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CRITICAL DIMENSIONS OF THE ‘LEGAL CULTURE’ APPROACH: THE CASE OF CLASSICAL EURASIANISM AND EURASIA’S LEGAL UNION

Abstract. This paper refers to the accurate usage of the word “Eurasian”, which is tightly connected with Russian Eurasianism, an intellectual movement that existed in the Interwar period, in the years 1921–1939.

Nowadays, the concept of “Legal Culture” is rendered banal by comparative legal thinkers, who reduce it to legal tradition or even the legal system as a social system. In contrast to these theories, the Eurasianist jurist project was mostly culture-oriented. For instance, the Eurasianist idea of Language Union, provided by Nikolai Trubetzkoy and the famous linguist Roman Jakobson, could be useful for developing a new concept of Legal Union instead of the idea of legal family. Piotr Savitzky’s notion of “Mestorazvitie”, Jakobson’s “method of linking”, and Nickolai Alekseev’s idea of “Right-Duty” could be very fruitful concepts for establishing cultural jurisprudence.

Keywords: Legal Culture, Critical Legal Theory, Classical Eurasianism, Cultural Turn, Legal Union, Legal Family, Mestorazvitie.

INTRODUCTION

Eurasia, Eurasian, Eurasianist? What do these terms really mean? Contemporary writings are often dedicated to so-called “Eurasian” legal systems or “Eurasian” legal cultures. But is this term instrumental or purely critical? Does the word “Eurasian” mean the same, as, for example, “Post-Soviet”? After the 1990s, “Eurasian” legal culture usually designates a particular area of the former USSR legal systems. Instead of focusing on geopolitics and Alexander Dugin’s views, this paper refers to the accurate usage of the word “Eurasian”, which is tightly connected with Russian Eurasianism, an intellectual movement that existed in the Interwar period, in the years 1921–1939.

According to classical Eurasianism, at the beginning of 1920s Eurasia consisted of “Russia-Eurasia” within the borders of Soviet Union. Contrary to the ideas of the Austrian geologist Edward Suess, who associated Eurasia with the northern part of the “Old World”, Europe and Asia (Suess 1882, 768), Eurasianists asserted that only Russia was the true Eurasia. Who created these “Eurasianist”

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points of view? And what does term “Eurasia” mean for them? Are there possible any Eurasianist legal explications, any critical arguments against the contemporary mainstream in legal theory or comparative law? This paper is particularly focused on answering these questions.

Classical Eurasianism was initiated by Russian émigrés in the 1921, in Sofia, Bulgaria, as an intellectual reaction to the results of the Russian Revolution of 1917, and to the First World War.

The philologist Nikolai Trubetzkoy (1890–1938)¹, the geo-economist Piotr Savitzky (1895–1968), the historian Georges Florovsky (1893–1979), and the musicologist Piotr Suvchinsky (1892–1985) became the founding fathers of Eurasianism. They declared that Russia was neither Europe, nor Asia, but a unique entity with its own boundaries and specific historical path.² In their opinion, the fateful point of Eurasia was rooted in the times of Mongolian invasion of Kievan Rus’ and the creation of the Golden Horde. According to Trubetzkoy, the Russian political system was of Mongol origin, not European. Imperial Russia was mostly Pro-European and Anti-Eurasian, and its collapse in 1917 was to be expected. In contrast, Bolshevik Russia was an ambiguous phenomenon, which combined European Marxism with an anti-colonialist and anti-Western paradigm. It is important to mention that, according to Trubetzkoy, Russia should have become a unique Eurasian Ideocracy, instead of being a decadent heir to the European Marxist paradigm.

In the 1920s, Savitzky, as an economist and geographer, stated that the western border of Russia-Eurasia was near the Pulkovo meridian line (30°19’34” east of Greenwich), running through Murmansk-Saint-Petersburg-Minsk-Odessa. This line divided the 4-element geographical space of Eurasia (tundra-taiga-steppe-desert) from steppe-less Europe. The western borders of Eurasia, according to Savitzky, were located to the east of Poland, Galicia and the Baltic countries. The southern limits were demarcated by the Caucasus, the Pamir mountains and the Amur river, while the eastern border is delineated by the Pacific Ocean. Iran, India and China were not included in Eurasia.

Being charmed or terrified by this perspective, many scholars in the 1980s–2000s dedicated their writings to the geopolitical and cultural dimensions of Classical Eurasianism. Jurists and historians have rarely devoted attention to its jural aspects. There have been several attempts to describe Eurasianist jural philosophy as a coherent system, but they were not fully relevant to the source

¹ Afterwards, Trubetzkoy, like Roman Jakobson, became a member of the famous Prague Linguistic circle and a founder of the Phonologie theory, which influenced later structuralist writings. See: Toman 1995.

