

## ARTICLES

### ANTI-RAWLS OR THE RUSSIAN WAY OF EURASIAN INTEGRATION

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<https://doi.org/10.17589/2309-8678-2019-7-3-12-37>

*This article examines Eurasian integration in the context of the ideas which accompany it and make possible the implementation of its practices, especially law-making and law-enforcement practices. The central theme of the article is the competition among values and social technologies claiming to play an integrating role. The starting point of this analysis is the theory of justice by John Rawls presented in the form of many interpretations thereof by legal theorists, as well as experts in the field of political and moral philosophy. It is examined based on assessments made from the standpoint of the politico-legal and socio-historical development of the West, as well as on attempts to look at this theoretical concept from a different cultural and civilizational point of view. Detailed consideration is given to the ideas and images of justice formed within the philosophical symbiosis of Confucianism and Legalism and providing a value-based legal identity of the Chinese civilization. The article shows that the ideas and values of the Rawlsian theory of justice are rooted in the political and legal history of European civilization and the dependence thereof on the philosophical and theoretical language of European enlighteners and even on the Indo-European national language family. As the main alternative to the neoliberal theory of justice, the article studies the philosophical and theoretical and politico-legal heritage of the Eurasianists. The theory of Eurasian law advanced by representatives of this movement is analyzed in depth. This type of legal relations, based on obligations, is considered as a special type of law capable of uniting heterogeneous entities without requiring their full unification or depriving them of their civilizational and value-based peculiarities. The authors analyze the real experience of*



*economic and politico-legal integration, both within the framework of international organizations and at the level of inter-governmental [inter-country] cooperation. An assessment is made of the justifiability of the claims of Eurasianist philosophy regarding its ability to successfully provide integration processes in this part of the world.*

*Keywords: theory of justice; Eurasian integration.*

**Recommended citation:** Maria Zakharova & Vladimir Przhilenskiy, *Anti-Rawls or the Russian Way of Eurasian Integration*, 7(3) Russian Law Journal 12–37 (2019).

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## Introduction

In the twenty-first century, just as previously, ideas that could form the basis for large-scale projects of socio-institutional, politico-legal, and economic transformations have always been relevant. They can be looked at in the context of geopolitics or futurology, and from the point of view of socio-cultural integration. They can determine the direction of technical, technological, scientific, innovative, moral, and value-related progress. Modern governance is impossible without ideas that can be used as a foundation for further development of society. These ideas underlie strategic planning, tactical administration, and situational responses. This is how one basic principle of rationality (characteristic of all aspects of human activity) manifests itself.

The ideas of global and comprehensive transformation of society usually maintain a certain continuity, although they undergo a constant process of adjustment or even modernization. Similarly, the Eurasian integration project, no matter how hard anybody tries to explain it through conditional (related to the state of affairs) or tactical considerations, is potentially intrinsic to the basis of the disposition of ethnic groups, territories, cultures and economies, and, in each era, it is realized with all the characteristic features of that era only.



The first Eurasian integration, which took place as far back as the prehistoric era, united huge spaces with similar geo-climatic and landscape conditions, creating a single territory along which nomadic groups of hunters continuously moved. Later, in historical times, other integration processes followed, which took the shape of caravan routes sometimes protected by periodically emerging States or whole empires. Each new technological pattern gave rise to new needs for integration, rendering all previously created structures and configurations useless. The economic needs were inevitably followed by the need for institutional and politico-legal reforms, which, each time, required a new foundation. That foundation, in one form or another, needed to correspond to the general and economic-related ethics, the values of which could make possible the integration of social entities with diverse civilizational, ethno-confessional, political and economic characteristics. The search for a modern basis for political, legal, and economic integration is being conducted in the space created by Western liberalism, on one hand, and diverse alternatives thereof, on the other. In a comparative analysis of the two competing approaches, it seems appropriate to single out their most suitable representatives. In this instance, those are the “new contract” philosophy embodied in the Rawlsian theory of justice and the concept of Eurasianism created by the Russian academics who left the country immediately after the Revolution. A comparison of the two aforementioned intellectual initiatives sets the stage for a better understanding of the prospects for integration in the Eurasian space in the first half of the twenty-first century.

### **1. The Rawlsian Theory of Justice as a New Challenge in the Philosophy of Law**

The Rawlsian theory of justice rapidly burst into the world of legal thought. “A Theory of Justice” was first published in 1971 and was promptly translated.<sup>1</sup>

Reviving the social contract theory, John Rawls (1921–2002) “ties” the concept of justice to the structure of society, which is basically reduced to its main institutions. A just society, according to Rawls, is a society capable of distributing both benefits and hardships, adversities and misfortunes, thereby correcting the natural distribution thereof. However, equal distribution is not meant in this instance, otherwise it would be Marxism. Distribution in accordance with the morals and customs rooted in the depths of centuries and sanctified by religious teachings is not meant in this instance either, otherwise it would be traditionalism. At the same time, it is no longer possible to leave everything as it is, the way it develops naturally on its own, as utilitarianism prescribes.

From the point of view of scientific studies, the proclamation of the theory of justice is not simply the creation of another theoretical construct in the sphere

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<sup>1</sup> For details see John Rawls, *Théorie de la justice* (C. Audard (trans.), Paris: Seuil, 1989).



of social studies, but also the application of one of the most common ways of radically changing the rules of the game by proclaiming a new science. The history of philosophy has seen many instances when such actions were a success; however, there are more examples of the name of a new science merely giving rise to another philosophical school or system of knowledge. Nowadays, half a century after the publication of the Rawls book, it cannot be said that the theory he proclaimed is perceived only as a special branch of knowledge. It is still being considered by political scientists, moral philosophers, and legal scholars, even though immediately after publication the book became one of the most popular treatises on the social sciences and generated a spirited debate in which many American and European philosophers took part.

Questions about what kind of political tenets, ideological preferences, and moral values were adhered to by the American theorist require special consideration. The answers to these questions are not clear from the book, as he tried to reconcile the polemicists rather than to “remove” the contradiction between their positions through a radical change in methodology, terminology, and even the way he stated the problem.<sup>2</sup> Therefore, Rawls, instead of joining the continuing discussions, managed to make the community of social scientists engage in new ones. Catherine Audard wrote:

There is a broad consensus that John Rawls’ main work, *A Theory of Justice*, revolutionized political philosophy beyond all expectations. However, the essence of this influence is not entirely clear. For example, can we consider Rawls as an adherent of “liberalism” and a typical representative of the political culture of the English-speaking society, or are we dealing with a critic of that very culture?<sup>3</sup>

“A Theory of Justice” is defined by Russian researchers as a treatise on political philosophy, although the preface to the Russian translation says that it

has a pronounced interdisciplinary character, as a work written at the junction of political philosophy, political economy, sociology and ethics, while involving the means of the modern analytical philosophy, game theory and decision theory.<sup>4</sup>

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<sup>2</sup> *Reading Rawls: Critical Studies of A Theory of Justice* XXXIV, 112–113 (N. Daniels (ed.), Oxford: Basil Blackwell, 1978).

<sup>3</sup> Catherine Audard, *Presentation*, 3(237) *Revue internationale de philosophie* 281 (2006).

<sup>4</sup> *Целищев В.В. Предисловие научного редактора / Ролз Д. Теория справедливости [Vitaly V. Tselishchev, Foreword of the Academic Editor in John Rawls, A Theory of Justice]* 5 (Novosibirsk: Publishing House of Novosibirsk University, 1995).



