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The present volume comprises papers presented at the Special workshop “The Experience of Law” within the 29th World Congress of the International Association for Philosophy of Law and Social Philosophy (IVR) held in Lucerne, Switzerland, during July 7–12, 2019. The contribution brought together 13 researchers from 5 countries in order to view an experience of law from different epistemological perspectives among them phenomenological hermeneutics and postmodernism, psychoanalysis and neo-Kantianism, legal realism and psychological theory of law. The volume reflects the wide range of topics that were addressed by contributors: from general phenomenology of law and lawlessness to philosophy of liberation, from genesis and experience of normativity to psychological foundations of legal validity. What is common to all authors is an attempt to take a fresh look at the basic question of the philosophy of law and consider law not as an object of our cognition or our technical domination, but as something that happens to us.

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PREFACE

Is it possible to take a fresh look at the basic question of the philosophy of law? Can we consider law not as an object of our cognition or our technical domination, but as something that happens to us?

The present volume comprises papers presented at the Special workshop “Experience of Law” within the 29th World Congress of the International Association for Philosophy of Law and Social Philosophy held in Lucerne, Switzerland, during July 7–12, 2019. The Workshop brought together 16 researchers coming from 8 countries in order to view an experience of law from different epistemological perspectives among them phenomenological hermeneutics and postmodernism, psychoanalysis and neo-Kantianism, legal realism and psychological theory of law. The volume reflects the wide range of topics that were addressed by contributors: from phenomenology of lawlessness to philosophy of liberation, from genesis of normativity to foundations of legal validity.

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Deontic Noema. A Contribution to a Theoretical Analysis of Normative Experience

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Νοεῖν οὐκ ἔστιν ἄνευ φαντάσματος.

There is no thinking without a phantasma.

ARISTOTLE, *De memoria*, 449b34-450a1

I. What is a Norm? A Question and a Map of Referents

Despite the fact that we almost every day act with reference to norms, the question: “What is a norm?” – the basic question of any theory of norms and normative phenomena – is far from having an obvious and univocal answer. If we turn to social sciences dealing with normative phenomena, such as jurisprudence, legal theory, or sociology of law, we often find out that the concept of “norm” is either taken for granted and not given an explicit definition, or it is given a plurality of provisional, unsatisfying and conflicting definitions – definitions that often leave out some phenomena we usually refer to as norms or definitions that cover also phenomena we wouldn’t usually refer to as norms¹⁰⁷.

One of the main reasons of bewilderment in this regard is the fact that there is no agreement even in determining which domain of phenomena norms actually belong to. Indeed, normative phenomena appear to be complex phenomena intersecting different domains, notably those of psychical and mental phenomena, of linguistic phenomena, of logical phenomena, of behavioral phenomena, of social phenomena, of practical, ethical, legal, political and aesthetical phenomena, and so on. Norms can hardly be reduced to one single domain of phenomena.

¹⁰⁷ Further results of this research are going to be published in a different and more extended paper in A. Javier Treviño & Edoardo Fittipaldi, *The Living Legacy of Leon Petrażycki: Contributions to the Social Sciences* (New York, Routledge, in preparation). I am grateful to Edoardo Fittipaldi for providing me with a few translations from Petrażycki’s works, still unavailable in Western-European languages.

The impression may arise, then, that the very concept of “norm” – diffracting and refracting into heterogeneous, mutually irreducible and interfering phenomena and conceptualizations – dissolves and fades away.

Four different theoretical attitudes are possible in this respect. The *first* one consists in dropping the concept of “norm” as an unnecessary and misleading concept, to which no definite or univocal phenomenon corresponds.¹⁰⁸ The *second* attitude consists in trying to single out the very reality of norms in just one domain, and in considering the connected phenomena to be found in different domains as subordinate or metonymic. The *third* attitude consists in seeking to single out the very reality of norms in a necessary combination or co-occurrence of phenomena belonging to two or more different domains. The *fourth* attitude consists in merely mapping the different

