential* mode of thinking.[20]

Andrzei Walicki, historian of Polish and Russian political–legal thought, expressed his opinion on this polemic in a short essay where he noted in particular that "Chicherin was criticizing Solovyov not for the idea of providing the basic rules of communal living" but "for his desire to turn law into a tool for realizing his moral ideal." Chicherin's critique of Solovyov "was primarily a critique of *legal methods* for realizing a moral ideal in society" (italics added).[21] It is clearly evident that these thinkers, so different in their life principles and theoretical preferences, were unlikely to come to a complete mutual understanding or agreement. The defining aspect or feature of their polemic is that the main subject of discourse was the problem of determining the subjective or objective meaning of morality: whether morality is subjective, as Chicherin believed, or "socially organized," as Solovyov was demonstrating. In that sense, the incompatible worldview of their positions comes down only to this *substantive* aspect of coordinating "law" and "morality" in an individual's social activity.

Despite all of the obvious contradictions, the result of their polemic was, on the hand (and this is key), a certain synthesis of their positions in a new version of Russian liberal thought: in "social liberalism," theories of which emerged in terms of the conceptions developed by Pavel I. Novgorodtsev, Bogdan A. Kistiakovskii, and Sergei I. Hessen as various theories of the social state. On the other hand, the topics discussed in their polemic were synthesized in the theoretical conceptions of philosophy of law by their successors—Moscow University professor Pavel I. Novgorodtsev and Eugene N. Trubetskoy—a fact that the Russian legal scholar and French positivist sociologist G.D. Gurvitch draws special attention to in his article, "Two of the Greatest Russian Philosophers of Law: Boris Chicherin and Vladimir Solovyov."[22] Gurvitch's own studies in philosophy of law led him to collaborate with Novgorodtsev, with whom he had already founded the *Philosophy of Law Club* in Berlin in 1921.[23]

The conceptual foundation of P.I. Novgorodtsev's idea of natural law

Chicherin's and Solovyov's philosophical–legal discussions had a significant impact on the formation of Novgorodtsev's conception of natural law, serving as the ideological impulse of his appeal to Kant's theory of ethics and Hegel's philosophy of law. Novgorodtsev developed his conception of

natural law by establishing a worldview that linked morality and law on the basis of his idea of natural law. Novgorodtsev's position on understanding the correlation of law and morality in public space is best viewed in light of its evolution. Though Novgorodtsev, "initially under the strong influence of Chicherin's liberal doctrine, was inclined toward a recognition of the strict dualism between law and social reality,"[24] he later outlined the main direction of his *own* work, namely, defining the synthesis between the principles of society's objective ethics and the individual's subjective ethics, in his doctoral dissertation *Kant and Hegel in Their Doctrines of Law and State* (1902).[25] We also see this kind of *self-determination* in his positive assessment of Solovyov's philosophy of law, in which Novgorodtsev made special note of the correlation between objective and subjective ethics.

We might consider Novgorodtsev's desire to clarify *the extent to which moral content is inherent to law in general* the most important aspect of the worldview expressed in his work. Focusing on this mindset, the thinker tries to explain and prove why ethical criticism of positive law from the perspective of future ideal law is *not only possible but also necessary*. Novgorodtsev also tried to defend the hypothesis that *it is impossible to establish a priori the "justice" contained in a legal norm*. Because the normative content of law has no constant value, the thinker emphasized, this creates conditions for varying assessments of the rule of law, including false ones. Meanwhile, Novgorodtsev says, it is impossible to fully identify law with the concepts of "justice," "freedom," and "the good" (polemicizing indirectly both with Solovyov and with Chicherin), because the social essence of law does not consist in being "just" or "good." Law cannot become a pure expression of justice, just as it cannot do without the concept of justice in general without implementing the moral principles that comprise its own substantive principles. These moral principles, Novgorodtsev says, are the concepts of *mutual limitation* and *duty* without which law is not law but only spontaneous and arbitrary force, arbitrariness.[26] In defending this conclusion, Novgorodtsev provides his own definition of the concept of "law." Law is a complex social phenomenon resulting from the struggle and interaction among various social forces. As a reflection of this struggle, law essentially seeks only to reconcile the contradictions, but it can never become completely perfect nor completely just. Interpreting law as the embodiment of justice, the scholar argues, leads us to the point that law loses its true purpose and becomes instead the embodiment of the pure idea of truth.[27]

Thus, we can definitely say that, in the Russian philosophical–legal thought in the historical period from the mid-nineteenth through the early twentieth centuries, the topics and issues were deeply analyzed and fundamentally investigated by Russian legal scholars, jurists, and philosophers. As we know, the problems of moral justification and defense of the law, as well as issues concerning the correlation of morality and law, of man and society, received a great deal of attention during this period, not only

from Solovyov, Eugene N. Trubetskoy, Novgorodtsev, Ilyin, Petrażycki, and Kistiakovskii but also from many others.