In a dictionary article about the American theorist, Tatyana Alekseeva drew a more interesting picture. “According to Rawls,” Alekseeva wrote,

the main subject of justice is the basic structure of society, by which he means the totality of the most important social, political, legal and economic institutions (constitution, private property, competition, market economy, monogamous marriage, etc.).<sup>5</sup>

However, later on, she also points out the importance of the “procedural method of law substantiation” used by the creator of this interdisciplinary theory.

Rawls is often treated by experts as an answer to Marxism, a long-awaited answer and an answer which, unsurprisingly, had a significant impact. The ideologies, technologies, and political doctrines that relied on Marxism looked more preferable, since their creators, in contradistinction to the speeches and actions of their opponents, declared and, to some extent, relied on, a semi-philosophical, semi-scientific theory, sometimes called scientific communism. The opponents of Marxism, on the contrary, appealed to values substantiated by tradition, religion, or the cynical ethics of utilitarianism. Rawls offered an option that seemed no less scientific than the teachings of the Marxists. Moreover, the game theory and the decision theory put forward by Rawls as methodological foundations were to illustrate that the proposed “theory” was based on the achievements of the twentieth century science, which distinguished it favorably from the outdated foundations of Marxism.

The theory of justice is not only a social technology, but an ideology as well.<sup>6</sup> Both as an ideology, and as a technology, the theory of justice should answer the questions of why some people are rich, while others are poor, some have access to resources such as wealth, power and social prestige, whereas others do not. There is another question invisibly present in this inquiry: why do some people get the opportunity to command others, who gives them this right and what for – unless such a right is appropriated through force and fear?

In the latter case, everything is clear, because those able to supply the necessary levels of force and fear can take whatever they want. However, if an unjust situation is based on deception, the fact of deception must be discovered and proved to others, and society must be convinced of it. Or, alternatively, a theory of justice has to be developed that can justify the existing order, making the distribution of wealth, power, and prestige legitimate. Marxists pointed out that any ideology is based not just on a set of ideas about how everything should be, but also on the theoretical

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<sup>5</sup> Алексеева Т.А. Роулз // Новая философская энциклопедия [Tatyana A. Alekseeva, *Rawls*, New Philosophical Encyclopedia] (May 22, 2019), available at <https://iphlib.ru/greenstone3/library/collection/newphilenc/document/HASH7c4e281e2a88a99d24187c>.

<sup>6</sup> Samuel Freeman, *Rawls* 29 (London; New York: Routledge, 2007).



expression of the interests of a particular social group, economic class, or political force. Nowadays, the presence of another important component becomes obvious in its structure and content, that is, of social technology. One may develop an ideology without asking “how,” but then one has to develop a technology for the model which already exists. This is exactly what the Bolsheviks did when deducing the ideal communism from the ideology created by them, and, thereafter, through military communism, New Economic Policy, industrialization, collectivization, and cultural revolution, they proceeded towards real communism, under which the opposite of the desired and ostensibly designed outcome was increasingly manifested. From the sought-after unity of meaning and intent, the builders of the world’s first State of workers and peasants moved on to contradistinguishing the essence thereof.

It seems that the Rawls theory of justice, as well as the earlier “protestant” ethics of Max Weber, is apologetic rather than prophetic. The similarity of their concepts is in the fact that they explore what exists, and not what is correct (*seiende* and not *Werdende*),<sup>7</sup> whereas the difference is that Weber did not use either game theory or decision theory. One might say that at that time – the last third of the nineteenth century – such theories simply did not exist. However, another explanation is possible based on the assumption that Weber himself shared the ethics derived by him from religious doctrine, or, at least, being an “unchurched” person, held a liking for such ethics. In other words, he believed in fair reward, which is confirmed by the fact that he repeatedly voiced the idea that honest work unfailingly becomes a source of money honestly earned – and quite a lot of money at that – well as by another of his ideas, according to which the desire for profit does not arise from greed but, as the saying goes, for the glory of God and out of confidence in one’s own predestination for salvation. In other words, he tries to explain why choosing one ethical doctrine over another leads to economic prosperity.

Rawls uses game theory and decision theory in order to describe a completely different world, where both prosperity and the absence thereof, are largely – if not in every respect – determined by chance. He replaced the rather deterministic theories of social progress with the conviction that a person lives in a world of chance. The Russian philosophers of the late Soviet era, as well as some of their Western counterparts, saw this as another chance to turn social studies into a positivistic science, capable of forecasting social processes, for example, predicting the future. However, in order to master the laws of creating “order from chaos,” they had to introduce the terminology borrowed from physical chemistry into the domain of the social sciences – but this only gave strength to the adherents of the synergetic method and increased their enthusiasm. The theory of justice, which was created a decade earlier, answered the questions about the individual, while avoiding both

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<sup>7</sup> *Justice, Political Liberalism, and Utilitarianism: Themes from Harsanyi and Rawls* 39 (M. Fleurbaey et al. (eds.), Cambridge: Cambridge University Press, 2008).



the collectivist optimism of the Marxists and the existentialist dramatization of human existence.

Casino frequenters know that a person who plays cannot win all the time – in fact, they almost always lose. Likewise, if life is a game, and a game where the players entrust themselves to the will of chance, there are usually only a few who prove to be lucky. A world based on luck means life in the form of a struggle for survival, that is, in a state of extreme exertion. It is hard to feel good in such a world, but it is even harder to sympathize with others, because anyone who dies around you is your unwitting savior, even if only for the time being. And when the feeling of sympathy towards a person who is facing misfortune is replaced with joy at the thought that your own life is extended as a result, the dehumanization of society destroys human nature. That is why Rawls supported what has long been the practice in the most liberal societies: the introduction of risk insurance, and then risk management. It is precisely for this purpose that game theory and decision theory are required in his constructs. It is common knowledge that decision theory is based on the maximin principle, i.e. the task of convincing an individual that this world is the best of all possible worlds. The task is an old one but the means of yet another resolution thereof are quite new and non-trivial.

Rawls retains the idea of social life rationalization, but here we are dealing with ethics based on sociology rather than sociology based on ethics. This is the similarity between Rawls and Marx. This is what allows us to define both the theory of justice and historical materialism as two social technologies. According to their concept and architectonics, these are technologies, and social technologies at that – rather than ideologies or ethical, legal, or political theories. However, we can suggest a less rigid thesis in this respect: we will consider the theory of justice as a social technology, which does not prevent us from considering it as one of political theories or moral doctrines.<sup>8</sup> In other words, let everyone remain in their chosen field of subject-matter competence, without contemplating the primacy of approaches or the substance and the attribute (characteristic).

Interestingly enough, almost simultaneously with the Rawls theory of justice, a theory of real communism arrived, the author of which, Alexander Zinoviev, deduced the structure of Soviet society from “communal relations,” where occupation of the best room, the best place in a room, or the best sun-lounger on the beach depended, *inter alia*, on chance, but not only on chance. Meanwhile, Rawls introduced new axiomatics, different from both the Marxian and the Weberian. According to Rawls, the fact that some people turn out to be poor and sick whereas others turn out to be rich and healthy, is a matter of pure chance or coincidence. In his opinion, it is not the result of rational decisions – right or wrong, correct or erroneous – as Weber,

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<sup>8</sup> John Rawls' *Theory of Social Justice: An Introduction* 520 (H.G. Blocker & E.H. Smith (eds.), Athens: Ohio University Press, 1980).



the discoverer of the spirit of capitalism who linked capitalist rationality to religious asceticism, would argue. Nor is it a consequence of someone's malicious intent, of a collective takeover of ownership of the means of production (with inevitable conversion into wealth and power), as in the case of Marx, the accuser of capitalism. It is only a chain of random coincidences and unrealized opportunities that lead some members of society to poverty, failure, or an unhappy life.