¹⁰⁸ Jaap Hage, in an investigation on the different concepts of “norm,” goes so far as to expressly suggest to “ban the term *norm* from theories about normative systems and practical reasoning”. See Jaap Hage, *Studies in Legal Logic* (Dordrecht: Springer, 2005), 202. However, according to Enrico Pattaro, “the possibility of expunging from the philosophy of law, and from language in general, the concept of norm” was “foreshadowed” (before Hage) by Amedeo G. Conte, who distinguished four concepts of norm, which he later developed into a “pentad of referents of the word *norm*”. See Enrico Pattaro, “Il positivismo giuridico italiano dalla rinascita alla crisi [Italian Legal Positivism from Rebirth to Crisis],” in *Diritto e analisi del linguaggio*, ed. Uberto Scarpelli (Milan: Edizioni di Comunità, 1976[1972]), 485; Amedeo G. Conte, “Studio per una teoria della validità [A Study Towards a Theory of Validity],” in Amedeo G. Conte, *Filosofia del linguaggio normativo. I. Studi 1965-1981* (Turin: Giappichelli, 1995[1970]), 55-74; Amedeo G. Conte, “Norma,” in *Enciclopedia filosofica*, vol. VIII (Milan: Fondazione Centro Studi Filosofici di Gallarate & Bompiani, 2006), 7945-7948; Amedeo G. Conte, “Norma: cinque referenti [Norm: Five Referents],” in Amedeo G. Conte, Paolo Di Lucia, Antonio Incampo, Giuseppe Lorini, & Wojciech żelaniec, *Ricerche di Filosofia del diritto* (Turin: Giappichelli, 2007), 27-35; Amedeo G. Conte, “Norma: cinque referenti,” in *Filosofie della norma*, ed. Giuseppe Lorini & Lorenzo Passerini Glazel (Turin: Giappichelli, 2012), 57-65; Amedeo G. Conte, “Norme: cinq référents,” *Phenomenology and Mind* 13 (2017): 22-28. In my opinion, Conte’s analysis is not really aimed at expunging the term or concept of *norm* from language or from the philosophy of law: Conte’s intent is simply to refine and clarify our conceptual framework to better understand normative phenomena – even if they may ultimately turn out to be “illusory phosphenes,” as Conte seems to suggest at a certain point, or “optical illusions,” as Leon Petrażycki argues. See Conte, “Norme: cinq référents,” 24; Leon Petrażycki, *Vvedenie v izučenie prava i npravstennosti: Osnovy èmocional’noj psihologii* [Introduction to the Study of Law and Morality. Fundamentals of Emotional Psychology], 3rd ed. Partial English translation in Leon Petrażycki (Nicholas Timasheff ed.) *Law and Morality* (New Brunswick: Transaction Publishers, 2011[1908]), 8. Therefore, I rather consider Conte’s pentad of referents rather an example of the *fourth* attitude I delineate just below in text.

phenomena the word *norm* may variously refer to, and then examine their possible relationships¹⁰⁹.

Assuming the last attitude, I think that at least seven different kinds of phenomena must be considered¹¹⁰. The word *norm* may, indeed, refer to:

1. a deontic *sentence*, that is, a sentence in which deontic terms occur expressing a normative meaning, such as the sentence “One ought to pay one’s debts”;

2. a deontic *proposition*, that is, the normative meaning of a sentence, such as the meaning expressed by the English sentence “One ought to pay one’s debts”;¹¹¹

3. a deontic *utterance*, that is, the act of uttering a sentence to issue a norm, such as a command or the adoption of a legal act;¹¹²

4. a deontic *conduct*, that is, a behavior that is taken as a norm to follow in analogous circumstances¹¹³;

¹⁰⁹ As mentioned in note 108 above, an example of this fourth attitude can be found in Conte. Two further examples of this attitude can be found, before Conte, in Herbert Spiegelberg, who distinguished sixteen *Bedeutungsmöglichkeiten* (meaning-possibilities) for the word *Norm*, and in the first chapter (*On norms in general*) of Georg Henrik von Wright’s well-known book *Norm and Action. A Logical Inquiry*. See Herbert Spiegelberg, *Gesetz und Sittengesetze. Strukturanalytische und historische Vorstudien zu einer gesetzesfreien Ethik* [Law and Moral Laws. Analytical, Structural and Historical Introductory Studies towards an Ethics without Laws] (Zürich: Max Niehans, 1935); Georg Henrik von Wright, *Norm and Action. A Logical Inquiry* (London: Routledge and Kegan Paul, 1963). Similarly, Adolf Reinach distinguished five different elements of the act of *Bestimmung* (enactment) (Adolf Reinach, *The Apriori Foundations of the Civil Law. Along with the Lecture “Concerning Phenomenology”* (Berlin: De Gruyter, 2012[1913])). See Paolo Di Lucia & Lorenzo Passerini Glazel, “Two Semiotic Shifts in the Philosophy of Norms: Meaning Shift and Referent Shift,” *Phenomenology and Mind* 13 (2017): 10-18 (Introduction to a special issue of the journal “Phenomenology and Mind” dedicated to the question: What is a norm?).

¹¹⁰ This (non-exhaustive) distinction of *seven* possible referents for the word *norm* is a development of Amedeo G. Conte’s pentad of *five* referents (see, for instance, Conte, “Norma”; Conte, “Norme: cinq référents”), to which I add deontic objects (as suggested by Paolo Di Lucia in a private conversation) and deontic conducts.

¹¹¹ By *proposition* is here to be understood the *meaning* of a sentence. I do not narrow the notion of proposition to the meaning of sentences capable of being true or false, i.e., to *descriptive* propositions. Alchourrón & Bulygin, on the contrary, reserve the name *proposition* only to the meaning of descriptive sentences and dub “norm-*lektón*” the “prescriptive counterpart of a proposition”. See Carlos E. Alchourrón & Eugenio Bulygin, “Von Wright on Deontic Logic and the Philosophy of Law (1973/89),” in Eugenio Bulygin, *Essays in Legal Philosophy* (Oxford: Oxford University Press, 2015a[1973-89]), 91; “On the Logic of Normative Systems,” in *Pragmatik. Handbuch pragmatischen Denkens. Bd. 4. Sprachphilosophie, Sprachpragmatik und formative Pragmatik*, ed. Herbert Stachowiak (Hamburg: Meiner, 1993), 273-294 and “The Expressive Conception of Norms (1981),” in Eugenio Bulygin, *Essays in Legal Philosophy* (Oxford: Oxford University Press, 2015b[1981]), 146-170.

