The Philosophy of Law and Legal Science

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By

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Translated from the Russian by Ekaterina Lyashko

Cambridge
Scholars
Publishing

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This book first published 2018

Cambridge Scholars Publishing

Lady Stephenson Library, Newcastle upon Tyne, NE6 2PA, UK

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library

ISBN (10): 1-5275-0614-2
ISBN (13): 978-1-5275-0614-5

The book is devoted to various actual problems of philosophy and philosophy of law. It discusses the problem of monism-pluralism in philosophy and philosophy of law, criticizes the philosophy of postpositivism and postmodernism, and invites a return to dialectics as a universal global methodological basis for scientific cognition.

On the basis of dialectics, this book deals with law. It explores the subject of philosophy of law, ontology and epistemology of law, methodology and content of law, legal consciousness and its deformation, problems of legal science and their solutions, legal progress, and so forth. It substantiates the theory of comprehending the study of law. It proposes new ideas and suggestions.

This monograph is addressed to researches in the field of philosophy and philosophy of law, lawyers, teachers, postgraduates, students, and also everyone who is interested in problems in philosophy and law.

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INTRODUCTION

The present monograph continues a series of our works on philosophy and philosophy of law.

Law is inconvincible without philosophy. From philosophy comes the concept of law, of the legal being, of the state, of justice. The majority of philosophers, beginning in ancient times, in their works necessarily dealt with questions of law, the legal regulation of social relationships, and legality. Suffice it to say, the origins of this philosophy in contemporary Russia lie in the theory of natural human rights, leading from philosophers such as B. Spinoza and J. Locke. Earlier, in the USSR, a very different philosophy held sway, in accordance with which the idea of right was not the same: according to V.I. Lenin, right was understood as the will of the ruling class, built in law.

Thus it is necessary to admit that until now neither philosophers nor lawyers have come to even a general understanding of law. Law is also influenced by philosophy—already contemporary philosophy has a characteristic indeterminacy.

That's why our philosophical-legal research began with a consideration of actual problems of philosophy and was based on formulated conclusions that appealed directly to law and philosophy of law. Furthermore, in this book special attention is paid to contemporary legal education and solutions to these questions are proposed.

Working on this monograph, we conducted sociological research in Russia and abroad on law, legal progress, and legal consciousness and its deformation. The results of the research we think will be interesting to professionals.

We would like to express our gratitude to the famous scientists and statesmen D.A. Kerimov, V.V. Korabelnikov, and A.A. Korolkov for attention to our work and its positive assessment.

We hope, that this book will generate interest among specialists in philosophy and philosophy of law, lawyers, teachers, postgraduates, students, and also among everyone who is interested in problems of philosophy and law.

S.I. Zakhartsev
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CHAPTER ONE

PHILOSOPHY: PARTICULAR PROBLEMS

§ 1. The problem of monism-pluralism in philosophy

The relationship of many Russian citizens to the USA and European countries is internally contradictory. This contradiction is related to the issue that these countries, traditionally perceived as enemies of Russia, have encroached on its integrity, independence, and wealth. However, the majority of our citizens sincerely believe that Western countries are more developed economically, technically, socially, and scientifically. In other words, Russia is still far away from the West. The slogan "Catch up and overtake America!" is known by all citizens of Russia since childhood. But the slogan by itself is meaningless, because it isn't really clear what catching up means—according to what indicators, where, and, most importantly, why?

Nevertheless, the indicated contradictions contribute to the attempts of Russia to adopt Western culture, values, education, technical achievements, and experience. Such processes periodically affect all spheres of life, art, and science.

At the end of the twentieth century, these processes directly affected philosophy. Western and Soviet philosophy always had significant differences. Let us name some of them. The Soviet philosophical school was based mainly on a materialistic platform. In Western philosophy there was a variety of influences from idealism, positivism, anarchism, utopianism, and so on. Domestic philosophy was directed to achieve results. Western philosophers were oriented more toward the impossibility of knowing the truth, but also had a greater focus on humans—knowing them and their actions. Domestic philosophy had a monotheoretical character, while the West agitated for pluralism. These differences became the basis for various areas of twentieth-century world philosophy, much of which interweaved the most interesting aspects of philosophies of science.

Speaking objectively, both Western and Soviet philosophers have reached great heights in the twentieth century. Many works have been prepared that have left an appreciable trace in the philosophical thoughts of humanity. Soviet specialists came from the idea that the world is knowable. The indicated message, which was based on the dialectical method of cognition, was a platform for Soviet philosophical thought. Western thinkers, in contrast to dialectical monism, worked on the pluralism of ideas.

Today, all foreign scientific works are available to Russian philosophers. At the same time, foreign scientists can fully familiarize themselves with the achievements of the Soviet scientific school.

What happened as a result? Ideas put forward by foreign scientists were in demand in Russia. However, the works of Russian thinkers were not absorbed or leveled, and previous ideas were not refuted, contrary to the expectations of some Western scientists. On the contrary, the philosophical problem of the relation of monism to pluralism as competitive philosophical ideas was escalated. About this problem, we have written in works on philosophy of law.[1]

In 2010 in St Petersburg, traditional philosophical readings were held. Among the published philosophical articles, we really liked the work of V.P. Ogorodnikov, which was devoted to the indicated question.[2] We agree with V.P. Ogorodnikov, taking into account that for the content of this book the problem of monism-pluralism in philosophy has a special significance—so let's stay on that subject and consider it in more detail.