A random incident always creates opportunities which game theory and decision theory help to comprehend. Are these theories a means of prediction or is their role purely apologetic, or, strange as it may seem, therapeutic? The objective of these theories, or rather the objective of their presence in the theory of justice, can be defined as forming certain competencies that allow one to survive a difficult situation by preparing one to endure it (emotionally as well as in practice). One should always be on the lookout in order not to miss a chance, and then, if the opportunity is lost – for instance, due to “objective” unpreparedness, or sluggishness or miscalculation – one should not only lay low and wait for new opportunities but also take comfort in a theory of justice like Rawls. Could this methodology be employed by present-day Russians? It certainly could, if their lives became exactly like the lives of those on whose experience Rawls relied and with whom he, undoubtedly, identified himself.

It is worth noting that the theory of justice was advanced by Rawls not only and not so much for domestic use: the theorists of the United States that strived for, and ended up achieving, global domination have always tried to produce some universal guidelines and recipes, including ways of looking at the world, humanity, good, and evil. Since the theory discussed herein is also one such kind, few in the community of European theorists remained indifferent to it. Numerous discussions indicated that the traditional concept of justice, defined in quite a theoretical way and pertaining to the sphere of ethical knowledge, needs to be adjusted to new realities connected with its use in various social practices. It was necessary to go beyond the previous ethical and politico-legal doctrines and link the notion of justice with an understanding of social reality formed by the “new” sciences: sociology, economics, management theory, social and cultural anthropology, political science [politology], and even political technology. The author of the “Theory of Justice” does not concern himself with religious roots and humanitarian values or ancestral traditions and philosophical abstractions but rather with pragmatic issues, such as inclusion of a certain notion or concept in the structure of collective or individual action, rational choice, and so on. The concept of a contract, which is inextricably linked with an influential philosophical-legal tradition, acquires a completely different connotation in light of the above; this connotation reflects the radical changes in the mentality of American and European intellectuals, researchers, and representatives of the political and artistic elite.

Rawls' claims of universalism are being questioned in the context of the system of values of modern post-industrial societies. For example, Jan-Werner Müller pointed out that





in his work Rawls often asks us to conceive of citizens as legislators or as judges. Yet, as I have tried to show, in an important sense, they also have to be (at least amateur) historians and carriers of liberal memory. They need to understand various essentially historical facts (with, in Rawls's diction, a capital F): the Fact of Reasonable Pluralism, the Fact of Democratic Unity in Diversity, the Fact of Public Reason and the Fact of Liberal Democratic Peace.<sup>9</sup>

Other authors highlight that it is impossible to build a theory of justice in the spirit of legal normativism without recourse to historical experience. Meanwhile, the historicism of the Rawls position consists exactly in the consistent experience of the recourse of Western civilization to law application formalism. He was born into a society where the pursuit of truth and objectivity was conscious and proclaimed to be an independent value. Thereafter, the civilization not only carefully preserved that pursuit, but also developed, improved, and brought it to its present-day perfection.

To what extent has the Rawls politico-legal philosophy turned out to be suitable for a world where the diversity factor is increasingly moving to the forefront and where ideas of multiculturalism as an important integrative strategy are gaining more power? The answer to this question determines not only the choice of the path of modernization of the ideals of liberalism, but also the focus of interpretation of social as well as humanitarian values which European civilization has put forward as universal. Christian Arnsperger asks how a political t of purposeful change of the world is born from a mixture of Kant's and Hume's images of the Enlightenment:

And the answer, in a nutshell, is the following: These traditions already have, historically speaking, changed the social world immensely by affecting the very way in which liberal democracies have conceived their institutional design. A born-again Karl Marx would say that liberal democracy has undeniably been the dominant progressive force from the mid-1700s to the 1980s – it pulled societies out of the ancien régime and legitimized market interactions instead of inherited status, as well as constitutional democracy instead of autocratic rule.<sup>10</sup>

Many suggest considering the Rawls theory as a means of legitimizing the existing order. But, he himself wrote more than once that his concept is a realistic utopia, in which realism is more important than utopianism, whereas utopianism performs merely a heuristic function. However, few of his critics accepted such a construct.

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<sup>9</sup> Jan-Werner Müller, *Rawls, Historian: Remarks on Political Liberalism's "Historicism,"* 3(237) *Revue internationale de philosophie* 327, 336 (2006).

<sup>10</sup> Christian Arnsperger, *What Is Utopian About the Realistic Utopia? Relocating Rawls in the Space of Normative Proposals,* 3(237) *Revue internationale de philosophie* 285, 293 (2006).



Rather, his constructs were seen as creation of a theoretical basis for integration of various cultures, nations, and civilizations under the banner of liberal philosophy, adjusted for the widest possible reading and adaptation.

The claims of universalism of the Rawls theory of justice (and, in particular, the principles thereof) are being questioned by those who took seriously another (no less popular) theory of the twentieth century – the theory of linguistic relativity. For instance, Yael Peled and Matteo Bonotti, when discussing the effects of interpretation of the Rawls theory generated by linguistic relativity, point out its remoteness from natural languages in which – and only in which – it is possible to speak about justice. Instead, in the opinion of the aforementioned authors, Rawls uses the terms of a special philosophical language for his constructs, and such terms (such as Plato's *eidos*) can be explicated and interpreted only in the sphere of theory, and highly abstract theory at that.

Peled and Bonotti focus on two terms that play a special role both in the theory of justice and political life in general. The first is the important and, at the same time, problematic concept of *original position*. This concept takes us to the tradition of thought experiments borrowed by Thomas Hobbes (1588–1679) and John Locke (1632–1704) from their prominent contemporaries who developed the foundations of mathematical natural science. There is seemingly nothing difficult in applying the models of classical mechanics, dating back to Galileo Galilei (1564–1642) and Isaac Newton (1642–1727), in order to consider society as a kind of system, each subsequent moment of existence and development of which is predetermined by its initial state. Doing so allows one to at least reconstruct the disposition of the social contract and determine what the obligations of the parties are and how to build a justice map based thereon (if not to calculate and forecast its subsequent states, as physicists do). The second term, *public reason*, which also dates back to classical philosophical systems and has not found subsequent widespread use in everyday social practices, is also problematic. The concept of *public reason* goes back to the philosophy of Immanuel Kant (1724–1804), who wrote about the “public use of one’s mind” (*Vernunft in allen Stücken öffentlichen Gebrauch*) in his article entitled “What is Enlightenment?”

As we can see when examining the second term, the similarity with the situation generated by the concept of *original position* is absolute. Both the concept as such and the theoretical constructs based thereon go back to the intellectual history of Europe, which is inseparable from its social, political, and cultural history. As Peled and Bonotti point out, this

generates a conception of political ethics (and a theory of justice) that is more nuanced and grounded in existing political life, rather than in an abstracted moral cognition, and therefore more capable of identifying – and redressing – consequent instances of epistemic and moral bias... The conceptual infrastructure of human cooperation, particularly the type upon which the



Rawlsian notion of cooperative justice is premised, requires a fairly complex and nuanced level of semantic interaction, one that could accommodate a meaningful discussion of concepts such as “freedom,” “democracy,” and “fairness.” Such concepts, however, are not a stand-alone ethical vocabulary. Rather, they are rooted in the particularistic tradition of Anglo-American political philosophy.<sup>11</sup>

In order to support their point of view, Peled and Bonotti refer to the works of Anna Wierzbicka<sup>12</sup> and other linguists<sup>13</sup> who confirmed the Sapir-Whorf hypothesis on linguistic relativity as well as the conclusions by Willard Quine (1908–2000) on ontological relativity.<sup>14</sup> In our opinion, these arguments are not sufficient for refutation, but quite suitable for criticism. The data obtained by modern linguistics and conceptualized in modern philosophy do not mean that the creation of a theory of justice that claims to be universal is impossible for reasons of linguistic untranslatability. However, they mean that such a theory can and should be based on the historico-cultural and socio-cultural experience of more than one civilization (instead of just one – even very successful – civilization). Otherwise, both the theory itself and all the possible implications thereof will not find a response in the minds and hearts of the majority of humankind, and will not be able to become the basis for effective integration.