¹¹² By *utterance* is here to be understood the *act of uttering* a sentence – not the uttered sentence.

5. a deontic *object*, that is, an object that is taken as a norm for the production of other objects of the same kind;

6. a deontic *state-of-affairs*, that is, the obtaining of an obligation or a prohibition, or the like;¹¹⁴

7. a deontic *noema*, that is, the mental representation of a normative state-of-affairs, or the mental object of a normative experience.¹¹⁵

In this paper I will focus on the notion of deontic *noema*, in order to conceptualize the specific mental object of a normative experience (or deontic noesis, in phenomenological terms).

¹¹³ Examples of deontic conduct can be found both in religious contexts, where the exemplary conduct of some religious authority is taken as the norm to follow, and in the context of customary law, where the mass conduct of others (be they the forebears or the contemporaries) is taken as the norm to follow. See Leon Petrażycki, *Teorija prava i gosudarstva v svjazi s teorijej npravstvennosti* [Theory of Law and State in the Connection with the Theory of Morality], 2nd ed. Partial English translation in Leon Petrażycki (Nicholas Timasheff ed.) *Law and Morality* (New Brunswick: Transaction Publishers, 2011[1909-1910]), 263-264, 284.

¹¹⁴ I adopt here the concept of “deontic state-of-affairs” introduced by Conte (“Studio per una teoria della validità [A Study Towards a Theory of Validity]”) as the deontic counterpart of the notion of “fact” or “ontic state-of-affairs”: just as a *descriptive* proposition may refer to a fact or to an *ontic* state-of-affairs, a *deontic* proposition may refer to a *deontic* state-of-affairs (see also “Norma”; “Norme: cinq référents”). An example of deontic state-of-affairs is the smoking ban obtaining in all enclosed workplaces in the United Kingdom since July 1st, 2007.

¹¹⁵ The notion of “deontic noema” has been introduced by Conte (“Norma”; “Norme: cinq référents”). A deontic noema is here to be understood as a specific intentional object. As is known, from a phenomenological perspective intentionality is the property of consciousness of always being directed to an object: consciousness is always the consciousness *of something*. By deontic noema I mean a norm as the correlate of an intentional act – or of a psychic process or state – regardless of the existence of any possible external counterpart of it. Conte (“Norme: cinq référents”) gives two examples of deontic noemata: the first example is a bill presented in a legislative assembly; the second example is taken from art. 1, paragraph 2, of the Swiss Civil Code: “In the absence of a provision, the court shall decide in accordance with customary law and, in the absence of customary law, in accordance with the *rule* that it would make as legislator” (emphasis added). The rule that the court would make as a legislator is not (yet) an existing rule; it is a mere deontic noema.

II. Norm-creating Acts vs. Normative Experiences

Many theories of law search for the *reality* of norms in the most “tangible” referents of the word *norm*. They thus conceptualize norms as *linguistic* entities, or – more specifically – as deontic sentences, as deontic utterances (i.e. speech acts of some normative authority), or as their semantic correlates (i.e., deontic propositions).¹¹⁶

Most of these theories consequently focus exclusively on one side of normative phenomena, that is, on the issuing of norms, and on norm-creating acts. They generally disregard the other side: that of normative experience. Norms are thus generally conceived of as entities produced or created through acts of will, whereas normative experiences are dismissed as merely internal, psychical phenomena, which are incidental or completely irrelevant as to the analysis of what a norm is. This is mostly the case when it comes to *legal* norms.¹¹⁷ Many legal theories aim indeed at determining the relative *a priori* conditions for the existence of norms within a

¹¹⁶ While understanding norms as deontic *sentences* is indeed quite naïf (though not unusual among some jurists), all theories that identify norms with the meanings of legislative expressions are conceptualizations of norms qua deontic *propositions*. See, for instance, Riccardo Guastini, “Disposizione vs. Norma [Disposition vs. Norm],” *Giurisprudenza costituzionale* 34 (1989): 3-14; *Dalle fonti alle norme* [From Sources to Standards], 2nd ed. (Turin: Giappichelli, 1992) and “Normativism or the Normative Theory of Legal Science: Some Epistemological Problems,” in *Normativity and Norms. Critical Perspectives in Kelsenian Themes*, ed. Stanley L. Paulson & Bonnie Litchewski Paulson (Clarendon: Oxford, 1998), 317-330. Carlos E. Alchourrón and Eugenio Bulygin named “hyletic conceptions of norms” the conceptions that identify norms with deontic propositions or “norm-*lektá*”, as they rather call them. What Alchourrón and Bulygin call the “expressive conception of norms” can be regarded, instead, as a conception identifying norms with (performative) deontic *utterances*. See Alchourrón and Bulygin, “On the Logic of Normative Systems”; “Von Wright on Deontic Logic and the Philosophy of Law (1973/89)” and “The Expressive Conception of Norms (1981)”. These kinds of theories are often based on the explicit or implicit assumption of the “untranscendability of language” with reference to norms, that is, with the assumption that norms are either linguistic phenomena, or language-related phenomena that can be conceived of only in linguistic terms. See Amedeo G. Conte, “Saggio sulla completezza degli ordinamenti giuridici [An Essay on the Completeness of Legal System],” in Amedeo G. Conte, *Filosofia dell'ordinamento normativo. Studi 1957-1968* (Turin: Giappichelli, 1997[1962]), 71-302.