As is well known, according to pluralist (lat. *pluralis*, "plural") philosophy, reality consists of many independent beings that do not form an absolute unity. Pluralism is atomism (understood in the absolute sense) and monadology. It is believed that the term "pluralism" has its origin in the work of H. Wolf. Contemporary Western philosophy rejected monism and is pluralistic on its own. It recognizes many independent, often separate beings, determined entities, and "layers of existence."[3]

Monism (from Greek *monas*, "uniqueness") is a doctrine concerning unity. H. Wolf primarily defined monists as those who only recognize one

[1] S.I. Zakhartsev, "Law and Truth," in *World of Politics and Sociology* 9 (2012), 146–52. S.I Zakhartsev, *Some Problems of Theory and Philosophy of Law*, M. (2014).

[2] V.P. Ogorodnikov, "Monism and Pluralism as Competitive Ideas in Philosophy of Science," *Philosophy of Science: Perspectives of Development* (St Petersburg, 2010), 160–64.

[3] *Philosophical Encyclopedic Vocabulary*, M. (2003), 345–46.

main substance.[4] According to V.P. Ogorodnikov, monism claims that a variety of origins, reasons, and bases of any development cause by itself system synthesis, in which the system-center is one such basis, reason, and so on.[5]

Ideas of pluralism became very popular in Western philosophy in the twentieth century. As a common ideology of idealistic philosophical schools (structuralism, existentialism, hermeneutics, etc.), as a result these ideas eventually logically merged into the philosophy of postmodernism.

Ideology: the methodological bases of pluralism are:

— indeterminism: the denial of certainty, doctrine of the existence of conditions and events for which there is no reason or the reason cannot be specified. In other words, the absolutization of eventuality.
— nominalism: the absolutization of the unitary.
— anomologism: the denial of reasonable patterns and relations.

V.P. Ogorodnikov writes absolutely truly that the application of indicated postulates to different subject areas gives the following varieties of pluralism:

— ontological pluralism: the postulation of independency—a non-subordinate variety of the substrate and substantial origins of the objective world.
— epistemological pluralism: the absence of the existence of objective truth—an attempt to justify equality, the "equal verity" of different, even controversial points of view in one and the same moment of reality.
— methodological pluralism: an attempt to justify the equality of all cognition methods.
— sociological pluralism: an idea of equality, standing in a row with different factors of social development.
— axiological pluralism: postulation of the equality of evaluation criteria of human values, until the plurality of these values is approved.
— logical pluralism: a principal lack of any system of logic that is adequate in the world.

[4] *Philosophical Encyclopedic Vocabulary*, M. (2003), 274.
[5] V.P. Ogorodnikov, "Monism and Pluralism as Competitive Ideas in Philosophy of Science," *Philosophy of Science: Perspectives of Development* (St Petersburg, 2010), 160.

— political pluralism: a system that uses basic concepts of sociological pluralism to justify the ideas of plurality of different political doctrines and the process of their practical implementation (reality of political actions).

In practice, these indicated postulates lead to: political disorientation; the "reconciliation" of science and mysticism; equating monism with political and ideological totalitarianism and pluralism with democracy; the justification of the equal rights of different experiments: vital, scientific, and mystical, as well as to valuable ("praxeological") pluralism; justification of individualism and selfishness in public life and practice; justification for the idea of the truth and equality of one and the same phenomenon—"epistemological" pluralism; the absence of dialectical methodology—"methodological" pluralism and so forth.[6]

We will focus on ontological, epistemological, and methodological pluralism. This choice was due to the fact that ontological pluralism is the basis for all other kinds of pluralism. In the first place, we are interested in the confrontation between epistemological and methodological pluralism and monism from the point of view of philosophy of law.

Ontological pluralism, as noted by V.P. Ogorodnikov, is incompatible with the data of contemporary science. The facts, which were received by contemporary science, evidence that the material world in all its manifestations, at any level of organization—physical, chemical, biological, and sociological—is monist. There is no other system that couldn't represent the subordinated and coordinated unity of elements. Pluralism postulates the absence of subordination between elements and means the lack of connection between them, that is, the lack of a system.[7]

Involved in this equitable conclusion, it is particularly important to mention social monism—the fact that, for a long time in philosophical literature, there was felt a kind of secret controversy of natural and human (social) sciences. Furthermore, opinions were expressed that if the material world (or even, the world studied by natural sciences) were regulated, social being, social society, would be quite unknowable—pluralistic to the study, equal from its point of view, and so on.

But social being is also subjected to laws and strictly subordinated. It is necessary to admit that in all periods of the existence of humans and humanity, society has never been completely pluralistic and absolutely

[6] V.P. Ogorodnikov, "Monism and Pluralism as Competitive Ideas in Philosophy of Science," *Philosophy of Science: Perspectives of Development* (St Petersburg, 2010), 161.
[7] V.P. Ogorodnikov, 162.

equal. That was true not only of the slave system but also of today. In the Socialist system there was a command-administrative system, with privileges for certain citizens; however, despite equality being formally declared, in fact people were not equal. In the capitalistic world, people don't have equal economic rights, because they have different economic opportunities, different social statuses. The question of whether it is possible to create an "ideal society" with absolutely equal rights and opportunities is under discussion. But from a logical standpoint, it would not seem to be possible. Such a conclusion inevitably follows from the fact that even if equal rights and opportunities could be artificially created, some will want to take advantage of such opportunities, some will not want to take advantage of them, and some will not be able to. As a result, people in such a society would soon have different opportunities, which will lead to different rights and to different living conditions.