## **2. Old Songs About What Matters Most – the Eurasian Response to External Challenges**

In present-day Russia, the language and the technology mentioned above are partially misunderstood by the population. The social contract is still, in a sense, perceived as a vague and unclear symbol relevant to the “theoretical foundations” taught to future lawyers, but not directly related to everyday life. Rawls’ ideas cannot be realized in the Russian reality, which, just as before, is built not on formal relations and institutions, but rather on traditions, the main among which has always been

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<sup>11</sup> Yael Peled & Matteo Bonotti, *Tongue-Tied: Rawls, Political Philosophy and Metalinguistic Awareness*, 110(4) *American Political Science Review* 798, 800 (2016).

<sup>12</sup> Anna Wierzbicka, *Understanding Cultures Through Their Key Words: English, Russian, Polish, German, and Japanese* 32 (Oxford: Oxford University Press, 1997); Anna Wierzbicka, *English: Meaning and Culture* (Oxford: Oxford University Press, 2006), Chapters 4–5.

<sup>13</sup> Frederic C. Schaffer, *Democracy in Translation: Understanding Politics in an Unfamiliar Culture* 14 (Ithaca; London: Cornell University Press, 1998); Michael Freedon & Andrew Vincent, *Introduction: The Study of Comparative Political Thought* in *Comparative Political Thought: Theorizing Practices* 1, 8 (M. Freedon & A. Vincent (eds.), London: Routledge, 2013).

<sup>14</sup> Willard V.O. Quine, *The Problem of Meaning in Linguistics* in Willard V.O. Quine, *From a Logical Point of View: Nine Logico-Philosophical Essays* 47, 61 (2<sup>nd</sup> ed., Cambridge: Harvard University Press, 1953).



the tradition of distribution of power and subordination. In the Russian, Chinese, and Indian philosophies, the concept of justice is fundamentally different from the one on which Rawls relies. Justice understood as good faith honesty is appropriate for courts where testimony is given and evidence is provided. The concept of good faith is also important for concluding deals which are deemed to be fair when the intentions of the parties are clear and the possible consequences are precisely spelled out in the contract. As long ago as the 1800s, Alexander Herzen (1812–1870) called such honesty “a bill of exchange,” whereas, for Russian or Chinese culture, the concept of justice is unthinkable without love, regardless of whether it is “love for those close” or “love for those far away.” It is not by chance that, when discussing Rawls’ theory of justice, Chinese researchers compare his understanding of justice with the Confucian one, in which society and the State are like a family. As Ruiping Fan points out, the understanding of justice should be based on the distribution of duties and obligations rather than on the distribution of material values.<sup>15</sup>

Sense of duty, order, and harmony in a common cause as well as joint effort embody not only the Chinese experience, but also the social values of the Russian and Hindu cultures. This is exactly what the Eurasianists meant when writing about slyness of the mind. This is exactly what Zinoviev was referring to when he stated that Western society is built on economic efficiency, whereas the Soviet (that is, Russian or – more broadly – non-Western) society relies on communal efficiency. According to Fan, Chinese society is built on relations formed in the family and among friends, neighbors, partners, or colleagues. In these relations, equality is only a particular instance of natural hierarchies, which cannot be understood by Europeans, whose civilization was brought up in court and on the market.<sup>16</sup>

This also applies – to an even greater degree – to the rest of the Eurasian countries, the foundations of which are mainly based on a different civilizational experience in their social, political, and cultural life. For instance, Western researchers were surprised to learn that the basis of the Chinese philosophy of legalism is not worship of legislation and formal law, but what could be called the theory of effective management in modern terms.

The School of Legalists, or Legists (*Fa-Jia*), usually unites the writers involved in administrative activities and considering their ideal to be the sovereign’s people. They differ from the politicians as such. The latter primarily ensured the success of diplomatic relations. The Legalists, however, dealt with the opportunities which the state [government] can derive from its inner strength.

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<sup>15</sup> Ruiping Fan, *Social Justice: Rawlsian or Confucian? in Comparative Approaches to Chinese Philosophy* 144, 145 (B. Mou (ed.), London; New York: Routledge, 2003).

<sup>16</sup> Ruiping Fan, *Reconstructionist Confucianism: Rethinking Morality After the West* 45–69 (Dordrecht: Springer Science+Business Media B.V., 2010).



Their favorite topics were the provision of necessary facilities throughout the territory, organization of the army, economics and finance, prosperity and social discipline. While the best assistants to politicians seem to be sophists, who are hostile towards any system of traditions, administrators (or Legalists) relied on logicians (*Mingjia* [*Ming-chia*]) influenced by the idea of sustainable order.<sup>17</sup>

In this tradition, which is the backbone not only of China but also the entire region of Southeast Asia (which has experienced varying degrees of cultural and political influence), there is no place for the Rawls understanding of justice as an equitable organization of institutions with the corresponding principles of wealth distribution and making citizens equal in terms of their freedoms – especially taking into account the fact that, in Western theoretical studies, Confucianism and Legalism are opposed as competing traditions. However, in reality they have long been merged into a single complex of ideas, symbols, and technologies that underlie the experience of State-building and legal regulation. Both Confucianism and Legalism emerged more like two complementary doctrines, one of which served as axiology, whereas the other actually ended up in the role of praxeology. And, as demonstrated by China's historical experience, this praxeology was quite effective.

The period of formation of the Chinese state as a monumental system could not rely only on brute force and primitive centralized control based on common sense. Complex administrative and social technologies as well as legal regulation were needed. And all this was created by the intellectuals of the time rather than by policymakers and leaders. As Fung Yu-lan points out,

the rulers did not need idealistic programs of bringing good to people, they needed realistic methods of resolving new difficulties faced by the government. There were those who had a clear idea of a real practical policy. The rulers sought the advice of such people and, if their suggestions proved to be effective, they often became trusted advisers of the rulers, and sometimes even senior ministers. Such advisers were called *fang shu zhi shi* OR the "people of the method" because they developed the methods of governing large territories, i.e. methods which allowed the ruler to concentrate a lot of power in their hands and which were understandable to everyone. By successfully using their methods, a person of even an average mind was able to govern and to govern successfully at that.<sup>18</sup>

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<sup>17</sup> Гране М. Китайская мысль [Marcel Granet, *Chinese Thought*] 308–309 (V.B. Iordansky (trans.), I.I. Semenenko (ed.), Moscow: Respublika, 2004) (in French: Marcel Granet, *La pensée chinoise* (Paris: Albin Michel, 1968)).

<sup>18</sup> Ю-лань Ф. Краткая история китайской философии [Fung Yu-lan, *A Short History of Chinese Philosophy*] 180–181 (St. Petersburg: Eurasia, 1998) (in English: Fung Yu-lan, *A Short History of Chinese Philosophy* (D. Bodde (ed.), New York: The Macmillan Company, 1948)).