¹¹⁷ Such theories generally adopt Kant’s distinction between *morality* (*moralitas*, *Moralität* or *Sittlichkeit*) and *legality* (*legalitas*, *Legalität*, or *Gesetzmäßigkeit*). While morality consists in the “conformity [with law] in which the idea of duty arising from the law is also the motive of the action”, legality consists in the “mere conformity or non-conformity of an action with law, irrespective of its motive”. See Immanuel Kant, *Metaphysik der Sitten*. English translation *The Metaphysics of Morals* (Cambridge: Cambridge University Press, 1991[1798]), *Introduction*, § III, 46, translation modified.

normative system, regardless of the fact that a corresponding normative experience is actually “evoked” within individuals’ minds.

While the identification of the criteria for the validity of norms is understandably a chief task of legal science – and especially of dogmatic jurisprudence – the identification of norms solely with valid statutory norms, and the emphasis laid exclusively on norm-creating acts, can lead to a conceptualization of *legal norms* that is incompatible with other kinds of norms, notably with customary and spontaneous legal norms,¹¹⁸ thus making – counterintuitively – statutory legal norms not a species of the genus of norms, but rather a genus apart: if legal norms, on the basis of statutory norms, are ontologically conceived of as linguistic entities independent of any normative experience, then they are not congeneric to social and customary norms operating on individuals’ behavior independently of the existence of any corresponding linguistic entity.

III. Leon Petrażycki’s Contribution to an Analysis of Normative Experience

One of the most interesting authors who tried to reverse the perspective focused on norm issuing acts is certainly the Polish-Russian philosopher of law Leon Petrażycki (1867-1931). Petrażycki’s very starting point in analyzing normative phenomena are, indeed, *normative experiences*: the reality of norms is to be found only in the internal psychic experiences of the individuals. The actual existence, in the external world, of perceptible phenomena like deontic sentences or deontic utterances is – depending on the context – either merely incidental or completely irrelevant.

The main tenets of Petrażycki’s psychological theory of law is that real jural¹¹⁹ phenomena are to be found exclusively in the sphere of psychical phenomena: they are

¹¹⁸ On spontaneous legal norms see, for instance, Roberto Ago, *Scienza giuridica e diritto internazionale* [Legal Science and International Law] (Milan: Giuffrè, 1950).

¹¹⁹ I follow Fittipaldi, who uses “jural,” rather than “legal,” as adjective of “law” in Petrażycki’s sense (Edoardo Fittipaldi, *A Defense of “Strict Petrażyckianism”*. Available at https://www.academia.edu/30077494/An_Exchange_on_Petra%C5%BCyckianism_between_Andrey_V._Polyakov_and_Edoardo_Fittipaldi (accessed April 25th, 2018)).

nothing but psychical processes or states,¹²⁰ consisting precisely in “immediate combination[s] of emotional and cognitive processes”¹²¹.

When an individual sees jural phenomena in a world external to the subject who is experiencing them – when one sees, for instance, rights and duties as “properties” of the objects or subjects to which they are ascribed, or believes in the existence of obligations or norms in the world external to his mind – such an individual is subject to “an optical illusion”, to a misunderstanding, which is determined by the projection outside his consciousness of something existing only within his mind.¹²² Such a “projective point of view” produces what Petrażycki calls “emotional or impulsive phantasmata”, giving the impression that jural phenomena, like rights, obligations, and *norms*, exist outside the subject, whereas they seem to be nothing but projections resulting from normative experiences taking place in one’s own mind. Petrażycki writes:

Moral and legal norms and obligations represent nothing actually and objectively outside the minds of the individuals asserting or denying their existence, and apart from those individuals. They are merely reflections or projections of the psychic states of those individuals.¹²³

Petrażycki explains this claim as follows:

¹²⁰ See Petrażycki, *Teorija prava i gosudarstva v svjasi s teoriej npravstvennosti*, 6 ff.

¹²¹ *Ibid.*, 43, translation modified.

This is the perspective of the theory of law, according to Petrażycki. As Fittipaldi (*Leon Petrażycki’s Conception of Legal Dogmatics as a Science at the Service of the Principle of Legality: A Critical Defense*, 2015.

https://www.academia.edu/7448211/Leon_Petra%C5%BCycki_s_Conception_of_Legal_Dogmatics_as_a_Science_at_the_Service_of_the_Principle_of_Legality_A_Critical_Defense_Russian_translation_published_on_the_journal_Pravovedenie_2013.5 (accessed January 20th, 2018)) recalls, though, beside the theory of law there are four other sciences concerned with law from different perspectives: descriptive legal science, history of law, policy of law, and legal dogmatics, to which, on the basis of Petrażycki (*Nowe podstawy logiki i klasyfikacja umiejętności* [New Foundations for Logic and Classification of Science] (Warsaw: Nakładem Towarzystwa im. Leona Petrażyckiego, 1939[1925-26]), 110), a fifth science is to be added, namely *legal prognoses* (personal communication from Fittipaldi). Thus, all in all, Petrażycki seems to have devised six different approaches to jural phenomena.