It is also worth noting that, like any national culture, Russian philosophical–legal thought, though consonant with the ideas of the European tradition of philosophy of law, has always been guided by its own national principles and interests. The foundations of culture *have always been* fundamental in the Russian tradition, whether we are examining the establishment of juridical science or discussing philosophy of law as the bearer of spiritual meaning. Some believe that Russian philosophy of law developed toward constituting a synthesized, programmatic philosophy of "being, faith, and morality," declaring itself a special philosophy of values.[28] In principle, the spiritual meanings that determine the foundational worldview of Russian philosophy of law have practically created their own cultural space. This is why Russian philosophical–legal thought is unique not only in its interpretations but as a matter of fact.

We should also draw attention to the fact that, today, the rhetoric that constitutes the theoretical heritage of the Russian school of philosophy of law has become relevant for European thought on philosophy of law. History has arranged it such that it is Western European thought that is more concerned today with the ideal and moral foundations and principles of law. Many works by famous legal scholars, lawyers, and philosophers—including R. Dworkin, P. Ricoeur, L.L. Fuller, B. Leoni, B. de Jouvenel, and Mark Van Hoecke—are dedicated to these issues, discussing the need for studying philosophical ethics in relation to the categories of law and morality (Fuller, Dworkin) or simply moral law (Fuller), a philosophical defense of law or the legal field of justice (Ricoeur), the correlation of "natural law and natural rights" (J. Finnis),[29] and "law as communication" (Van Hoecke). Considering the existing theoretical base in Russia, we could argue that the understanding of these issues by European experts is more likely to be tentative and fragmented in nature.

"*The modern theory of law*," according to Mark Van Hoecke, a contemporary legal scholar who is professor of comparative law at the Queen Mary University of London and president of the European Academy of Legal Theory, "arose in Russia, namely in St. Petersburg, in the late nineteenth and early twentieth centuries" (italics added).[30] He drew this conclusion on the basis of books by N.M. Korkunov (*Lectures on the General Theory of Law*; St. Petersburg, 1887), L.I. Petrażycki (*Theory of Law and State in Connection to Theory of Morals*; St. Petersburg, 1907), and G.F. Shershenevich (*General Theory of Law*, in four volumes; Moscow, 1910–1912). I believe the theoretical heritage of the *Moscow school* of revived natural law, headed by P.I. Novgorodtsev, should be added to this list. At the same time, while discussing "law as communication," Van Hoecke states that the "approach to law as to communication is in some

respects closer to the Russian legal tradition than to that of Western European culture of the last few centuries."[31]

Conclusion

On the whole, it has become quite obvious that today's discussions of philosophical–legal issues must focus on contemporary processes related to the search for new forms of civilizational development. We must understand that it is philosophy of law that can aid in defending and adopting positive decisions on many of the issues related to the socio-political reality. Given the nature of current circumstances, where questions about the excessive politicization of law and the role and significance of international law remain, it is important that we also understand that a *new* position on theoretical knowledge and research of law would be capable of having a significant impact on legal reality as well, especially on the way in which the *social* nature and importance of non-state law are emphasized. Van Hoecke's opinion that we must formulate "a much more flexible attitude towards concepts of legal pluralism" while also formulating "a broader, less state-centered concept of law" is a critical one.[32] I believe that this can be greatly facilitated by the culture of Russian philosophical–legal discourse and the theoretical legacy that has been left to us, the heirs of such eminent Russian thinkers and public figures as Pavel I. Novgorodtsev, Vladimir S. Solovyov, Boris N. Chicherin, Eugene N. Trubetskoy, Ivan A. Ilyin, and many others.