Another common mistake is the conviction that the methods of Legalism are based solely on violence and are the exact opposite of the legal practice of the West, which is based on law and freedom. Fung Yu-lan, quoted above, is convinced that Chinese Legalism is inextricably linked to the practice of totalitarianism and achieves its goals by suppressing freedom, impairing rights, and restricting human initiative. “Some of the *‘people of the method’* from the Legalist school” – Fung Yu-lan writes

went further and provided rationale and technical substantiation for their governance technique. It was they who developed the main ideas of the Legalist school. It is wrong to associate the Legalist school with jurisprudence. In modern terms, it taught the theories and the methods of organization and governance. A person who wants to organize people and to become their leader will find the theory and practice of Legalists still instructive and useful, but only if such a person wants to follow the totalitarian path.<sup>19</sup>

Meanwhile, it would be a mistake to hope that the legal norms and traditions of interpreting values in the spirit of liberal individualism will become the basis for Eurasian integration. The philosophical ideas which became widespread in Western Europe and North America can hardly be mechanically transplanted onto countries where other theories of law and justice exist. Those who managed to come the closest were the Russian Eurasianists seeking to comprehend the causes and origins of the Revolution of 1917, which, in one moment, changed the fate of a great empire and all the people therein. It was a rethinking of the possibilities of westernization by mechanically transplanting the political, economic and – most importantly – legal institutions of the West onto the social space of an empire which united very different cultures and ethnic groups. The point here is not only the fact that they are different, but also the fact that each individual group had a strong civilizational unity.

When giving a general description to the ideas of the Eurasianists, it is essential to mention that they were influenced by Russian religious philosophy and, above all, the idea of organicism applied to explanations of moral and legal phenomena. An element that in the West is considered to be only a part of the system of social customs, that is, morality, is considered the fundamental and self-sufficient imperative of the organization of individual and collective actions in the civilizations of Eurasia. The unwillingness to separate morality from law and reduce law to a formal equalization of freedoms is a fundamental attribute of the East. This was the main reason for the critical attitude to the Rawls theory in both India and China, as well as in other Asian countries, regardless of whether their civilizational self-identification is associated with Buddhism, Islam, or Christianity.

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<sup>19</sup> Yu-lan 1998, at 180–181.



Eurasianism is a heterogeneous complex of philosophical, historiosophical, and geopolitical ideas that arose among Russian émigrés who tried to see Russia's civilizational future on the ruins of a great empire and, consequently, on the ruins of the great geopolitical project, described as either Greek or Pan-Slavic. The essence of the project is the continuation of imperial expansion into the Balkans and Eastern Europe, supported by the response in the hearts and minds of the local population linked with Russia by a confessional or ethno-confessional past. This project not only created an image of the future for Russians, but also formed a system of values, symbols, and spiritual affinities that lost their relevance after the collapse of the empire. The new point of support was found not in the common ethno-confessional past, but in the experience of coexistence and joint development of various ethnic groups and confessions united geographically rather than civilizationally. A new beginning for possible integration was found not in the past but in the future, which did not rule out the search for common ground in cultures and mentality. Surprisingly, the Eurasianists were able to foresee the future of Russia, realizing the utopianism of the doctrine of world revolution, as well as the impossibility of complete and successful westernization culminating in the transformation of Russia into an organic part of the West.

The Eurasianists believed that the period of their forced emigration and their knowledge should be used to study the history of Russia and explain its historical function.

We witnessed the sudden collapse of what we called "Russian culture"... many of us were struck by how quickly and easily it happened, and many started thinking about the causes of this phenomenon

Nikolay Trubetzkoy (1890–1938) wrote.<sup>20</sup>

The titles in the first collection of works by Eurasianists give an excellent idea of their sentiment. Pyotr Savitsky (1895–1968) and Pyotr Suvchinsky (1892–1985), Prince Nikolay Sergeyeovich Trubetzkoy and Georgy Florovsky (1893–1979) express a well-defined concept, which asserts the impossibility of spreading in the vast expanses of Eurasia either the imposed-by-force Western European institutions or values that are foreign to the "Eurasian spirit." The titles of their articles speak for themselves: "Pivot to the East" and "The Strength of the Weak," "The Epoch of Faith" and "The Slyness of Reason," "The Migration of Culture" and, finally, "The Continent and the Ocean (Russia and the Global Market)."<sup>21</sup> And although the circles of Eurasianists that

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<sup>20</sup> Трубецкой Н.С. Европа и человечество [Nikolay S. Trubetzkoy, *Europe and Mankind*] IV (Sofiya: Rossiysko-bolgarskoye knigoizdatelstvo, 1920).

<sup>21</sup> Исход к Востоку. Предчувствия и свершения. Утверждение евразийцев. Кн. 1 [*Exodus to the East. Premonitions and Accomplishments. Strengthening of the Eurasianists. Book 1*] (May 22, 2019), available at <http://nevmenandr.net/eurasia/1921-isxod.php#1921-isxod-GVF-xitrost>.





emerged throughout Europe merely lasted for a decade, the ideas they proclaimed are still relevant. In today's reality, Russia's pivot to the East not only proved to be the only option, but also coincided in time with a similar global pivot. Neither the United States, nor Europe (the EU), nor even Africa and Latin America can (or want) to ignore the booming growth of Asian economies, the rapidly increasing political influence of the countries of Southeast Asia, and India, Turkey, and Pakistan.

And here a difficult question arises: what ideas, what intentions, and what values should be used as a basis or guidance for the path towards integration between Russia and the East. The experience of the Eurasianists in this respect is unique. The values substantiated by the Eurasianists, as well as the denial of the type of rationality established in Europe (mistakenly equated with rationality), are based on the richest experience of cultural and spiritual searching.

When assessing the Eurasianist heritage of the past and the present, it is important to distinguish between Eurasianism in the context of ideology and Eurasianism in the context of specific practices of its implementation.

### **2.1. Eurasian Integration – Ideas**

Eurasianism is a special kind of movement – a multidisciplinary movement which was formed by representatives of different spheres. Ethnologists, geographers, linguists, historians, and lawyers took part in the development of the concept of Eurasianism.<sup>22</sup> The ideas of Eurasianism influenced the great composers Sergey Prokofiev (1891–1953) and Igor Stravinsky (1882–1971).<sup>23</sup> According to some experts, the forerunner of the Eurasianist worldview was Alexander Pushkin (1799–1837), who claimed that the explanation of the history of Russia “requires a different formula” than the “formula of the West,” and Alexey Khomyakov (1804–1860), who was the first to come forward with an extensive criticism of the Georg Hegel (1770–1831) Eurocentric philosophy of history in his “Notes on World History” and to show the independent religious and cultural significance of the Eastern cultures in the history of the world, as well as Nikolay Danilevsky (1822–1885), who asserted the uniqueness of Russia as a civilization.<sup>24</sup>

In order to understand the diverse palette of the Eurasian direction of ideological movement, it seems appropriate to look at it from a genetic and historical perspective.

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<sup>22</sup> Люкс Л. Евразийство и консервативная революция. Соблазн антизападничества в России и Германии // Вопросы философии. 1996. № 3. С. 59 [Leonid Luks, *Eurasianism and the Conservative Revolution. The Temptation of Anti-Westernism in Russia and Germany*, 3 The Matters of Philosophy 57, 59 (1996)].

<sup>23</sup> Katerina Levidou, *The Artist-Genius in Petr Suvchinskii's Eurasianist Philosophy of History: The Case of Igor' Stravinskii*, 89(4) *The Slavonic and East European Review* 601 (2011).