In a society within the framework of the state there are no equal and stable centers of decision-making. With the Constitution of the Russian Federation, Russia attempted in 1990 to generalize all the best experience of liberalism in the whole world, with the principle that the separation of power would be strictly established and each branch of government would be tightly controlled. As a result, taking into consideration its mentality, what appeared was a presidential republic, where the last (and the most important) word is still left to the president. There is the same clear subordination and organization in every developed country (we do not need to talk about undeveloped countries here), to the extent that if you wish to go out and join a demonstration to express your opinion in public, then you are welcome; nevertheless, before you can do so it is necessary to coordinate with the authorities the time and place of the demonstration; declare to the police the number of participants; coordinate slogans, which must not contain calls for violence or Nazism or fascism; take measures to ensure the safety of participants at the demonstration; and so on. If these conditions are not met, you will be charged with administrative or criminal responsibility by the authorities. Thus, it is said that democracy is first the hard and brutal compliance of law and only in tenth place is it freedom of speech and lifestyle. This freedom is only allowed up until the moment when it affects another person, in particular the powerful people in a society and their interests. It is almost always thought that Soviet people were vainly forbidden from visiting capitalist countries, to stop them from getting acquainted with the capitalist way of life, with their existence, in a global and everyday sense of this word. If we immerse ourselves in the existence of the inhabitants of European countries, we can easily see that it is very modest (in comparison with contemporary Russia), economical,

and strictly defined within a framework of laws and structures. What strikes one immediately and is very visible, is the great economic difference between the majority of the population and a small stratum of elites (economic, political, spiritual), which basically determines life in the country.

It is very naive to put a sign of equality between a pluralism of opinions and Western democracy. Pluralism makes it necessary to consider whether such opinions may be illegal (for example, calls to violence, to fascism), invalid, intentionally false, unethical, or immoral. In Western democracies the pluralism of opinions has strictly defined frames and there are severe repercussions for going outside these frames.

In other words, it is necessary to admit an obvious fact: society is a non-equilibrium system.

The concept of pluralism, by definition, is tied to the metaphysical interpretation of the process of determination. Pluralism is based on judgments of the almost endless number of qualitatively single types, the same determinants of any event, which are implied to be "equal." This gives an opportunity to come to a conclusion about the uncertainty of all processes—the impossibility of knowing the reason for this or that event until it is over.

Such an approach, as was correctly noted by researchers, in fact is identical to indeterminism and is the philosophical and methodological basis of subjective idealism. Pluralism of determinism conceals indeterminism and subjective idealism within itself, because it creates the opportunity to choose a position arbitrarily, from which all concrete relations could be represented as nondeterministic. It is known that a similar technique is used by positivism (including postpositivism) in the justification of agnosticism.[8]

Such a conclusion, in fact, means the plurality of ideology. If it refuses the single, all-embracing concept of determinism, there therefore cannot be a single concept of ideology. And in all this plurality, it is possible to reach the point of absurdity and outright irrationality, to put forward awkward doctrines and ideas, to justify mysticism, coincidences, and so on. And all such descriptions will be considered to be equivalent.

Of course, all this goes against science and scientific requirements, to which we have already got accustomed. The task of any science is to find laws, revealing something's essence. Things that are irregular or completely random are unknowable, because it is only possible to know

[8] V.P. Ogorodnikov, "Monism and Pluralism as Competitive Ideas in Philosophy of Science," *Philosophy of Science: Perspectives of Development* (St Petersburg, 2010), 163.

what is repeated and commonly reproduces. To know means to understand, to reach a single-sensing, specifically shaped reflection of the subject, to reach the abstract that is significantly common to a certain class of objects—to concepts.[9] It isn't necessary to prove the importance of concepts in the logic of thinking.

Here it is important to accurately and clearly distinguish what is meant. We are not discussing whether there could be different opinions in science, different points of view. On the contrary, as is known, truth sometimes is installed in a dispute. We are talking about undermining the approach to forms and laws of thinking. Not about observing or identifying scientifically and defining patterns accurately. On that subject, as some philosophers consider, identifying patterns is an empty work, because they don't give real knowledge and they aren't patterns in their origins. In this case, we should talk about pluralism also as absolutely singular and, in fact, the uselessness of argumentation of received conclusions (science is either anarchy or individual logic). Exactly these arguments were made and tested by K. Popper, P. Fyerbend, T. Kuhn, and other representatives of postpositivism and postmodernism.

In their philosophy and its falseness, the essence of which is to move away from generally scientific bases, it is necessary precisely to understand and to evaluate. Not all Russian philosophers, we think, have been able to sort out this problem. For example, R.A. Zobov writes:

> As in the classical and in the non-classical science a number of human qualities remain beyond its consideration. From this background comes an increasing interest in all sorts of "absurd ideas," i.e. ideas that clearly don't fit into the frames of classical theory, but often give results that allow a fresh look at certain problems. Increased interest in absurd ideas in non-classical science contributed to the expansion of the scientist's consciousness. The rejection from a certain stereotypes was perceived more easily than in the frames of classical science.[10]

Then, standing up to the position of K. Popper, R.A Zobov writes that laws that lie as the basis of particular sciences are limited. Any provision is scientific insofar as it is refutable (principle of falsifiability). Thus, Zobov comes to the following conclusion: all laws coexist alongside one another and any of them can give a preference.[11]

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[9] Ibid.