² Piotr Savitzky was the first to describe Russia as unique “Eurasia”, this description appeared in his review of Nikolai Trubetzkoy’s writing “Europe and Mankind” (1920). See: Savitzky 1921.

material.³ Our task is to make it better. We will also focus on the possible impact of culture-oriented Eurasianist jural views on contemporary jurisprudence.

So, can we find some foundations of so-called Eurasian legal culture in the history of ideas or legal history? In contrast to many recent theories of so-called legal culture, the Eurasianist jural project was mostly culture-oriented.

1. BANALIZATION OF "LEGAL CULTURE"

Some legal scholars insisted that "use of legal culture presupposes homogeneity, de facto reproducing hegemony, which also explains its success as an argument to support particular legal-political projects" (Comparato 2014, 5). However, the opposite is the problem. Nowadays, the concept of "legal culture" is banalized by comparative legal thinkers, who reduce it to legal tradition or even the legal system as a social system. The famous American legal scholar, Lawrence Friedman, suggested "legal culture" as an umbrella concept, which could cover meta-jural phenomena in legal life (Friedman 1975). In his opinion, law was a product of social forces: so-called "external legal culture" was the social environment of Law. This approach was mostly connected with the Sociological Turn in jurisprudence and the theory of social systems, but not with cultural turns, e.g. the spatial, postcolonial or translational turns (See: Bachman-Medick 2016). Such a conception of "legal culture" became a stigma of social functionalism. However, some contemporary legal scholars accepted Friedman's concept of legal culture and his distinction between external and internal legal culture (Hoecke 2002, 57–58).

Even Pierre Legrand's sharp critique of the notion of legal transplants was not truly culture-oriented. He took the common schemes of the Swiss linguist Ferdinand de Saussure (1857–1913) for granted, for instance, the interconnection between the 'signifier' and the 'signified' (Legrand 1997, 118).⁴ Moreover, in some comparative cases Legrand uses legal terms in the meanings assigned by traditional legal dogma (Legrand 1996, 65–67). As a result, there are not so many paths of cultural turn here. Legal scholars often advocated the concept of culture⁵,

³ There were several attempts to describe Eurasianist jural philosophy as a coherent system. See, for instance: Böss 1961, 85–94; Isaev 1991, 203–233.

⁴ According to Legrand, interpretation of legal rules is "cultural product". "The meaning of the rule is, accordingly, a function of the interpreter's epistemological assumptions which are themselves historically and culturally conditioned. An interpretation, then, is always a subjective product and that subjective product is necessarily, in part at least, a cultural product [...] A rule does not have any empirical existence that can be significantly detached from the world of meanings that characterizes a legal culture; the part is an expression and a synthesis of the whole: it resonates [...]" (Legrand 1997, 114–115). However, I mostly agree with David Nelken's opinion, namely that legal transplant could reform not only the text, but its foundation, the culture.

⁵ "Legal culture, in its most general sense, is one way of describing relatively stable patterns of legally oriented social behavior and attitudes. The identifying elements of legal culture range from

but did not really use the culture-oriented approach in the sphere of jurisprudence. For example, the dialogical doctrine of law which was advocated by the Russian Legal Scholar, Ilya Chestnov, who developed Mikhail Bakhtin's concept of dialogue (Chestnov 2012). It incorporated some culture-oriented points, but was not coherent.

Specialists from other academic spheres tried to solve this problem. The semiotic approach of Yuri Lotman's and Victor Zhivov's writings should be emphasized. By developing Lotman's idea of Russian Culture's duality, Zhivov describes the history of Russian law through the prism of dualism between Religious and Pagan customary law, which was based on the linguistic dualism between Church-Slavic languages and Ancient Russian languages. In Zhivov's view, in contrast to the European situation, efforts were made to enforce official Russian Christian law, but it remained high-cultured and powerless, while everyday unwritten, "Pagan" rules were in force (Zhivov 1988).

These views on Russian legal culture were rather structuralist and quite orientalist in nature. So, in these circumstances, it will be fruitful to emphasize the Eurasianist impact on the cultural turn in jurisprudence. My aim is to focus on the cultural dimensions of holistic Eurasianist jurisprudence during the 1920s and 1930s, especially on its potential influence on the problem of legal culture, especially the spatial issues of contemporary legal theories in terms of cultural turns.

2. AN INTRODUCTION TO THE EURASIANIST VIEWS ON CULTURAL CONCEPTS

The mood of Eurasianism was inspired by the Russian Revolution and the post-war atmosphere caused by the crisis in European culture. This attitude affected the Eurasianist approach to "law", which was portrayed as a peculiarly European concept and phenomenon.