<sup>24</sup> Маслин М.А. Евразийство как идейное течение: истоки и границы // Лев Николаевич Гумилев и современное евразийство [Mikhail A. Maslin, *Eurasianism as an Ideological Movement: Sources and Boundaries in Lev Nikolayevich Gumilev and Modern Eurasianism*] 21 (Moscow: Peoples' Friendship University of Russia, 2013).





From this point of view, three classic stages are distinguished in the development of this direction:

(1) The first, initial, stage (1921–1925) takes place mainly in Eastern Europe and Germany. In the “Eurasian Chronicles,” published in Berlin in 1923, we read:

Eurasianism began with thoughts on the straightforward catastrophic nature of what was happening... on the paths of self-awareness, Eurasianism is, first and foremost, an expression of personal spiritual experience... Eurasianism is an ideology based on such experience... the content of Eurasianism was not found in books or inspired by spiritual movements of the past, it was given by life itself.<sup>25</sup>

(2) The second stage (1926–1929) is mostly connected with Paris. The hub for the heralds of this ideological direction was the *Eurasia* newspaper (published in Paris in 1928–1929). Two key works of Eurasianism were also published during this period: in 1927, George Vernadsky (1887–1973) produced “Outline of Russian History,”<sup>26</sup> containing a brief overview of the foundations of the Eurasian concept of the history of Russia put forward by him and, in 1926, the Eurasianists’ program document – “Eurasianism: Experience of Systematic Presentation” – was presented to the public. The document defined Eurasia as a special continent, as a place of development of a peculiar cultural world which first appeared as a whole in the empire of Genghis Khan (1162–1227). According to the Eurasianists, the Mongols formulated the historical task of establishing Eurasia, marking the beginning of its political unity and the foundations of its political system.<sup>27</sup>

(3) In the third stage (1930–1939), after a series of deep crises and fundamental schisms, the movement waned. In many ways, the crisis was due to a lack of unanimity in the points of view on the essence of the politico-legal processes among the original allies in the Eurasianist camp. Some Eurasianists (in particular, Pyotr Suvchinsky) were coming closer to Marxism, whereas others (Nikolay Trubetzkoy and Pyotr Savitsky) believed that Eurasianism was incompatible with Marxism, which should be only an object of analysis (among other things, in order to clarify the reasons for its meaning and success in order to take this into account in an independent Eurasian structure).

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<sup>25</sup> Евразийский временник. Кн. 3 [*Eurasian Chronicles. Book 3*] 5–6 (Berlin: Evraziyskoye knigoizdatelstvo, 1923).

<sup>26</sup> For details see Вернадский Г.В. Начертание русской истории [*Georgy V. Vernadsky, Outline of Russian History*] (Prague: Evraziyskoye knigoizdatelstvo, 1927).

<sup>27</sup> For details see Евразийство. Опыт систематического изложения // В поисках своего пути: Россия между Европой и Азией: Хрестоматия по истории российской общественной мысли XIX–XX вв. [*Eurasianism: Experience of Systematic Presentation in Searching for Its Own Way: Russia Between Europe and Asia: Anthology on the History of Russian Social Thought of the 20<sup>th</sup>–21<sup>st</sup> Centuries*] 580–588 (N.G. Fedorovsky (comp.), Moscow: Logos, 1997).



A prominent representative of Neo-Eurasianism is Lev Gumilev (1912–1992). He who introduced the passionary theory<sup>28</sup> and the study of the influence of the biosphere on the processes of ethnogenesis into Eurasianism. Ethnicity for him “is the process of adapting to a particular landscape.”<sup>29</sup> The spiritual culture of the Eurasian nations in Russia, according to Gumilev, is merged into a rainbow network of a single superethnic community.

The following declaration of the Eurasianists became widespread:

The Russian people and the people of the “Russian world” nations are neither Europeans nor Asians. Merging with the native environment of culture around us, we are not ashamed to declare ourselves Eurasians.<sup>30</sup>

The Eurasianists introduced the idea of the state of obligation which will seem alien to the people of the Western world. The Eurasianist philosophy is based on the opposition between the organicist, holistic approach to society and history characteristic of the East, and the mechanistic, “atomic,” “individualistic,” “contract” approach characteristic of the West.<sup>31</sup>

When suggesting a unique path for Russia’s development, the representatives of Eurasianism aspired to have their theory include a certain level of universalism. In this respect, Savitsky pointed out that

[t]he ideas of total unity of humankind based on free will [*vsechelovechestvo*] put forward by Russian literature, especially Dostoevsky, should get scientific substantiation... Eurasianism clearly indicates the way to do so... for us, the path to creative scientific universalism lies in the cognition of Russia-Eurasia peculiarities and differences... comprehending that which is our own, we are laying the foundations for a comprehension of that which is common... by performing specific tasks, we grow towards fulfilling universal tasks.<sup>32</sup>

<sup>28</sup> According to Gumilev, “passionarity” means the insurmountable inner aspiration of some individuals for purposeful activity always associated with a change in environment (social or natural) when achieving the set goal (often illusory or destructive for the individual) seems more valuable for them than even their own life. *Гумилев Л.Н. Этногенез и биосфера земли* [Lev N. Gumilev, *Ethnogenesis and the Biosphere of the Earth*] 260 (Moscow: MISHEL i K, 1993).

<sup>29</sup> *Гумилев Л.Н. Заметки последнего евразийца // Наше наследие. 1991. № 3. С. 9* [Lev N. Gumilev, *Notes of the Last Eurasian*, 3 Our Heritage 9 (1991)].

<sup>30</sup> *Евразийская хроника. Вып. VII [Eurasian Chronicle. Issue VII]* 43 (Paris, 1927).

<sup>31</sup> Vladimir Przhilenskiy & Maria Zakharova, *Which Way Is the Russian Double-Headed Eagle Looking?*, 4(2) *Russian Law Journal* 6, 14 (2016).

<sup>32</sup> *Савицкий П.Н. Научные задачи евразийства: Статьи и письма* [Pyotr N. Savitsky, *Academic Tasks of Eurasianism: Articles and Letters*] 116 (Moscow: Alexander Solzhenitsyn House of Russia Abroad; Vikmo-M, 2018).



In our opinion, certain individual representatives of Eurasianism went to extremes. For example, Suvchinsky basically rejected the idea of democratic institutions for the Eurasian world. He wrote that there is nothing more intrinsically non-Russian, comprehensively erroneous, and stylistically false than all the Dumas of the Tauride Palace, which led to a logical end, that is, the dissolution of the Constituent Assembly. In his opinion, the ideal form of government was an ideocratic state where “understanding the guiding value of an idea” would reign, with the result that it would not be for Eurasia to copy the Western politico-legal patterns, but that Eurasia itself would become – for the new European generations – a new West, where the problems of new statehood would be solved or raised.<sup>33</sup>

Certainly, the aforementioned non-trivial views of Eurasianists were bound to give rise to a large-scale discussion. Illustrative in this regard are the memoirs of General Alexey Alexandrovich von Lampe (1885–1967), who described the public response to Eurasianists’ lectures as follows:

I attended the lectures by Eurasianists, Savitsky spoke with great enthusiasm... As many as ten people took part in the panel discussion – only two of them supported the arguments, while the rest opposed. Meanwhile, I did not see such a full audience in Berlin even at a time when there were a lot of people here.<sup>34</sup>

Among the critics of Eurasianism were political figures and representatives of the academic community. For instance, a convinced Europeanist, cadet Pavel Nikolayevich Milyukov (1859–1943) argued, as early as when writing his magister thesis (1892), that

[t]he Europeanization of Russia is not a product of borrowing, but the inevitable result of internal evolution, which is the same in principle for Russia and Europe, but only delayed by environment.<sup>35</sup>

Ivan Alexandrovich Ilyin (1883–1954) also spoke “against” Eurasianism. He discoursed on the main Eurasianist idea of bringing Russia closer to the East in his usual metaphorical terms:

After mimicking the West it is, certainly, only natural to start immediately mimicking the East. Isn’t it? After all, the issue of spiritual uniqueness [identity]

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<sup>33</sup> Евразия, 1 декабря 1928 г. [Eurasia, 1 December 1928].