Notes

1. I.D. Osipov, *Filosofiia russkogo liberalizma (XIX–nachalo XX v.)* (St. Petersburg: Izdatel'stvo S.-Peterburgskogo universiteta, 1996), p. 111.
2. See also I.A. Katsapova, *Filosofiia prava P.I. Novgorodtseva* (Moscow: IF RAN, 2005), pp. 73–111.
3. See R.O. Dvorkin [Dworkin], *O pravakh vser'ez* (Moscow: ROSSPEN, 2004). (English original: R. Dworkin, *Taking Rights Seriously* (reprint) (Bloomsbury Academic, 2013), p. 3.)
4. P.I. Novgorodtsev, "Nravstvennyi idealizm v filosofii prava (K voprosu o vozrozhdenii estestvennogo prava)," in *Problemy idealizma*, ed. P.I. Novgorodtsev (Moscow: Moskovskoe psikhologicheskoe obshchestvo, 1902), p. 279.
5. P.I. Novgorodtsev, *Istoricheskaia shkola iuristov, ee proiskhozhdenie i sud'ba. Opyt kharakteristiki osnov shkoly Savin'i v ikh posledovatel'nom razvitii* (Moscow: Universitetskaia tipografiia, 1896), p. 5.
6. See L.I. Petrazhitskii [Petrażycki], *Teoriia prava i gosudarstva v sviazi s teoriei nravstvennosti*, 2nd edition, vol. 1 (St. Petersburg: Tipografiia S.-Peterburgskogo aktsionernogo obshchestva "Slovo," 1909), pp. 153–54.
7. See their polemics in P.I. Novgorodtsev, "K voprosy o sovremennykh filosofskikh iskaniiakh (Otvet L.I. Petrazhitskomu)," *Voprosy filosofii*

i psikhologii, 1903, book 1 (66); L.I. Petrażycki, "K voprosu o vozrozhdenii estestvennogo prava i nashei programmy," *Pravo*, 1902, beginning at page 1794; Petrażycki, *Teoriia prava i gosudarstva*; P.I. Novgorodtsev, "Pravo i nravstvennost'," *Sbornik obshchikh iuridicheskikh znanii*, vol. 1, ed. Iu.S. Gambarov (Moscow: Izd. O.N. Popovoi, 1899).