The historian and theologian, Georges Florovsky, was the first to address the problem of law in the Eurasianist context, in his paper "The Cunning of Ratio" ["Hitrost' Razyma"], published in the First Eurasianist Edition "Exodus to the East" ["Iskhod k Vostoku"] in 1921. Florovsky opposed the Idea of *ratio* (reason) with faith (intuition, etc.). The law referred to the realm of *ratio* and was disqualified for its European – in particular Judaic and Catholic – background. The only merit of European juristic thought admitted by Florovsky was the existence

facts about institutions such as the number and role of lawyers or the ways judges are appointed and controlled, to various forms of behavior such as litigation or prison rates, and, at the other extreme, more nebulous aspects of ideas, values, aspirations and mentalities. Like culture itself, legal culture is about who we are not just what we do" (Nelken 2004, 1).

of the German historical school of jurisprudence, with its “modest intuitionism” (Florovsky 2008, 80).

According to the statement of another Eurasianist scholar, Vladimir Ilyin, the “Western-European” idea of Natural Law had been traditionally criticized by Russian Orthodox anthropology for its formalism and individualism (Ilyin 1928, 86). However, the Eurasianist scholars Trubetskoy and Nikolai Alexeev advocated law in order to establish a Eurasianist type of rule: they sincerely wanted to come to power in Post-Imperial Russia. The Eurasianists insisted that “Ideocracy” (The Power of Ruling Idea)⁶ was the ideal type of polity in Eurasia. From their point of view, law should be an organic part of the Ideocracy. Therefore, the power of State should also be analyzed in terms of law. Further, Nikolai Alekseev emphasized that the monarch, or other sovereign, is neither absolutely entitled, nor obliged, but has a “right-duty” (“pravoobyazannost”) to rule in the Eurasianist State. Like such sovereigns, the proprietors of land are also entitled-obliged to operate with their property (Alekseev 1998, 166).

On the other hand, Eurasianists struggled for law, which had been grounded in other spheres of Eurasia's culture, inside the “Symphonic [Collective] Personality” of Big Eurasia. The latter was the main intention of Nikolai Trubetskoy. Eurasianist jurisprudence should be included in the Eurasianist macroscience project which covered such areas as Eurasianist history (Trubetskoy's and George Vernadsky's vision), Eurasianist economical geography (Savitzky), Eurasianist philology (Trubetskoy and Roman Jakobson), etc. This macroscience project resembled the “Naturphilosophie” project, the organicist system of non-Positivist disciplines, which were linked with each other (Schelling 1987, 188–189).

It is very important to describe the vision of “culture” in Trubetskoy's writings, especially in his pamphlet “Europe and Mankind” (1920), and in the paper entitled “The tops and the bottoms of Russian Culture” (1921). There we can find the description of the culture's structure, which consisted of “cultural values” (or “the inventory of the culture”); tradition as a transitional mechanism of values between generations; and “heredity” as an addition to the mechanism of tradition (Trubetskoy 1991, 38–39).

For Eurasianists, cultures (literate or non-literate, European or non-European) are equal in their uniqueness. And there is no procedural and material possibility for implanting real cultural institutes and norms (including legal) into non-European culture and westernizing it without assimilation with Roman-German people, because the recipient culture has a unique cultural basis and mechanism of value transition (Trubetskoy 1991, 62). To Eurasianists, pro-European westernization only produces chimeras (e.g. Imperial Russia after Peter the Great); Florovsky characterized these results (for example, the “Latinization of Russian

⁶ After WWII Waldemar Gurian insisted that he had borrowed the term “Ideocracy” for analysis of totalitarian regimes from the “Russian Eurasianist School” (Gurian 1964, 123).

Orthodox religion”) as “pseudomorphes” (Florovsky 1975, 165–166). According to Trubetzkoy, and anticipating Pierre Legrand’s famous thesis, if there is no real transition of cultural values and traditions, “there are no “higher” or “lower” cultures, only cultures and peoples that resemble one another to a greater or less degree” (Trubetzkoy 1991, 61).

In the Eurasianist text “On the problem of Russian self-cognition” (1927), and even earlier, Trubetzkoy focused on the problem of personality, which was emphasized as a central point in Eurasianist philosophy (Trubetzkoy 2000, 93–99). Nikolai Arapov questioned this approach in the heated debate that took place in the Eurasianist correspondence. He insisted that the central question of Eurasianism should be the problem of culture, not a concept of personality: “Nation is an environment which is defined by the unity of cultural potencies”. (Pis’mo Savitzkomu 1925, 65). Using Aristotelian terms, Arapov characterized the Nation as matter, State as form, culture as *entelecheia*, inner power, which contains goals and results from the development of the thing (e.g. to Aristotle, a soul is the *entelecheia* of an organism).