¹²² Petrażycki, *Teorija prava i gosudarstva v svjasi s teoriej npravstvennosti*, 8, 40-45.

¹²³ *Ibid.*, 112.

Only ethical impulses – in association with ideas of certain conduct (such as lying) and certain other ideas (of subjects with whose conduct we are concerned and so forth) – really and truly exist; but the impulsive projection makes it seem to one experiencing such processes that somewhere – in a higher space, as it were, above mankind – a corresponding categorical and strict imperative or prohibition exists and holds sway (for example, a prohibition against lying), and those to whom such commands and prohibitions seem addressed are in a peculiar condition of being bound or obligated.¹²⁴

Norms are thus *phantasmic* phenomena, to which no actual counterpart in the external world corresponds¹²⁵.

The psychical experience that produces such projections is an immediate combination of an action representation (the cognitive component) and a repulsion or appulsion (the emotional component) towards the represented action. What is real is this psychical experience – the *normative experience* – whereas the *norm* projected onto external reality is a mere emotional phantasma.

IV. Are Projective Illusions Unavoidable?

A question arises at this point: Are projective illusions unavoidable, or it is possible to have a normative experience being aware of its psychical nature, and without *projecting* its content onto the external world?

For example, thanks to Petrażycki's teachings, I might experience a normative repulsion towards lying, without thinking that a corresponding objective norm

¹²⁴ *Ibid.*, 42.

¹²⁵ In Petrażycki's distinction of different kinds of sciences concerned with legal phenomena, this projective perspective is presupposed, for instance, by dogmatic jurisprudence, which is concerned with the *dogmatic* bindingness of legal norms as distinguished from their *psychological* bindingness in people's mind. On the distinction of the five (or six) different sciences concerned with legal phenomena, and on the notion, function and importance of dogmatic jurisprudence in Petrażycki see note 1214, above and Fittipaldi, *Leon Petrażycki's Conception of Legal Dogmatics as a Science at the Service of the Principle of Legality: A Critical Defense*.

prohibiting lying exists outside my own consciousness, or that shamefulness is an intrinsic property of lying.¹²⁶

Petrażycki implies this possibility, since he writes:

*Whether jural experiences are or are not accompanied by projections onto the outside of corresponding norms and by the ascription of obligations to some subjects and of rights to others, it is at all events specifically these experiences – combinations of imperative-attributive emotions with the cognitive elements indicated supra – and not the norms (appearing to the subject to be found somewhere in the higher spheres) that are here the real phenomena.*¹²⁷

I think that this passage is to be understood as follows: (i) normative experiences are *often*, but *not always*, accompanied by projections of the corresponding norm onto the outside; (ii) the strict reality of normative phenomena is a psychological one, consisting in an actual normative experience. However, normative experiences necessarily have a corresponding content, and this content, qua psychological content of an actual normative experience – provided that it is not projected onto the outside – is *real*, just like the experience itself is real. With reference to the map of possible referents of the word *norm* outlined in the first Section of this paper, I propose to understand this content of a normative experience as a “deontic noema”.

That normative experiences have a content, and that this content – the deontic noema – is psychologically real, is corroborated by the passage concerning the treasury as a “perfectly *real* right-holder” within the consciousness of a person who experiences the judgment that the treasury has a certain right of property, that is, the right that others endure its dealings with something and abstain from taking it, stealing it, etc.:

¹²⁶ A comparison may clarify this point: just as the movie photograms projected onto a screen (and resulting in projected images) exist on the film in a *non-projective* form, also norms might manifest themselves in our consciousness in a *non-projective* form, that is, without the conviction that they are something existing somewhere in space, or outside us.

¹²⁷ Petrażycki, *Teorija prava i gosudarstva v svjazi s teoriej npravstvennosti*, 61-62, emphasis added, translation modified.

There is a perfectly real right-holder: that which the person thinking of “the treasury” represents to himself. There is a duty-holder [in the singular]: “all”, “everyone”, etc., that is, that which is represented [*predstavjaemoe*] and expressed by the pronouns “all”, “everyone”, etc. There is a single subject [in the sense of subject within a judgment having a subject and a predicate], found in the consciousness of the person experiencing the legal judgment – not a multitude of subjects, dispersed over the whole earth.¹²⁸

The treasury, just as all right- and duty-holders (including human beings), is consistently understood by Petrażycki not as an entity existing somewhere in space, but as a mental object capable of playing the role of logical or grammatical subject within normative judgments. As such, this object exists in the judgment itself, qua subject of the judgment. To use my terminology, it exists as a *noematic element* within the consciousness of those who experience such a judgment¹²⁹; a noematic element which is part of the more complex deontic noema consisting in the whole content of the judgment.

The aforementioned passage can be compared with another important passage by Petrażycki, in which he recapitulates his notion of normative experience and its relationship with normative judgments, normative convictions and their contents, or *norms*:

The existence and operation, in our mind, of immediate combinations of action representations and emotions rejecting or encouraging corresponding conduct (that is repulsive and appulsive emotions) may be manifested in the form of judgments [*suždenija*] rejecting or encouraging a certain conduct *per se* (and not as a means to a certain end), such as for instance: “A lie is shameful”, “One should not lie”, “One should speak the truth”, and so forth. Judgments made up of such combinations of action representations with repulsions or attractions I will term “practical judgments of principle” [*principial'nye praktičeskie suždenija*], or [...] “normative judgments” [*normativnye suždenij*]; the content [*soderžanie*] of such judgments I will term “principled rules of conduct” [*principial'nye pravily povedenija*], “principles of conduct”

¹²⁸ Petrażycki, *Vvedenie v izučenie prava i npravstennosti: Osnovy émocional'noj psihologii* [Introduction to the Study of Law and Morality. Fundamentals of Emotional Psychology], 11-12, translation modified.