[10] R.A. Zobov, "Philosophy of Science and Human Problem," *Philosophy of Science: Perspectives of Development* (Methodology of Applied Science) (St Petersburg, 2013), 158.

[11] Ibid., 159.

Anyone can come out with what Zobov calls "absurd ideas," which cannot be represented in the contemporary scientific picture of the world. *The question isn't in ideas, but in checking and evaluating exactly against a scientific method.* For many, S.P. Korolev's ideas about launching a person into space seemed to be sick fantasies. Furthermore, the announcement of the first flight of a person into space was believed to be physically impossible. And, indeed, most scientists think there is no shame in going beyond the limits of the known picture of the world—such ideas are often the most productive. However, it is necessary to remember and to understand that the ideas and thoughts of a scientist should be checked and implemented by a scientific method: methods of cognition should be used strictly; it should be logical, with the possibility of being verified by other scientists. Herein precisely lies the principal difference between monism and pluralism: the latter allows ideas to be inspected using any method of cognition, and believes that inspecting them is not necessary and not always possible, because the truth is still not understandable (or each researcher has his or her own).

Stemming from this philosophy, the authors of this work have seen published scientific-sounding statements that reason whether Yuri Gagarin was an alien and whether he was killed and "returned to himself." As a check to such absurd (already without quotation marks) ideas, arguments were outlined about the multidimensionality of spaces, civilizations, and so on.

That's why it is very important not to destroy science, approaches to science, and principles of building scientific knowledge. And, to recall the words of A. Einstein: science is directed at the cognition of the world, serving the Truth, obtaining true knowledge. To this aim, its methods of cognition can be considered scientific. So, actually, think a significant number of scientists.

Here occurs a question, Is monism possible in philosophy? Historical experience convincingly demonstrated that no, it is impossible. Philosophers are very different; they look at being very subjectively. No wonder, then, that books on philosophy generally begin with a detailed consideration of the history of philosophy. Truly philosophical ideas and views are eternal; they often come back to humanity in some modified form, are developed, are not forgotten. The historical experience of humanity has already accumulated many similar ideas. There could be no monism in philosophical thought, at least because of the eternal conflict between idealism and materialism.

However, monism is possible and necessary in the philosophy of science and, scientific achievements convincingly testify about the

monism of the world. It is necessary to emphasize once more that monism doesn't imply the impossibility of different and controversial ideas. Different, controversial, and even absurd ideas are needed. But monism involves a strictly scientific evaluation, which is made, of course, on the basis of monistic scientific methodology.

Thus, clear boundaries can be distinguished between science and non-science. Philosophers (or people, who are trying to be them) can put forward any ideas, even that the Earth is flat, or that it is kept on three elephants, or that they soon will fly to the Earth's axis. Such reasoning is their right. But it is necessary to evaluate such ideas through rigorous scientific methodology, which by definition should be monistic. Otherwise, due to the pluralism of scientific methodologies and approaches, we could come to a conclusion about the correctness of indicated reasoning.

Here we can specifically bring various obvious examples, which objectively are part of the history of thought about the world, being, and the role of humans in it.

Nowadays, the pluralism of ideas also imposes a pluralism of scientific methodologies. Wherein it is very important (!) that they are mutually beneficial to each other. So, the thesis about the a priori impossibility of the world's cognition contains in it almost any philosophy, almost any methodology and epistemology, or generally the lack of them. The recognition of the world's unknowableness by and large made methodology and epistemology meaningless. From such positions, science does not need them, because as a result there is nothing they can bring. But such an approach gives full freedom to the separate philosophers for creativity. Nevertheless, these efforts, unfortunately, are not productive. Their conclusion will be approximately like this: yes, we don't know anything. And then they will put forward original ideas about the uselessness of epistemology. This, in particular, was the theory of the "famous" R. Rorty. He substantiated that epistemology is a genetic disease of European philosophy, which he thought also applied to science and to truth. R. Rorty, as is well known, considered the claims of science to true, authentic knowledge to be unjustified. Wherein, according to R. Rorty, the truth is something "that, we need to believe in," rather than the "accurate image of reality."[12] There is opinion, and it seems to be objective enough, that Rorty has done more to promote the slogan "death of epistemology" than any other thinker of the second half of the twentieth century.

[12] See the following works of R. Rorty: *Philosophy and the Mirror of Nature* (Princeton, 1979); *Consequences of Pragmatism* (Minneapolis, 1982); *Philosophy in History* (Cambridge, 1985); *Contingency, Irony, and Solidarity* (Cambridge, 1989); *Philosophy and Social Hope* (New York, 2000).

But how productive is this position from the point of view of his own life, his own scientific work? If it is necessary to do scientific research, in order to strive to prove things, then will this work by and large lead to nothing? Maybe it is better to try to prove that the work is really necessary to understand the world and life, strive toward this, and not be offended by science, even if as a result dreams will not be realized? That's why, it seems, interest in postpositivism and postmodernism disappears, and philosophers and scientists will again be considered possible and necessary in order to obtain true information.

In this way, in the philosophy of science, as in science itself, it is necessary to desire to know the world—to focus on Truth and the completeness and objectivity of knowledge. This goal can be achieved with the help of monism and the methodology of cognition.

But what kind of monism? This monism can be the dialectical method of cognition.