According to Arapov, the problem of Culture is revealed in the problems of form, social constructivism and nation-building. For instance, he rejected Trubetzkoy’s idea of the non-violent coexistence of equal cultures inside Eurasia: “The development of national cultures should be strictly framed by the basic principles of Pan-Eurasian culture” (Arapov 1925b, 74). The nationalism of each Nation should be balanced with pan-cultural goals. Therefore, the State is an “organization, which unites people on behalf of common (conscious or unconscious) perception of cultural goals, which are regulated (in the first case) by independent power of thought leaders; this organization takes all measures for contributing to creativity, development and dissemination of this culture” (Arapov 1925a, 1).

According to Arapov’s vision, culture symbolizes systematicity; individual personality appears inside culture as a system, and culture is prior to personality. Arapov’s sociopolitical views were culture-oriented in this special meaning: culture is a sphere where values appear. The goal of the State was to shape the life of the Nation within cultural targets. Arapov denied Trubetzkoy’s “nationalism” (the priority of the Nation over the State), because Nation was only the epiphenomenon of the State’s activity. In this perspective, law should be interpreted more in is it is in legal positivism, as a system of the State’s command, based on some cultural platform. It is interesting to compare Arapov’s views with Józef Piłsudski statement (1918): “It is the State which makes the Nation and not the Nation the State” (Hobsbawm 1987, 148). Arapov, similar to Piłsudski, was an aristocrat and a military officer, and this approach could be typical for that social class.

Karsavin interpreted the concept of culture, which was prior to all social phenomena, in a rather Spenglerian way. Culture as an expression of the

metaphysical, religious sphere, is not a number or system of values, but an organic unity. It is a very complex-structured, hierarchical order of symphonic (collective-spiritual) personalities, which in some respects is similar to the Russian doll or "matryoshka". Nation as a symphonic personality is a first individuation of culture. The ruling elite, as a second individuation, reveals the potentiality of culture in the most proper way. Law is a lower sphere, the border of culture. It is a defensive mechanism, which protects the higher spheres of spiritual life from offences and wrongdoings. Karsavin's approach to legal ideas resembles Georg Jellinek's and Vladimir Soloviev's vision of law as the "ethical minimum" (Pribytkova 2009).

Similar to Arapov and Trubetzkoy, Karsavin stressed the role of the intellectual elite in the Nation's development, which is based on cultural roots. They rejected the idea of individualistic democracy. However, Karsavin's romanticist approach to law was also culture-oriented. He emphasized the mission of "politics": it should be defined as a discipline, being focused on the culture as a coherent whole (Karsavin 1927, 174–176), whereas jurisprudence was expected to be inside "politics". Karsavin rejected the idea of sociology for its individualistic and mechanistic attitude to culture. This vision of culture has some similarities with the cultural sociology of Jeffrey C. Alexander: "This is the task of a cultural sociology. It is to bring the unconscious cultural structures that regulate society into the light of the mind" (Alexander 2003, 3–4). However, Alexander could characterize this attitude as "idealistic" and even "spiritualistic".

3. EURASIANIST VIEWS ON THE CONCEPT OF LAW

The legal views of so-called Classical Eurasianism were quite contradictory. There were several jural approaches in Eurasianism:

- Natural law views (Mstislav Shakhmatov and Vladimir Ilyin),
- Phenomenological approach (Nikolai Alexeev),
- Legal positivist views (Nikolai Dunaev),
- The "Alleinheit" theory (Lev Karsavin).

While Florovsky disagreed with the rationality represented in modern concepts of natural law, Vladimir Ilyin stated that "the Eurasianists were not enemies of the doctrine of natural law, however they tried to base it [natural law] on the religious, concrete-ametaphysical grounds of Orthodox anthropology and opposed the "enlightening" form... of natural law" (Ilyin 1928, 86).

In this work, I particularly emphasize the approach of Nikolai Alekseev, since he was the main legal scholar among the Eurasianists. Similar to the phenomenologist Adolf Reinach, Alekseev tried to establish the core of the law and the Jural System outside the system of positive law, law in acts, old customs and judicial precedents. He tried to describe this essence in the concept of "jural structure". This structure, according to Alekseev, consists of following:

- 1) a jural actor (“pravovoi sub’ekt”; “nositel’ soznaniya”);
- 2) values (“tsennosti”);
- 3) basic jural connections (“osnovnye pravovye opredeleniya”) between the actor and values, i.e., juridical rights and duties (Alekseev 1998, 73).