<sup>34</sup> ГАРФ. Ф. 5853. Оп. 1. Д. 19. Л. 115 [The State Archive of the Russian Federation, Fund 5853, List 1, Case 19, Page 115].

<sup>35</sup> Милуков П.Н. Воспоминания [Pavel N. Milyukov, *Memories*] 105 (Moscow: Politizdat, 1991).



is a matter of geographical and ethnographic disappearance. But why cannot we do without imitation? Does not uniqueness [identity] mean to be one's true self in the face of God instead of being someone else's reflection and distortion... Why are we looking exactly at Asia, why are we looking eastward? ... How do we know that the West has destroyed us rather than our own, inept imitation?<sup>36</sup>

The Eurasianists suggested a Third Way for Russia – the so-called conservative revolution. They were rightly named the “Slavophilic futurists.” And the future that the Eurasianists wrote about became reality. To what extent did it prove the ideas of the Eurasianists of the early to mid-twentieth century right or wrong? On one hand, as we have mentioned in earlier publications with regard to national law, the Russian legal system of the past and the present represented and continues to represent a synthetic formation where one can see “the Chinese trace, the French Track and Other ‘Milk’ for the ‘Russian Coffee,’”<sup>37</sup> and even the Anglo-American lactose.<sup>38</sup> In the course of the entire twentieth century no special Eurasian model of a civil code was created, not in Russia nor in other countries (or regions) of Eurasia – the Eurasian population uses the Pandectian institutional civil law systems inherited from Roman law. No Eurasian model of civil and criminal proceedings, special Eurasian connecting factor, or even Eurasian citizenship was put forward. On the other hand, when it comes to integration law, Eurasianist practices have clearly found points of evolutionary growth. What are they?

## **2.2. Eurasian Integration – Practices**

First, Eurasian integration practices manifested themselves in the emergence of a special phenomenon at the turn of the twenty-first century – that of *Eurasian law*. Eurasian law governs the set of social relations between Eurasian States during the creation and dissolution of regional associations, interaction of regional associations with their members, cooperation between the countries within the framework of the regional associations created by such countries in various spheres of relations driven by their goals, as well as the interaction of regional institutional structures within a specific association.<sup>39</sup>

According to foreign authors, in this instance Russian political leaders have actively used the Eurasian idea – on one hand, to legalize the regional order, one

<sup>36</sup> Ильин И.А. Самобытность или оригинальничанье? // Начала. 1992. № 4. С. 61–62 [Ivan A. Ilyin, *Uniqueness or Trying to Be Original?*, 4 *Nachala* 59, 61–62 (1992)].

<sup>37</sup> Przhilenskiy & Zakharova 2016, at 20.

<sup>38</sup> *Id.* at 23.

<sup>39</sup> Курбанов Р.А. Современные тренды региональной интеграции и формирование евразийского права // Интеграционные процессы в Европе и Евразии: роль конвенций Совета Европы: Сборник [Rashad A. Kurbanov, *Current Trends in Regional Integration and the Formation of Eurasian Law in Integration Processes in Europe and Eurasia: The Role of the Council of Europe Conventions: Collected Book*] 60, 72 (Moscow: Razvitiye pravovykh sistem, 2017).



of the central components of which is Russia, and, on the other hand, to protect this order from the foreign-policy-related, and economic, ambitions of the global neoliberal order led by the United States.<sup>40</sup>

At the heart of Eurasian integration – in addition to political, geographical and civilizational aspects – lies the idea of the New Great Silk Road proposed by China. It should weaken the transatlantic and transpacific projects of the American economic hegemony and concentrate part of the Eurasian resources and markets around China. The economic “belt” implies extensive construction of infrastructure in Eurasia for development of a transportation corridor from the Pacific Ocean to the Atlantic Ocean, including via the Northern Sea Route. The formation of a marine (offshore) Silk Road between China, West Africa and Europe is also expected. The onshore and offshore Silk Roads should be effectively protected by regional and interregional security systems. The Silk Road project involves the countries of Central, South, and Southeast Asia as well as Africa, the Middle East and Europe.<sup>41</sup>

The doctrinal basis for the emergence of Eurasian law was the widespread dissemination of the “new regionalism” concept,<sup>42</sup> replacing the concept of “old regionalism” which existed in the “bipolar world” period.

Several key characteristics of the “new regionalism” have been identified: intensity, diversity of spheres, a multi-vector as well as a multi-format nature, and, finally (and most importantly), the transformation of the term “region” to something formed not only on a geographical, but also on a functional basis (that is, between countries located in different regions but having common foreign-policy/foreign-economy doctrines).<sup>43</sup>

The manifestations of Eurasian integration law are diverse. The following groups of Eurasian associations can be singled out:

(1) Associations involving the Russian Federation which lay the foundation for the emerging architecture of Eurasian integration: the Eurasian Economic Union (EAEU), the Union State of Russia and Belarus, the Shanghai Cooperation Organization, the BRICS, the RIC,<sup>44</sup> and the RCM<sup>45</sup> summits;

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<sup>40</sup> Лэйн Д. Евразийская региональная интеграция как ответ нелиберальному проекту глобализации // Мир России. 2015. № 2. С. 6–27 [David Lane, *Eurasian Integration as a Response to Neo-Liberal Globalisation*, 24(2) *Universe of Russia* 6 (2015)].

<sup>41</sup> Журавлев В.Е. Геополитические аспекты евразийской интеграции // Вестник науки и образования. 2015. № 10(12) [Vitaly E. Zhuravlev, *Geopolitical Aspects of Eurasian Integration*, 10(12) *Bulletin of Science and Education* (2015)] (May 22, 2019), available at <https://cyberleninka.ru/article/n/geopoliticheskie-aspekty-evraziyskoy-integratsii>.

<sup>42</sup> For details see Walter Mattli, *The Logic of Regional Integration: Europe and Beyond* (Cambridge: Cambridge University Press, 1999).

<sup>43</sup> Kurbanov 2017, at 62.

<sup>44</sup> Russia-India-China Summit.

<sup>45</sup> Russia-China-Mongolia Summit.



(2) Associations involving the Russian Federation (organizations or regions of the Russian Federation) which constitute regional platforms for implementation of various important initiatives: the Organization of the Black Sea Economic Cooperation (BSEC), Caspian Summit,<sup>46</sup> Eurasia Islamic Council,<sup>47</sup> and the Joint Administration of Turkic Culture and Art (TÜRKSOY),<sup>48</sup>

(3) Associations not involving the Russian Federation which are focused on integration with the EU countries and the U.S.: the Organization for Democracy and Economic Development,<sup>49</sup> and the EU Eastern Partnership initiative;<sup>50</sup>

(4) An association not involving the Russian Federation, but involving the former Soviet republics which are partners of the Russian Federation in other Eurasian organizations: the Cooperation Council of Turkic Speaking States;<sup>51</sup>

(5) Organizations of Eurasian countries in issue-specific areas of cooperation in particular, the Eurasian Patent Organization;

(6) Inter-parliamentary associations, some of which operate within the framework of existing regional associations: Meetings of Speakers of Eurasian Countries Parliaments, the Parliamentary Assembly of the Belarus-Russia Union State.<sup>52</sup>

Special attention must be paid to two of the fastest developing organizations referred to above, which also have the most pronounced multi-sphere potential, that is, BRICS and the Eurasian Economic Union.