For many years in the USSR, the dialectical method was considered to be a universal, general scientific method. After the end of this period, using the named method in particular, Soviet science (and this is objective) made a significant breakthrough in development. The achievements of Soviet scientists in the field of physics, chemistry, mathematics, aerospace, and so on do not need to be mentioned. Humanitarian disciplines, including law, were dynamically developed. Furthermore, the approach to dialectics as a general scientific method satisfied absolutely everyone.

After the disintegration of the USSR there followed radical changes, curiously enough, that significantly affected methodology. So, the method of dialectics was subjected to obstruction, and statements appeared arguing that there was no universal and general method of philosophy. Some of them went further and announced that a named method in fact represented a road to nowhere. And some experts came to the paradoxical conclusion that true philosophical thought didn't exist in the USSR.

As a result, Russian philosophers were divided into several groups. The first group consistently continued to defend the dialectical method as a general method of science,[13] another group proposed to treat it on a par with other scientific methods,[14] and finally a third one, for various reasons, tried to subvert the importance of dialectics for science.[15]

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[13] For example., G.I. Rusavin, *Methodology of Scientific Cognition*, M. (2009), 8.
[14] See, *Philosophical Encyclopedic Vocabulary*, M. (1997), 266.
[15] See, for example, V.N. Sadovskiy, "Karl Popper: Hegel's Dialectics and Formal Logic," *Questions of Philosophy* 1 (1995), 139–48.

As stated above, this required a return to the content of dialectics, to evaluate its meaning again. According to Hegel's philosophy, under dialectics, a usage of regularity in science was understood, which concludes in the nature of thinking and, at the same time, this regularity on its own. According to Hegel, dialectics is movement as the underlying basis of everything as a true spiritual reality, and at the same time the movement of human thinking, which in a speculative plan participates in this movement absolutely and totally. All movements flow due to "reasonable" laws of dialectics. The law of moving thinking is also a law of the moving world.[16] This understanding of dialectics became a basis for the formulation and justification of different dialectical directions (including Marxist–Leninist dialectics).

One of the main subjects of study is this development. Dialectics is a philosophical doctrine about the most general regularities of development of nature, society, thinking, and cognition.

Development, in its turn, is impossible to imagine without dynamics, movement, and change. Such changes aren't of a single character, but are complex and systematic. Consistency changes mean changes of quality—that's why this development is characterized first of all by qualitative changes.

These qualitative changes aren't disorderly. They occur in a system and therefore imply a presence of interdependence between previous and further changes—their continuity. In this regard, we can formulate a reasonable conclusion about the existence of the direction of changes and, respectively, in development. Wherein, development from the philosophical point of view, including systematic qualitative changes and direction, is an irreversible process. The irreversibility of changes is understood as the appearance of qualitatively new opportunities, which didn't exist before.

Thus, in a general initial sense, development is the directed, irreversible qualitative changes of the system.

If it is necessary to consider the specifics of the dialectical concept of development, the above mentioned definition could be extended by indicating the internal mechanism of development, which is connected with internal contradictions.[17]

As development widely understood as one of the main basis of dialectics, what is dialectics for science? Apparently, all.

The development of scientific knowledge is considered as constant change, movement, and dynamics of knowledge. The dialectical development

[16] *Philosophical Encyclopedic Vocabulary*, 134–35.
[17] P.V. Alekseev & A.V. Panin, *Philosophy*, M. (2005), 434.

discloses such compulsory properties of scientific knowledge as objectivity, accuracy, certainty, consistency, logicality, verifiability, theoretical and empirical validity, and practical utility. Together these properties define and guarantee the objectivity of scientific knowledge. Dialectics is a method that is vitally necessary for every science.

A famous quotation by Hegel can be given here:

> Cognition is moving from content to content. First of all this translational motion is characterized by the fact that it starts with simple certainties and that what follows after them becomes richer and more concrete. In fact, the result contains its beginning, and the motion of the last one enriches it with a new certainty. The general constitutes the foundation; that is why translational motion should not be accepted for some flow from some other to some other. A concept in its absolute sense is kept in its otherness, general in its isolation, in judgment and reality; at what stage a further definition raises above all mass of its previous content and not only nothing loses as a result of its dialectical translational motion and leaves nothing behind, but also it carries with it all it has acquired and enriched and compacted inside itself.[18]

Without development, science is dead. Without constant implementation based on dialectics of the functions of cognition, explanation, heuristic, forecast, and practical implementation, any theory will cease its existence. First of all it will stop in its development, soon it will be foreshadowed by a noticeable lag from its vital needs, and then it will go into otherness. However, the objective (again dialectical) world development of knowledge can force it to get back to the forgotten history; however, this process is really labor-consuming and costly.

At the present time a lot is known about general scientific methods. However, on closer examination it turns out that in their application there is the dialectic. Even if we take such compulsory methods of science as a systematic approach, here is also clearly a trace of change and development. The system isn't constant. It is developing and changing in a minimum of two directions. The first direction is the division into smaller subsystems, a certain ornateness of a system; the second direction is oppositional, consisting in the consolidation of subsystems, their merger and incorporation of the part into the whole. In other words, the system is also dynamic in its development and requires cognition exactly from the dialectical point of view. Our attention was intentionally drawn to this because in a variety of academic and dissertation works in legal science,

[18] G.W.F. Hegel, *Comp*. in 14 t. M. (1937). T.5.: 34.

this method is extolled as "universal" and "basic" for other scientific methods.