Thus, for Alekseev, law is the intellectual activity of the jural actor, which is performed in accordance with values (e.g. cultural values, which are ultimately based on religious foundations). The results of this activity manifest themselves in jural rights and duties. For example, if you recognize the value of human dignity, you will accept and respect someone’s dignity, therefore you have a duty to recognize his right. And you recognize this value in yourself, I realize your right, realize that you are entitled to it. These views of Alekseev resemble Hegelian argumentation. The interactive moment of law, stressed by Alekseev, is also advocated by Evgeni Pashukanis. This prominent Soviet scholar even cited Alekseev’s “Introduction to the Study of Law”, 1918 (Pashukanis 1980, 91).

I should draw attention to several similarities between the “proto-structural” Eurasianist methodology and Alekseev’s idea of “jural structure”. The concept of “jural structure” is not Eurasianist *sensu stricto*. Meanwhile, for Alekseev the “jural structure” is a “place of an encounter” between the jural actor and values. The spatiality of this “structure” is reminiscent of the views on the uniqueness of Eurasian “mestorazvitiye” (“place-development”). Eurasianists also favoured Alekseev’s refusal to reduce law to other elements. In the same way that Eurasianists rejected attempts to reduce “Eurasia” to Europe or Asia, Alekseev denied that the law could be reduced to other elements: he refused to reduce law to “the sovereign’s command”, “a form of freedom” or “social experience”. These similarities could be explained by the proximity of Eurasianist proto-structuralism and Alekseev’s phenomenological method, in both of which discovering the structure of a phenomenon, and not its causes or effects, is of paramount importance. This proximity influenced the development of Alekseev’s views within the frame of the Eurasianist movement, but his ideas did not become an applied platform for Eurasianist jurisprudence.

The limited jural individualism advocated by Alekseev was the basic cause of the contradictions in Eurasianist jural views. And there were a number of jural approaches in the Eurasianist context, which do not together form a coherent jural theory. The contradictions between the several Eurasianist jural programs suggest that it was impossible to create a uniquely “Eurasianist” jural theory. Eurasianist ideology in the field of law was not a single phenomenon, having different institutional and especially conceptual dimensions.

Nikolai Dunaev was Alekseev’s student at the Russian Juridical Faculty in Prague during the 1920s. However, he argued for some basic legal positivist axioms, for instance, a strict distinction between subjective and objective law. Dunaev criticized Petrazhitzky’s negation of private/public law dualism and, contrary to Alekseev, insisted on the independent reality of objective law (Dunaev 1931, 278–280).

However, we are still able to establish some common characteristics of Eurasianist legal philosophy. Eurasianists grounded law in the essence of religious and social-natural space (e.g. the space of Eurasia), and justified law spiritually and geopolitically. The law as a jural system reveals the principles of the higher system. They use the terms “subordinate law” and “subordinate economy” to highlight the dependence of the social systems on Christianity (Alekseev 1931, 251) and “place-development” (“mestorazvitie”) as a specific natural-social space corresponding to a particular geographical region. As a result, the following common features were identified:

1. The Geopolitical Roots of the Eurasianist Jural Doctrine. Eurasianism shares similarities with other theories: Carl Schmitt consequently stated in *“Der Nomos der Erde”* (1950) that “Nomos”, contrary to abstract “Law” (Gesetz), is strictly determined by a concrete space e.g., a certain area of land or sea. He called it the *radical title*, the title of *radius* – root (Schmitt 1974, 17). Eurasianists did not argue for geographical determinism, but they explained the dependence of basic rules on the particular space of development (“mestorazvitie”) which included social, as well as natural, space (Savitzky 1927, 28–29). We could also interpret the concept of “Mestorazvitie” (“place-development” or ‘topos-development’) in cultural terms, inside the “spatial turn”. “Mestorazvitie” is a particular socio-geographic and cultural sphere. And we should put legal norms not only inside a symbolic system of the signified and the signifier, but inside the unique day-by-day communication in a certain socio-geographical space. In the next section, I will describe the role of “Mestorazvitie” for comparative law.

2. The Orthodox Christian Roots of Eurasianist Jurisprudence. According to the Eurasianists, the law and the State have their foundations the higher spheres, not in their own existence. In contrast to Hegel and the Roman jurists, the Eurasianists did not call the State *divine*, and rejected any sort of étatistic cult: in their view the law and State are not unique, but exist only in relation to religion (Karsavin 2005, 79). The Eurasianists followed the Russian theological tradition and adopted St. Hilarion’s distinction between the law and divine grace, and Khomyakov’s line of critique of Europe for the legalization of ethical life. They insisted on the limitation of the status of State and law by Orthodox spirituality. Therefore, the Eurasianists neglected legal positivism and Kelsen’s “Pure Theory of Law”.