In previous publications we noted that:

First, the BRICS boat has been successfully set afloat. Over the course of its journey thus far, it has set in motion a number of actions towards strengthening cooperation among its passengers, the five countries of the bloc of regional leaders, building up both the quantitative segment (we refer, in particular, to the accession of South Africa to the BRIC group in 2011) and the qualitative segment of integration (the creation of the New Development Bank of the BRICS countries based on the Fortaleza Agreement);

Second, the prospects of the BRICS boat remaining successful and afloat upon the treacherous waterways of global politics, economics and law are not yet clear. According

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<sup>46</sup> Russia-Kazakhstan-Turkmenistan-Iran-Azerbaijan Summit.

<sup>47</sup> Since 1995, the Council has been convened by the Turkish Directorate for Religious Affairs and supervised by the President of the Republic of Turkey. Topical issues are discussed by more than 120 muftis and imams from 33 countries, including Russia, Azerbaijan, Belarus, Bulgaria, Georgia, Croatia, Kazakhstan, Montenegro, Turkey, Sweden, Germany, Belgium and France.

<sup>48</sup> The following constituent entities of the Russian Federation joined the organization as observers: the Altai Republic, the Republic of Bashkortostan, the Republic of Sakha (Yakutia), the Republic of Tatarstan, the Tuva Republic, and the Republic of Khakassia.

<sup>49</sup> Established in 1997. Its member countries are Georgia, Ukraine, Azerbaijan and Moldova.

<sup>50</sup> A European Union project with the stated main goal of developing integration relations between the EU and six FSU countries: Ukraine, Moldova, Azerbaijan, Armenia, Georgia, and Belarus.

<sup>51</sup> Kyrgyzstan, Azerbaijan, Kazakhstan, and Turkey.

<sup>52</sup> Kurbanov 2017, at 69–71.



to expert assessments, we can anticipate several different scenarios for the BRICS' future: (1) the BRICS is amorphous and its creation is only a fantasy of economic journalists; (2) a rapidly progressing China drops out of the BRICS; (3) the BRICS is expanded; (4) the BRICS goes on to exist in the declared form of a five-member bloc.<sup>53</sup>

With regard to the Eurasian Economic Union, it should be noted that this is the largest economic union in the world, covering an area of more than 20 million square kilometers. It replaced the EurAsEC, which existed for 14 years, and managed to bring the Eurasian integration project to a totally new level, opening broad prospects for the economic development of its member countries. According to the estimates of the former President of Kazakhstan, Nursultan Nazarbayev, the cumulative effect of expanding the integration within the framework of the EAEU may reach about \$900 billion by 2030.<sup>54</sup>

In contrast, the EAEU specifies the areas for legal harmonization and unification and does not mention labor law among them. The EAEU Treaty limits the coordination of labor law systems of its Member States to the free movement of labor, cooperation on the issues of labor migration, and basic labor rights of workers.

At the same time, in our opinion, the technical and legal potential of the EAEU Member States in terms of harmonization of their labor legislation is much higher because their existing legal systems are closer to each other than, for instance, the original laws of the EU Member States. Because the national systems of labor law in the EAEU Member States are more homogeneous than in the EU, there is no technical problem with creating common labor legislation for the Eurasian region which could be more coordinated and consolidated than EU labor legislation. All the systems of labor law of the EAEU countries belong to the same family and, theoretically, can be harmonized easily. Within the framework of this harmonization process, some common flaws in legislation can be corrected and best practices of other countries, as well as international labor standards, can be adopted.

However, one can talk only about the potential impact of the EAEU on the labor legislation of its member states because this aspect of the integration process is at an early stage, and the current political trends render its future development prospects far from clear.

Thus, the growth points for future Eurasian integration exist, and the labor law case only confirms this general trend. However, in each individual instance, any

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<sup>53</sup> Maria Zakharova & Vladimir Przhilenskiy, *Experiences of Legal Integration and Reception by the BRICS Countries: Five Passengers in a Boat (Without a Dog)*, 5(2) BRICS Law Journal 4 (2018).

<sup>54</sup> Володин В.М., Кафтулина Ю.А., Русакова Ю.И. Перспективы функционирования Евразийского экономического союза и возможности его расширения // Известия высших учебных заведений. Поволжский регион. Общественные науки. 2015. № 1(33). С. 280 [Viktor M. Volodin et al., *Prospects for the Functioning of the Eurasian Economic Union and the Possibility of Its Expansion*, 1(33) *News of Higher Educational Institutions. Volga Region. Social Sciences* 276, 280 (2015)]; Nikita Lyutov & Svetlana Golovina, *Development of Labor Law in the EU and EAEU: How Comparable?*, 6(2) *Russian Law Journal* 93, 94–95 (2018).





new vectors of cooperation between the countries participating in the integration formation should be functionally justified and doctrinally verified to the maximum extent possible. In the former instance, it is not only a matter of legal justification, but also a matter of social, economic and value-based justification.

As we can see from the aforementioned points of politico-legal doctrine, the most obvious areas of Eurasian cooperation are geopolitics and economics (and at the moment Russia finds possibilities for active actions in each area). Therefore, we agree with Alexander Bykov, who concluded that Russia, being located in the center of Eurasia, on the shortest land and maritime routes between the West and the East, and, at the same time, possessing about 20% of the Earth's natural resources while having less than 2% of Earth's population, acts as a force encouraging joint and mutually beneficial use of these resources with our powerful neighbors who lack such resources, while simultaneously running the risk of losing them in course of growing global competition for these increasingly scarce resources.<sup>55</sup>

### Conclusion

Eurasianism is an ideological movement that emerged during crucial years for Russia. The heralds thereof, using both the past practices of traditional civilizational identification of Russia, and the geopolitical determination of its central place on the political map of the world, created a fundamentally unique politico-legal system.

In its capacity of an ideology, it contrasted sharply with the Rawlsian point of view on the essence of maxims such as justice and social contract. While the concept put forward by Rawls became, to some extent, an embodiment of the American national idea, with regard to Russia this concept can hardly be considered as accurate.

The Eurasians entered the history of the global politico-legal thought as "Slavophilic futurists." In part, the future confirmed the conclusions and hopes of the Eurasianists of the early twentieth century – integration on Eurasian soil took place. However, the point of its application was not national law (as we pointed out earlier, no special Eurasian model of the civil code was created, and no Eurasian model of the civil and criminal process, Eurasian connecting factor or even Eurasian citizenship was proposed) but integration law. Today we can speak of multi-vector Eurasian integration formations, whether involving the Russian Federation or not, at the level of the member-countries of the Eurasian region or at the level of inter-parliamentary cooperation, and integration formations with a universal domain of cooperation or with narrow issue-specific areas of cooperation. We believe that, in future, Eurasian integration law will find a new empiricism and new manifestations.

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<sup>55</sup> *Быков А.Н. Перспективы евразийской интеграции: российские и зарубежные оценки // Российский внешнеэкономический вестник. 2013. № 4. С. 20 [Alexander N. Bykov, *Prospects for Eurasian Integration: Russian and Foreign Assessments*, 4 Russian Newsletter on Foreign Economy 14, 20 (2013)].*





## Acknowledgments

The research was funded by the Russian Science Foundation of Research Project No. 19-18-00517.

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