Beside the principal of development, in dialectics it is necessary to distinguish between the principal of the material unity of the world and the principal of the general connection and mutual conditioning of phenomena.

The principal of the material unity of the world implies that everything in the real world is ordered, represents a system, is not a chaotic mass. This principle is expressed also in the real existence of different forms of substances, including social forms, which are characterized by people and society and their interaction. In the development and material unity of the world, interaction has an important place. Dialectics is based on the idea of a general connection, which, in its turn, implies mutual interdependence of phenomena. Connection is a relation, and the basis of each relationship is interaction. Hence we come to an idea of interdependence as a necessary addition to the idea of a general connection; together they express the fact that in the world, in real being, there is no single phenomenon, which anyway wouldn't be connected with other phenomena.[19] For example, social-economic changes, observed in Russia at the end of the twentieth century, led to changes in the relationship between the property of individuals and legal entities. Due to such changes, the institution of private property was restored. A change in one object or phenomenon necessitates a change in another object. The restoration of private property in law, from the one side, determined the elimination of collective rights, and from the other side it demanded serious changes in other areas of law. In the economy it led to the implementation of new economic models and, consequently, to the inevitable refusal of the old rules of the leading economy. In politics, the restoration of private property in Russia led to the strengthening of the role of Russian corporations in world politics, which resulted from a change in the balance of political forces and so on.

As is known, the main laws of dialectics are:

—the law of unity and struggle of opposites
—the law of mutual transition of quantitative and qualitative changes
—the law of the refusal of denial

The law of unity and the struggle of opposites indicate the existence of different forces and tendencies, and these forces are simultaneously in a unity and in opposition to one another. In other words, dialectics connects development in all areas of a real world with the contradictions inherent in

[19] *Philosophy*, V.P. Salnikov, ed. (St Petersburg, 1999), 302.

any phenomenon, process, and object. Dialectical contradictions wear an internal character; in the constant competitive interaction of driving forces, phenomena change and, consequently, develop.[20] Internal unity and the contradictions of connections inside a science—their constant understanding and the competition of opinions—ultimately determine its scientific development. In this sense, the indicated law is the methodological basis for other scientific laws.

The law of the mutual transition of quantitative and qualitative changes derived from the law of unity and the struggle of opposites can generally be formulated thus: quantitative changes to an object or phenomena, that gradually accumulate and multiply, at a certain stage lead to a change of quality of this object. Objectively observed in the twentieth century, interest in atomic physics, the realization of certain research on this subject, has gradually led to the qualitative improvement of knowledge. The named law equally applies to other sciences and also to scientific methods.

The essence of the law of refusal is denial, in that it examines development in the form of the changeability of every other levels (steps, grades), which are connected with each other in such a way that every next level of development is a denial of the previous one.

The main dialectical categories are as follows: the whole and the part, separate and general, reality and opportunity, structure and elements, theoretical and practical, content and form, purpose and means, reason and effect, and so on. For example, a demand for the regulation of concrete social relationships is the reason for the publication of legal norms. The publication of the norms is the effect of the regulation made necessary by the indicated relations. Or, a specific act of a person is the reason for the application of legal norms. The application of the norm, as fixed in its consequences, is the effect of a person's action.

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[20] Internal dialectical ("vital") contradictions should be distinguished from formal-logical contradictions. Formal-logical contradictions take place also when they concern one and the same object (or subject), in the same time, in the same sense, expressing opposite judgments and inferences. For example, in 2009 an opinion was expressed about the elimination of corruption in the internal affairs authorities; almost simultaneously, the increasing amount of corruption among employees of the internal affairs authorities was also discussed. In this case, we are not talking about the logical contradiction within the system, but about the violation of formal logic—that is, about logical contradiction, a distortion of the truth. From the logical point of view, it is obvious, that there can only be one truth from the indicated thoughts. Philosophical sciences require avoiding formal-logical contradictions.

Academician V.S. Stepin very accurately described the contemporary role of dialectics in science; this opinion is one to which many scientists should pay attention:

> In the early 1990s, after the disintegration of the USSR, evaluated judgments appeared, according to which there were no achievements in our philosophy, it was torn off from world philosophical thought and it was necessary to start all from the very beginning. Such judgments could be found even in philosophical books and encyclopedic vocabularies of those times. They were purely ideological phenomenon, arising in line with the sweeping criticism of the Soviet era. What was considered to be positive in the Soviet era, automatically was announced as a negative, a "plus" sign was replaced by a minus sign. But such statements don't require any serious thinking; they don't hold criticism referring to the real facts. It is significant that famous American historian of science and Massachusetts Technological University (Boston) professor Lauren Graham's fundamental research on the historical development of the philosophy of science in the USSR ended with the general conclusion that this area of research in the country is "impressive intellectual achievement" and "universality and the degree of elaboration of the dialectic-materialistic explanation of nature has no equal among contemporary systems of thought"[21] [22]

Dialectics was and is a universal scientific method not because it was ideologically advantageous to a concrete government, but for objective reasons. It has somehow been "forgotten" that many famous pre-revolutionary philosophers also relied on dialectics as a universal scientific method. For example, B. N. Chicherin long before the creation of the USSR wrote that without dialectics there is no philosophy.

Yes, in the USSR, dialectics was really a dominant philosophical theory, in science and also in teaching. Other philosophical concepts were considered critically one-sided and not always complete. While this shouldn't have been so, this doesn't detract from the value of dialectics. Complementing absolutely the accurate statement of V.S. Stepin, sadly we have to admit that the significant achievements of Soviet philosophical thought, including dialectics, unfortunately aren't in demand enough today. This, unfortunately, impoverishes contemporary science.