3. The Rejection of the Idea of the Individualistic Jural System and Individualistic rights: Khomyakov’s idea of “Sobornost” (a ‘Spiritual community of many jointly living people’) influenced Eurasianist views, especially those of Karsavin.⁷ Eurasianists turned to collectivist law and sought to refute mechanistic and individualistic thought in jurisprudence and other social sciences: these scholars tried to operate with ultra-individualistic subjects of the law, such as

⁷ “Sobornyi” as a translation of the word “Catholic”, which means, in the Slavophile’s vision, “unity in plurality”. See: Homjakov 1926, 59.

a “real collective person” (Karsavin), or a “constructed collective person” (Alekseev).

But in this framework, there could be different jural programs, which occurred in the Eurasianist Movement. This plurality was based on different meta-jural premises, including phenomenological ideas in the work of Nikolai Alekseev, who argued for legal individualism; the “*Alleinheit*” theory found in the writings of Karsavin; and a legal positivist theory in a paper by Nikolai Dunaev.

We argue that members of the Eurasianist movement held jural views which were fundamentally contradictory. Some of the views were grounded in the tradition of Russian social philosophy. The Slavophile idea of “*Sobornost*” (‘Spiritual community of many jointly living people’) influenced Eurasianist views, especially, those of Lev Karsavin. A number of authors have emphasized the unity of Eurasianist jural views and avoided the problem of the plurality of those views. We even could combine these bizarre views inside the cultural approach of law. Law is a part and an expression of cultural life, law is dependent on cultural grounds. This was a central Eurasianist thesis.

4. EURASIANIST “MESTORAZVITIE”: LEGAL UNIONS INSTEAD OF LEGAL FAMILIES

We should particularly emphasize one of the fruitful ideas of Eurasianism. It’s a well-known statement that construction of language families was very productive for establishing the differentiation between so-called legal families. The Eurasianist idea of Language Union, provided by Nikolai Trubetzkoy and his colleague, another famous linguist, Roman Jakobson, proved to be very useful for developing a new concept of Legal Union, instead of idea of legal family, because in terms of the legal-family-approach the legal systems in the family should have had one shared ancestor (judge-made English common law in the Anglo-American legal family, or the religious basis of the Islamic legal family).

In the Eurasianist perspective, a Linguistic Union is a system of languages which is localized in the single “*Mestorazvitie*” because of convergence. The latter is based on everyday co-existence and interaction. I should characterize the grounds of the Language Union as extralinguistic, because they are spatial and quite geopolitical: Jakobson’s idea of Eurasianism was affected by the geopolitical idea of Piotr Savitzky and his “United Eurasia” concept, according to which unity ought to be analyzed systematically – from historical, cultural, juridical, and, obviously, philological academic perspectives. Jakobson named this systematic approach “a method of linking” (Jakobson 1931, 5). This method could discover the similarities and parallels in many spheres of social life.

Nikolai Trubetzkoy introduced the Russian term “Language Union” (*yazykovoy soyuz*) in his Eurasianist paper “The Tower of Babel and the Confusion

of Tongues" (1923) and defined it as "group formed on a nongenetic basis" (Trubetzkoy 1991, 154). Afterwards, he used the German term *Sprachbund* at the first International Congress of Linguists in 1928, defining it as "a group of languages with similarities in syntax, morphological structure, cultural vocabulary and sound systems, but without systematic sound correspondences, shared basic morphology or shared basic vocabulary" (Trubetzkoy 1930, 17–18).

In 1931, Trubetzkoy's colleague Roman Jakobson developed his approach in order to construct the model of the Eurasianist Language Union. According to Jakobson, this Union was linked by two particular characteristics: the correlation of mild sounds ("myagkostnaya korrelaciya"), which is absent in European Roman-German languages, and non-politony (politony is widespread in the Far East). All "Eurasianist" languages (Eastern Slavic, Turkic, Finno-Ugoric, etc.), according to Jakobson, have these characteristics. Therefore, the borders of the Language Union looked like similar to the political borders of Eurasia.

The Eurasianists also asserted the existence of a Balkan language union, which could include not only Slavic, but also Albanian, Greek and Romanian languages, which in everyday communication and co-existence were creating a new language entity (Trubetzkoy 1991, 154). Using the principle of an analogy, the idea of Legal Union could cover the legal systems of Central and Eastern Europe – Poland, Czechia, Hungary, and several parts of former Yugoslavia and Romania, who due to their coexistence and cooperation, their shared experience under imperial (under Russian or Austrian ruling) and soviet past, non-reception of Roman Law (Giario 2011, 4) could establish, according to the Eurasianists, a new legal union. However, in this context, we cannot agree with the opinion that the Eurasian legal area is at the same time Eastern European, as it is in the vision of Rafał Mańko or Gianmaria Ajani (Mańko, Škop, Štěpáníková 2018, 9). For Trubetzkoy and Savitzky, "Eurasia", in contrast to Central or Eastern Europe, was a unique cultural, sociopolitical, legal and even linguistic entity.