¹²⁹ *Ibid.*, 9.

[*principy povedenija*], or “norms” [*normy*]. The corresponding dispositions [*dispozicii*] I will term “principled practical convictions” or “normative convictions” [*normativnye ubezhenija*].¹³⁰

In this passage, Petrażycki defines norms as the *contents* of normative judgments. Now, it can be argued that, if the subjects of normative judgments are perfectly real – provided that those subjects are understood as objects existing within the mind of the person who produces the judgments that contain them (along with other components), then why should the *whole* content of such judgments not be regarded as *real* in the same fashion as subjects and predicates? Real, let me reiterate and clarify, in the sense that not only normative judgments (or deontic noeses) are real within the mind of the person having it, but also their contents (or deontic noemata) are, qua their correlates.

It can be argued, indeed, that a psychical process like a normative experience, a normative judgment, or a normative conviction, necessarily implies an intentional object, or deontic noema. Beside the well-known phenomenological claim that consciousness is always consciousness *of* something – in the sense that every act of consciousness is directed to an intentional (i.e., mental) object, and thus also a normative experience is directed to its intentional object, or deontic noema – in this case this view can be corroborated by some of Petrażycki’s claims.

According to Petrażycki, the *emotional* element – the encouraging or rejecting emotion – is not *per se* sufficient to give rise to a normative experience: normative emotions, as Petrażycki remarks, “would evoke no conduct of any sort in the absence of action ideas”: “[d]issociated from action ideas of every sort, they would manifestly not be experienced”.¹³¹

The content of a normative experience as a whole is thus given by the cognitive – or “intellectual” – component along with a normative, emotional appulsion or repulsion. In its simplest form, this content includes normative appulsions and repulsions plus the representation of some internal or external conduct. However, normative experiences may have more complex forms that include further cognitive

¹³⁰ Petrażycki, *Teorija prava i gosudarstva v svjasi s teoriej npravstvennosti*, 30, translation modified.

¹³¹ *Ibid.*, 44.

components, such as representations of normative conditions – of “relevant facts” in Petrażycki’s words –¹³² of duty- or right-holders, and of normative facts.¹³³ All these cognitive components may as well be parts of a complex deontic noema.

However, the *cognitive* components are not *per se* sufficient to give rise to a normative experience: it is only insofar as they are accompanied by normative emotions, in what I propose to call a specifically “deontic noesis” – thus making up full-blown normative judgments – that the cognitive components may give rise to a normative experience.

What Petrażycki’s analysis suggests, then, is that a normative experience (a normative *Erlebnis*, to use an expression from German phenomenology) is a complex experience in which at least one cognitive and one emotional component are inextricably intertwined. Indeed, regarding ethical experiences (a subclass of normative experiences) Petrażycki writes: “The minimal psychological structure of ethical experiences is action representation – the representation of some external or internal conduct – plus a positive or negative ethical impulsion”.¹³⁴

Petrażycki’s conceptualization of a norm can then easily be mapped onto the notion of deontic noema – independently of its being projected or not onto external reality. On the one hand, we confront minimal deontic *noeses*, or normative experiences, understood as compound mental *phenomena*, that comprise at least the activity of representing to oneself an action and the experience of normative appulsions or repulsions. On the other hand, we confront minimal deontic noemata, that comprise the action represented *along with* the appulsion or repulsion towards it. It has to be stressed that a deontic noema, that is, the content of a normative experience, is not the mere representation of an action, but the representation of that actions *as connected to*

¹³² Petrażycki means here: “representations of the circumstances or of the conditions upon whose presence the obligation of certain conduct depends: for example, ‘if anyone shall strike you upon the right cheek, turn him the other also’” (*Teorija prava i gosudarstva v svjasi s teoriej npravstvennosti*, 44). On the possible elements of a normative experience see also Edoardo Fittipaldi, “Leon Petrażycki’s Theory of Law,” in *Legal Philosophy in the Twentieth Century. Tome 2: The Civil Law World Main Orientations and Topics*, ed. Enrico Pattaro & Corrado Roversi (Dordrecht: Springer, 2016c), 457-464.

¹³³ Petrażycki, *Teorija prava i gosudarstva v svjasi s teoriej npravstvennosti*, 44.

¹³⁴ *Ibid.*

the appulsion or repulsion towards it. For example, in my normative experience that one should not lie, the deontic noema is not my representation of lying alone, but rather the representation of *lying-as-something-I-reject*.