This methodology, as is well known, doesn't tolerate pressure from the side and aims to obtain so-called impersonal and intersubjective scientific knowledge. Methods that it studies are aimed at fixing objective knowledge,

[21] L. Graham, *Natural History, Philosophy and Sciences about Human Behavior in the USSR*, M., (1991), 415.
[22] V.S. Stepin, *Philosophy of Science: General Problems*, M. (2008), 85.

without any admixture of subjective and individual factors and especially without the admixture of ideology. According to the opinion of T.G. Leshkevich, contemporary methodology is the most persistent and resistant to change of all spheres, aimed at the study of methods of scientific cognition and ways of organizing activities.[23]

Here, furthermore, it is important to understand that even a critical approach to Marxist–Leninist dialectics shouldn't reject dialectics in general or minimize its enormous value. Thus, it needs to be taken into account that the dialectical method is also developing and changing, that is why approaches to its content can be dogmatic. This again finds the expression of the principal of dialectics as a constant development and change.

P.V. Alekseev and A.V. Panin in this context wrote that along with the politicized and ideological model of dialectics (which is reflected in the works of V.I. Lenin and I.V. Stalin), in the frame of dialectical materialism, it is possible for another model of dialectics that is humanistic and dialectical. It can be in consistent connection with the principles of materialism, dialectics, and humanism, and dialectics itself can reveal its versatility in relation to nature, society, and the spiritual world of humans.[24]

The indicated scientist wrote many interesting works about dialectics. But, according to them, recent publications helped them to see in dialectical materialism different, and in a political sense, oppositional directions and see more clearly than previously in deciding on the positions of really comprehensive dialectics.

Supporting this idea in general, it is necessary to draw attention again to the fact that dialectics doesn't exclude opposite judgments. But it is important to verify them scientifically. In other words, freedom of opinions shouldn't destroy the unified methodology of cognition, which is universal for all.[25]

In such circumstances, evaluating the position of the present dialectical method of cognition, we come to the conclusion that it will long remain a universal method (methodological basis) for philosophy, philosophy of science, and other disciplines, including philosophy of law.

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[23] T.G. Leshkevich, *Philosophy of Science*, M. (2005), 107.

[24] P.V. Alekseev & A.V. Panin, *Philosophy*, 446.

[25] V.G. Budanov describes the contemporary stand of philosophy of science and synergy, named philosophical theatre (See V.G. Budanov, "Methodology of Synergetic: Principles, Technologies," *Philosophy of Science: Perspectives of Development* (Methodology of Applied Sciences) (St Petersburg, 2013), 47). We hope that different thoughts don't turn philosophy into the theater of the absurd.

Still we are amazing people; we have an amazing state. Nowadays to everyone—in Russia, and in the West—it is obvious that the Soviet system of secondary and higher education was one of the best, if not the best in the world. It brought fruits, raised prominent scientists who were in no way inferior to those from the West, and in many aspects exceeded them. Today's system of education has been reformed, as a result in our country of our voluntarily departure from the ideas and achievements that we had. Western scientists accepted with pleasure Soviet-Russian achievements in science, and used those that achieved successes.

This happened in almost all scientific fields, including jurisprudence. For example, a famous American lawyer, G. Berman, on the basis of three schools of law (legal positivism, theory of a natural law, and historical school of law) he believed to be competing, suggested creating integrated jurisprudence.[26] But it is significant, as noted by I.Y. Kozlihin, that students of G. Berman saw his main merit not in his suggestion "to connect three competing schools," but in the dialectical method of studying history of law. "Integration of three main schools—it is just one of the moments of Barman's integral jurisprudence; furthermore and it is even more important that he proposed reconciling them via the dialectical method"—as was stated in one of the articles devoted to the work of G. Berman. Here is another example of using the dialectical method to obtain the whole, that is, the integral vision of law.[27] What we are trying to give up, for some reason, is actively used in the world.

This example shows another. Contemporary philosophers of law have repeatedly attempted to create some integral[28] theory of law, in which to combine the best from other concepts of law (legal positivism, theory of natural law, and the historical school of law), but this actually means an attempt to create a mutually acceptable unified theory of law. However, if such unification succeeds, it will mean that the integral theory of law will be accepted and recognized by almost all specialists. And therefore, it entails monism in the philosophy of law. Scientists proposing other theories and concepts of law have to check their proposals with integral theory. But the most interesting thing is that such monism no longer

[26] See G. Berman, *Faith and Law: Reconciliation of Rights and Religion*, M. (1999), 341–63.

[27] Quotation according to I.Y. Kozlihin, "Integral Jurisprudence: Discussed Questions," *Philosophy of Law in Russia: History and Contemporaneity; Materials of the 3rd Philosophical—Legal Readings in Memoriam acad. V. S. Nersesyants*, M. (2009), 251.

[28] In a number of sources, this is integral.

frightens the current supporters[29] of the pluralist scientific view and methodologies. That is, its role in currently available pluralist legal theories and concepts isn't justified.

In other words, to be science there must always be some landmark, a reference point, a trait, from which comparison and measurements can start. Such a landmark must be accepted by all, so that the results of research that starts from this point can be evaluated. If it is not so, pluralism fast becomes subjective and unscientific.