CONCLUSION

In this context, the Eurasianist culture-oriented approach could be characterized as much more culture-oriented, with new culture-oriented vocabulary, than other well-known approaches. Savitzky's "Mestorazvitie", Jakobson's "method of linking", Trubetzkoy's "Language Union", and Alekseev's "Right-Duty" could be very fruitful concepts for establishing cultural jurisprudence. Obviously, they have proto-structuralist and essentialist roots, partly due to geographical determinism; they did not cooperate with legal culture as a sphere of contradictory and non-resistible meanings. The Eurasianist narrative is a narrative of the Modern but much less repressive than others, it is much more relevant to the key-terms of the cultural turn, like "border", "third space", "transit" and "thick description".

BIBLIOGRAPHY

- Alekseev, Nikolai. 1930. *Religiya, pravo i npravstvennost'*. Parizh: YMCA Press.
- Alekseev, Nikolai. 1931. "K ucheniyu ob 'obyektivnom prave': o normativizme v prave". In *Tridtsatye gody. Uverzhdenie evraziytsev*. Kn. 7. 221–254. Parizh: Evraziiskoye knigoizdatelstvo.
- Alekseev, Nikolai. 1998. "Obyazannost' i pravo". In *Russkii narod i gosudarstvo*. 155–169. Moskva: AGRAP.
- Alekseev, Nikolai. 1998. *Osnovy filosofii prava*. Sankt-Peterburg: Yuridicheskiy institute.
- Alexander, Jeffrey. 2003. *The Meanings of Social Life. A Cultural Sociology*. New York: Oxford University Press.
- Bachman-Medick, Doris. 2016. *Cultural Turns. New Orientations in the Study of Culture*. Berlin–Boston: De Gruyter.
- Böss, Otto. 1961. *Die Lehre der Eurasier. Ein Beitrag zur russischen Ideengeschichte des 20. Jahrhunderts*. Wiesbaden: Otto Harrassowitz.
- Chestnov, Ilya. 2012. *Postklassicheskaya teoriya prava*. Sankt-Peterburg: Alef-Press.
- Comparato, Guido. 2014. "Challenging Legal Culture". *European Journal of Legal Studies* 7(2): 5–17.
- Dunaev, Nikolai. 1931. "Pravomochie i ego vidy". In *Tridtsatye gody. Uverzhdenie evraziytsev*. Kn. 7. 255–284. Parizh: Evraziiskoye knigoizdatelstvo.
- Florovsky, Georges. 1975. "Western Influences in Russian Theology". In: *Aspects of Church History. Vol. IV in the Collected Works of Georges Florovsky*. 157–182. Belmont, MA: Harvard University.
- Florovsky, Georges. 2008. "Khitrost Razuma". In *Ishod k Vostoku*. 71–85. Moskva: Ladimir.
- Friedman, Lawrence. 1975. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation.
- Giaro, Tomasz. 2011. "Legal Tradition of East Europe. Its Rise and Demise". *Comparative Law Review* 2(1): 1–23.
- Gurian, Waldemar. 1964. "Totalitarianism as a Political Religion". In *Totalitarianism*. 119–137. Edited by Carl J. Friedrich. New York: Grosset & Dunlap.
- Hegel, George.V.F. 1978. *Filosofiya dukha*. Moskva: Nauka.
- Hobsbawm, Eric. 1987. *Age of Empire, 1875–1914*. New York: Vintage Books.
- Hoecke, Marc van. 2002. *Law as Communication*. Oxford: Hart Publishing.
- Homjakov, Alexei. 1926. "Pis'mo k redaktsii «L'Union Chretiënne» o znachenii slov 'kafolicheskii' i 'sobornyy' po povodu rechi ottsa Gagarina, iezuita". In *O cerkvi*. 57–59. Berlin.
- Ilyin, Vladimir. 1925. "K vzaimootnosheniyu pravy i npravstvennosti". *Evrasiyskiy vremennik* 4: 305–317.
- Ilyin, Vladimir. 1928. "Magnitskiy M. L. (Iz istorii evraziyskikh idey)". *Evrasiyskaya Khronika* 10: 86.
- Isaev, Igor. 1991. *Politiko-pravovaya utopiya v Rossii: Konets XIX – nach. XX v*. Moscow: Nauka.
- Jakobson, Roman. 1931. *K kharakteristike evraziyskogo yazykovogo soyuza*. Parizh: Imprimerie de Navarre.
- Karsavin, Lev. 1927. "Osnovy politiki". *Evrasiyskiy vremennik* 5: 174–239.
- Karsavin, Lev. 2005. "Tserkov', lichnost' i gosudarstvo". *Chelovek* 2: 70–82.
- Legrand, Pierre. 1996. "European Legal Systems Are Not Converging". *The International and Comparative Law Quarterly* 45(1): 52–81.
- Legrand, Pierre. 1997. "The Impossibility of Legal Transplants". *Maastricht Journal of European and Comparative Law* 4: 111–124.