V. Absolute Legal Idiotism and the Cognition of Someone Else's Deontic Noemata

If the foregoing reconstruction is plausible, there is still one point that remains unclear in Petrażycki's conceptualization of norms. If norms are deontic noemata, that is, the correlates of deontic noeses (or normative experiences), are they at all thinkable without the actual involvement of corresponding normative-emotional experiences? Is it possible, in other words, to have a non-participant experience (or a *nicht-teilnehmende Erfahrung*, to put it in German) of a norm, i.e., a *non-deontic* noesis of a *deontic* noema, like, for instance, the knowledge of a norm operating in someone else's mind, that is, of a deontic noema that is the correlate of someone else's normative experience? More generally, can a norm be an object of thought without being the object of a truly deontic noesis?

According to Petrażycki, one can acquire "information (indirect and more or less hypothetical, however)" as to normative phenomena in the minds of others through an "inference by analogy". However, this is possible only insofar as one is already acquainted with normative phenomena because he has himself experienced them. It is impossible, on the contrary, in case of what Petrażycki calls "absolute legal idiotism", i.e., "the impossibility to have legal experiences". Indeed, a man suffering from absolute legal idiotism "could not possibly know what law is".¹³⁵ However, this remark admits of two interpretations.

On the *first* – less plausible – interpretation, whenever one thinks of a norm (or deontic noema) experienced by someone else, he must also have a participant and *sympathetic* normative experience, that is, a *deontic* noesis of *that* specific deontic noema. On this interpretation, no norm, no deontic noema, is thinkable without its correlative deontic noesis, or normative experience. But this would imply (somewhat

¹³⁵ Ibid., 15.

paradoxically) that when one is protesting against a norm, he must at the same time *normatively* experience the norm he is protesting against, and this despite his experiencing a repulsion towards that very norm. For example, a person who protests against a norm establishing apartheid because of his or her normative *repulsion* towards discriminating human beings on the basis of skin color, should at the same time necessarily experience a normative *appulsion* towards such discriminations, as implied by countered norm, since the very thinking of such a norm – which implies *ex hypothesi* the deontic noesis of the deontic noema – would necessarily involve an appulsion towards such discriminations.

On the *second* interpretation, on the contrary, in order to cognize someone else's deontic noema it suffices that, due to one's previous experiences, one be generally acquainted with normative experiences, or deontic noeses – whatever their content – just like having previously experienced hunger can perfectly suffice to cognize someone else's hunger and appulsion toward eating a certain food one might possibly even utterly dislike. However, this second interpretation seems to imply that it is possible to have a *non-normative* experience of a norm, that is, a *non-deontic* noesis of a deontic noema.

This seems to be a possible shortcoming of Petrażycki's conceptualization of norms. A shortcoming that could be overcome through the distinction between a *cognitive* noesis and a *deontic* noesis of a deontic noemata. Such a distinction has been foreshadowed by the Czech legal philosopher Ota Weinberger, to whom I now turn.

VI. *Deontic Noesis vs. Cognitive Noesis of a Deontic Noema*

According to Ota Weinberger, a norm is not a material, it is an *ideal* entity (*ideelle Entität*)¹³⁶: it is a thought (*Gedanke*), “in the same sense as this expression is

¹³⁶ Somewhat surprisingly, in the German original Weinberger switches from *ideelle Entität* to *ideale Entität*, and back again to *ideelle Entität* in one and the same passage (Ota Weinberger, “Die Norm als Gedanke und Realität,” *Österreichische Zeitschrift für öffentliches Recht* 20 (1970): 208-209). Hans Kelsen, on the contrary, more consistently uses *ideell* in the (ontological) sense of “spiritual, belonging to the realm of ideas and thoughts, non-material” and *ideal* in the (axiological) sense of “corresponding to an ideal” (see Hans Kelsen, *Allgemeine Theorie der Normen*. English translation *General Theory of Norms* (Oxford; New York: Clarendon Press; Oxford University Press,

used in characterising logic as the ‘analysis of thought’ [*Gedankenanalyse*]”. Notably, a norm is a thought “in an objective sense, derived by abstraction from the processes of consciousness (whose contents can be thoughts in the objective sense)”.¹³⁷ Thus, Weinberger’s *Normgedanken* can be regarded as pure deontic noemata divorced from any specific noesis, that is, from any actual psychic activity or experience (*Erlebnis*) of them taking place within one’s consciousness.¹³⁸

However, beside this “idealistic” conceptualization of norms – which is specifically aimed at an analysis of logical relations between norms – Weinberger remarks that a correct grasp of the ideal nature of norms is connected to, and elucidated by, the way they actually operate and the role they play in the reality of human life and action.¹³⁹

According to Weinberger, there are two ways in which a norm can manifest itself qua content of consciousness, and thus “live” (*leben*) or “exist” within the “realm of human consciousness” as a content of consciousness (*Inhalt des Bewußtseins*): it can

1991[1979]), 291). The Polish term *idealny* was already used with regard to norms by one of Petrażycki’s pupils, Jerzy Lande, who wrote: “It is necessary to distinguish jural norms [*norma prawna*] (ideal entities [*twór idealny*]) from their real [*realny*] counterparts: 1. human experiences having norms as their content [*przeżycie ludzkie, mające za treść normę*], 2. mass human behavior governed by norms” (Jerzy Lande, “Historia filozofii prawa [History of Legal Philosophy],” in Jerzy Lande, *Studia z filozofii prawa*, ed. Kasimierz Opalek (Warsaw: PWN, 1959[1929-30]), 414-415, cf. Fittipaldi, *A Defense of “Strict Petrażyckianism”*); a passage that, incidentally, is a further support for my reconstruction of Petrażycki’s norms in terms of deontic noemata. As for the German term *ideell*, Petrażycki used it to characterize juristic and natural persons understood as ideal “stations of goods” (cf. Fittipaldi, “Leon Petrażycki’s Theory of Law,” 467. fn. 66).