8. See I.A. Katsapova, "Mezhkul'turnyi smysl etiko-iuridicheskogo printsipa P. Rikera 'Ia-sam kak drugoi,'" in *Pol' Riker: Chelovek—obshchestvo—tsivilizatsiia* (Moscow: KANON+, 2015), pp. 338–63.
9. I.A. Il'in [Ilyin], "O sushchnosti pravosoznaniia," in I.A. Il'in [Ilyin], *Teoriia prava i gosudarstva*, 2nd edition, ed. V.A. Tomsinov (Moscow: Zertsalo, 2008), p. 331.
10. See Novgorodtsev, "Pravo i nravstvennost'"; E.N. Trubetskoy, *Lektsii po entsiklopedii prava* (Moscow: Tovarishchestvo Tip A.I. Mamontova, 1917); I.A. Ilyin, "Obschee uchenie o prave i gosudarstve (1915)," in Ilyin, *Teoriia prava i gosudarstva*, 2nd edition, ed. V.A. Tomsinov (Moscow: Zertsalo, 2008); A.S. Yashchenko, *Teoriia federalizma: Opyt sinteticheskoi teorii prava i gosudarstva* (Yur'ev: Tip. K. Mattisena, 1912); N.N. Alekseev, *Vvedenie v izuchenie prava* (Moscow: Moskovskaia prosvetitel'naia komisiia, 1918).
11. B.N. Chicherin wrote *Philosophy of Law* over a number of years, and first published chapters appear in various issues of *Voprosy filosofii i psikhologii* (1898, book 44; 1899, books 45–48; 1900, book 51). A standalone edition was published during his lifetime as *Filosofiia prava* (Moscow: Tipo-litografiia Tovarishchestva I.N. Kushnerev i Ko, 1900).
12. G. Gurwitsch [Gurvitch], "Die zwei grössten russischen Rechtsphilosophen: Boris Tschitscherin und Wladimir Ssolowjew," *Philosophie und Recht*, 1922–23, vol. 2, no. 2; cited in G.D. Gurvich, "Dva velichaishikh russkikh filosofa prava: Boris Chicherin i Vladimir Solov'ev," *Izvestiia vysshikh uchebnykh zavedenii. Pravovedenie*, 2005, no. 4, p. 138.
13. Compare V.S. Solov'ev [Solovyov], *Opravdanie dobra. Nravstvennaia filosfiia*, in V.S. Solov'ev, *Sobranie sochinenii Vladimira Sergeevicha Solov'eva*, ed. S.M. Solov'ev and E.L. Radlov, 2nd edition, vol. 8 (St. Petersburg: Knigoizdatel'skoe Tovarishchestvo "Prosveshchenie," 1914), p. 404.
14. Compare B.N. Chicherin, "O nachalakh etiki," *Voprosy filosofii i psikhologii*, 1897, book 4 (39), p. 693.
15. Solov'ev, *Opravdanie dobra*, p. 404.
16. Solov'ev, "Pravo i nravstvennost'. Ocherki iz prikladnoi etiki. 1897," in V.S. Solov'ev, *Sobranie sochinenii Vladimira Sergeevicha Solov'eva*, ed. S.M. Solov'ev and E.L. Radlov, 2nd edition, vol. 8 (St. Petersburg: Knigoizdatel'skoe Tovarishchestvo "Prosveshchenie," 1914), p. 552.
17. A.S. Yashchenko, "Filosofiia prava Vladimira Solov'eva," in A.S. Yashchenko, *Filosofiia prava Vladimira Solov'eva. Teoriia federalizma. Opyt sinteticheskoi teorii prava i gosudarstva*, ed. A.P. Al'bov (St. Petersburg: Sankt-Peterburgskii universitet MVD Rossii; Aleteiia, 1999), p. 20.
18. Chicherin, *Filosofiia prava*, pp. 65–66.
19. A.F. Losev, *Vladimir Solov'ev i ego vremia* (Moscow: Progress, 1990), p. 538.
20. The beginnings of non-classical philosophy were taking place in Europe at this time: A. Schopenhauer, S. Kierkegaard, F. Nietzsche.
21. A. Valitskii [Walicki], "Nravstvennost' i parvo v teoriiakh russkogo liberalizma kontsa XIX–nachala XX veka," *Voprosy filosofii*, 1991, no. 8, p. 34.
22. See footnote 12.

23. See M.V. Antonov, *Pravo i obshchestvo v kontseptsii Georgiia Davidovicha Gurvicha* (Moscow: Izd. dom Vyschei shkoly ekonomiki, 2013), p. 43.
24. N.S. Plotnikov and M.A. Kolerov, "Pavel Ivanovich Novgorodtsev," in P.I. Novgorodtsev, *Sochineniia*, ed. M.A. Kolerov and N.S. Plotnikov (Moscow: Raritet, 1995), p. 9.
25. P.I. Novgorodtsev, *Kant i Gegel' v ikh ucheniiakh o prave i gosudarstve. Dva tipicheskikh postroeniia v oblasti filosofii prava* (Moscow: Universitetskaia tipografiia, 1901).
26. See Novgorodtsev, "Pravo i nravstvennost'," p. 132.
27. Novgorodtsev, "Pravo i nravstvennost'," p. 132.
28. *Russkaia filosofiia prava: filosofiia very i nravstvennosti. Antologiia*, ed. A.P. Al'bov, D.V. Maslennikov, and M.V. Sal'nikov (St. Petersburg: Aleteiia, 1997), p. 8.
29. By "natural rights," John Finnis means "human rights" and "moral rights." See J. Finnis, *Natural Law and Natural Rights*, Clarendon Law Series (Oxford: Clarendon Press, 1980).
30. M.V. Khuk [Van Hoecke], *Pravo kak kommunikatsiia*, trans. M.V. Antonov and A.V. Poliakov (St. Petersburg: Izdatel'skii dom S.-Peterburgskogo gosudarstvennogo universiteta, OOO "Universitetskii izdatel'skii konsortsium," 2012), p. 7.
31. Khuk, *Pravo kak kommunikatsiia*, p. 7.
32. Khuk, *Pravo kak kommunikatsiia*, p. 28.Ibid? [English original: M. Van Hoecke, *Law as Communication*, European Academy of Legal Theory Series (Bloomsbury Publishing, 2002), p. 15.—Trans.]