- Mańko, Rafał. Martin Škop. Markéta Štěpáníková. 2018. "Carving Out Central Europe as a Space of Legal Culture: A Way Out of Peripherality?" *Wroclaw Review of Law, Administration and Economics* 6(2): 4–28.
- Nelken, David. 2004. "Using the Concept of Legal Culture". *Australian Journal of Legal Philosophy* 29(1): 1–28.
- Pashukanis, Evgeni. 1980. *Izbrannye trudy posle teorii prava i gosudarstva*. Moskva: Nauka.
- Petrzhitskii, Lev. 2000. *Teoriya prava i gosudarstva v svyazi s teoriey npravstvennosti*. Sankt-Peterburg: Lan'.
- Pribytkova, Elena. 2009. "V poiskakh èticheskogo minimuma: G. Ellinek, È. Fon Gartman, Vl. Solovyev". *Issledovaniya po istorii russkoy mysli. Ezhegodnik za 2006–2007* 8: 307–345.
- Savitzky, Piotr. 1921. "Evropa i Evraziya (po povodu broshury N.S. Trubetskogo 'Evropa i chelovechestvo')". *Russkaya mysl'* 1–2: 119–138.
- Savitzky, Piotr. 1927. "Geografichesky obzor Rossii-Evrazii". In *Rossiya – otdel'nyy geografichesky mir*. Praga: Evraziiskoye knigoizdatelstvo.
- Schelling, Friedrich. W. J. 1987. *Sochineniya v 2 toma*. T. 1. Moskva: Nauka.
- Schmitt, Carl. 1974. *Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum*. Berlin: Duncker & Humblot.
- Serio, Patrik. 2001. *Ctruktura i tselostnost': ob intellektual'nykh istokakh strukturalizma v Tsentral'noy i Vostochnoy Evrope*. Moscow: Yazyki slavyanskoj kul'tury.
- Shakhmatov, Mstislav. 1923. "Podvig vlasti". *Evraziysky vremennik* 3: 55–80.
- Strauss, Leo. 2007. *Estestvennoe pravo i istoriya*. Moskva: Vodolej.
- Suess, Edward. 1885. *Das Antlitz der Erde*. Bd. I. Prag–Leipzig: F. Tempsky.
- Toman, Jindřich. 1995. *The Magic of a Common Language: Jakobson, Mathesius, Trubetzkoy, and the Prague Linguistic Circle*. Cambridge, MA: The MIT Press.
- Trubetzkoy, Nikolai. 1930. "Proposition 16. Über den Sprachbund". In *Actes du premier congrès international des linguistes à la Haye, du 10–15 avril 1928*. 17–18. Leiden: A. W. Sijthoff.
- Trubetzkoy, Nikolai. 1991. *The Legacy of Genghis Khan and Other Essays on Russia's Identity*. Ann Arbor: Michigan Slavic Publications.
- Trubetzkoy, Nikolai. 2000. *Nasledie Chengiskhana*. Moskva: AGRAF.
- Trubetzkoy, Nikolai. 2008. *Pis'ma k P.P. Suvchinskomu: 1921–1928*. Moskva: Russkii Put'.
- Zhivov, Victor. 1988. "Istoriya prava kak lingvosemioticheskaya problema". In *Semiotics and the History of Culture: In Honor of Jurij Lotman*. 46–128. Columbus, OH: Slavica Publishers.

Archives

State Archive of the Russian Federation (GARF):

- Arapov 1925a (F. R. 5783. Op. 1. D. 193. Zametki Arapova 'o natsionalizme' [Arapov's notes 'on Nationalism']. 17 Sentyabria 1925).
- Arapov 1925b (F. R. 5783. Op. 1. D. 193. Zametki Arapova 'o natsionalizme' [Arapov's notes 'on Nationalism']. 5 Oktyabria 1925).
- Pis'ma Savitzkomu 1925 (F. R. 5783. Op. 1. D. 410. Pis'ma P.N. Savitskomu ot predstaviteley evraziyskogo techeniya po vnutri-partiynym i literaturno-izdatel'skim voprosom [Letters to P.N. Savitzky from representatives of Eurasian movement on internal-party and literature-publishing issues]. 4 Oktyabria 1925).