Such a conclusion shows once more that all people as part of their nature always strive for order, certainty. By taking us out of dialectics and in fact not proposing anything in return, scientists themselves became hostages of the situation, because even when making discoveries or major scientific achievements it is difficult to justify and even to describe the results.

Dialectics implies the possibility of the world's cognition and, accordingly, situates in it phenomena and processes. Moreover, the provision of dialectics, including in terms of cognition, significantly enough, develops and tests arguments. This, in particular, makes it positively differ from a variety of other philosophical theories.

As you know, discussions over whether the world is knowable have gone on for as long as philosophy has existed. For example, in Western philosophy today a widely spread point of view argues for the impossibility of total (absolute) cognition of the world. According to the opinion of supporters of these views, cognition is rejected as are the limitations of scientific knowledge, and the infinite multidimensionality and multilevels of an object of knowledge. For example, B. van Fraassen's concept of "constructive empiricism" says that no one theory can be absolutely verified, and it is completely determined by empirical facts. R. Rorty went further and suggested, in fact, refusing epistemology.

However, the point of view that the world is unknowable is a simple one. With this approach, you can put forward any idea one wants, one can refuse the obvious and even doubt one's own existence. That, of course, can be "proved": because a person can perceive the fact of his existence subjectively (and, ironically—is it a real fact?). But how productive is such an approach? And how honest is it to life in general and to science in particular? As was already noted, standing on such a position of agnosticism or utopianism isn't productive even to one's own life.

[29] In Russia, the problem of the creation of the integral theory of law involves, mainly, specialists of institutions of state and law of the Russian Academy of Science.

And dialectics, at the present moment, seems to be not only a universal but the most valuable method of cognition of the world. Of course, cognition is going slower, as it would like. However, there is a forward movement.

One of the most promising ways of further improving dialectics as a universal method we can see in the convergence of its basis in the philosophical concepts of Russia and the West, and further, of the East. Today, the convergence between Russia and the West is actively taking place. The unity of scientist's efforts will result in an increase in the number of philosophical works, and soon, according to the dialectical law of qualitative-quantitative changes, will develop into fundamental works, which are not affected by ideology and conjecture. Then, similar processes in unity on the basis of the dialectics of the philosophical schools will start between Russia and the East.

In conclusion, we allow ourselves a variety of assumptions. Of course, philosophy doesn't overcome the problem of monism-pluralism. Like a faithful companion of philosophical research, it will no longer be around. However, objectively in its lifetime, further scientific discoveries will make a primary focus on monism, which is connected with dialectics, as the most clear and developed methodology. The dialectical method of cognition will be the methodological basis of philosophy of science. It seems to us that interest in postpositivism and postmodernism will end relatively quickly in a majority of such doctrines. People generally, and scientists in particular, always tended toward cognition of the world—to a true cognition, to true knowledge.

§ 2. The role of personality in the methodology and role of a researcher's results in the formation of methodology and worldview

The study of postpositivistic philosophy, which some researchers consider to be "contemporary," "new," "important," and so on, makes one think about its origins. We are talking not about the origin of postpositivistic ideas as they are, but about why scientists and philosophers are "suddenly" trying to abandon existing knowledge and achievements, to re-interpret them, and in the light of the impossibility of cognition, to convince of the rightness of "new" interpretations. What is the reason for the appearance of such radical views?

It seems, that the basis for such processes could be either the, discoveries of science (objective reasons for refusing previous knowledge

and experience), or drastic changes in personality (subjective, psychiatric changes), convincing scientist to see all of this "differently."

So, it was in the Middle Ages with the philosopher Abelard, who corrected his philosophy. The same happened with Kant, who stood at the second period of life in a fundamentally different position from the first. There are also later examples.

There is a sense to focus attention on the personal reasons for forming such a philosophy. Thus, it is necessary to stop on two of the brightest representatives of postpositivistic philosophy, who formulated the most radical views: P. Feyerabend and K. Popper. We will shortly examine their biographies and opinions about science.

It is known that P. Feyerabend dreamed of becoming a famous singer and scientist. But fate decreed otherwise. Feyerabend was born in Vienna in 1924 to a poor family. In 1943, at the age of 19, Feyerabend was admitted to the officers' school, graduated as a lieutenant, and as a member of the German-fascist troops was directed to fight against the Soviet Union. In the war against our fathers and grandfathers, he served in the occupied territory in Russia, where, probably, he distinguished himself by courage and cruelty, which is proved by the fact that he received the Iron Cross medal and other encouragements of command.[30] However in 1943 he was seriously wounded, and was disabled for the rest of his life—he couldn't move without pain and walked on crutches. In 1945, apparently, he was hiding from the Soviet troops, because as a fascist officer and a medal holder according to the laws of war he could be shot. He immigrated abroad and lived for a long time far from his homeland, in the USA.

His aim of becoming a scientist and conducting experiments on his own was disturbed by his lack of proper education, his hard illness, and his life, which was maimed by war. He couldn't commit discoveries in science.

The background of such shocks formed his specific ideology on philosophy and science, which concluded in scientific pluralism and turned into scientific anarchism. According to Feyerabend, pluralism must

[30] Wikipedia and various other publications reflect the opinion that Feyerabend didn't want to go to war, that he was against the war, and so on. However, we are more prone to believe other sources, and we also believe that such a change of worldview in people often takes place after such a tragedy occurred to them. By the way, in the books of Feyerabend, we didn't find deep remorse for his action in the war against Soviet citizens.