137 Ota Weinberger, “The Norm as Thought and as Reality,” in Neil MacCormick & Ota Weinberger, *An Institutional Theory of Law* (Law and Philosophy Library) (Dordrecht: Springer Netherlands, 1986), 31-48. See also the original German edition: Weinberger, “Die Norm als Gedanke und Realität,” 205.

Needless to say, even though I believe that Weinberger’s ideas can be used to complete Petrażycki’s conceptualization of norms, I am not implying that Petrażycki would have accepted the former’s idea of “thoughts in an *objective* sense.”

138 Weinberger evidently draws inspiration from Edmund Husserl’s phenomenology (see Weinberger, “Die Norm als Gedanke und Realität,” 205; Weinberger, “The Norm as Thought and as Reality,” 33). Interestingly enough, also Paul Amssek understands rules as mental objects (and specifically as mental tools) by partly drawing inspiration from Husserl’s phenomenology (see Paul Amssek, “Les règles juridiques en tant qu’objets mentaux [Legal Rules as Mental Objects],” *Archiv für Rechts- und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy* 79(3) (1993): 311-320; “Comment je vois le monde du droit [The Law as I see it],” *Phenomenology and Mind* 13 (2017): 30-40).

139 See Weinberger, “Die Norm als Gedanke und Realität,” 207.

either be a content of consciousness qua “ought-knowledge [*Soll-Wissen*]”, that is, as the mere *knowledge* that an ought “holds good for some human group, in which case it may be that the subject of the ‘ought-knowledge’ does not ‘will’ the ‘ought’ [*das Gesollte*]”,¹⁴⁰ or it can be a content of consciousness qua “ought-experience [*Soll-Erlebnis*]”, that is, as the *experience* of an ought understood as “experience of obligatoriness”, or “consciousness that something ought to be the case”. According to Weinberger, this ought-experience implies the *will* of the object of the ought (*das Wollen des Gesollten*); this is the case, for instance, of “custom, law, or other normative systems” that are “experienced (willed) as obligatory [*als gesollt erlebt (gewollt)*] by the supporters [*Trägern*] of these systems (not only by the norm issuing organs)”.¹⁴¹

If we understand Weinberger’s *Normgedanken* as deontic noemata, then what Weinberger suggests is that a deontic noema can be the correlate of two different kinds of noeses: a *theoretical*, or *cognitive* noesis, that is, a *Soll-Wissen*,¹⁴² and a genuine *deontic* noesis, that is, a *Soll-Erlebnis*. On this perspective, one can have cognition – that is, a non-deontic noesis – of a norm experienced by someone else, even if he or she does not share the normative experience of that norm.

However, even if one accepts that a deontic noema can be the object of a *cognitive* no less than of a *deontic* noesis, what Petrażycki’s thought-provoking hypothesis of absolute legal idiotism suggests is that no proper theoretical or cognitive

¹⁴⁰ Weinberger, “The Norm as Thought and as Reality,” 40; “Die Norm als Gedanke und Realität,” 210-211.

It is unclear, from this definition, whether the knowledge that an ought “holds good for some human group” has to be understood as an *empirical* knowledge on the human group’s normative convictions, or as a *dogmatic* knowledge depending on the assumption of a basic norm – to use Hans Kelsen’s concepts. But maybe, the notion of *Soll-Wissen* is compatible with both perspectives.

¹⁴¹ *Ibid.*, translation modified.

¹⁴² In such a hypothesis, a *Soll-Wissen* can be a component of one’s non-participant experience (*nicht-teilnehmende Erfahrung*), without its object ever being, for him, also the object of a participant deontic experience (*teilnehmendes Soll-Erlebnis*). The here proposed distinction between a participant and a non-participant experience of norms is inspired by Bronisław Malinowski’s notion of “participant observation” as opposed to a “non-participant observation” in anthropology. As can be seen, the English term “experience” renders here two German terms: *Erlebnis* and *Erfahrung*. While *Erlebnis* – just as Petrażycki’s *pereživanie* – contains the root of a term meaning “to live”, *Erfahrung* has a more cognitive nuance, as the German verb *erfahren* also means “to come to know”.

noesis of a deontic noema is possible without a preliminary capacity of experiencing normative experiences, that is, of having deontic noeses of deontic noemata.

Bibliography

- Ago, Roberto. *Scienza giuridica e diritto internazionale* [Legal Science and International Law]. Milan: Giuffrè, 1950.
- Alchourrón, Carlos E., & Eugenio Bulygin. "On the Logic of Normative Systems." In *Pragmatik. Handbuch pragmatischen Denkens. Bd. 4. Sprachphilosophie, Sprachpragmatik und formative Pragmatik*, edited by Herbert Stachowiak, 273-294. Hamburg: Meiner, 1993.
- Alchourrón, Carlos E., & Eugenio Bulygin. "Von Wright on Deontic Logic and the Philosophy of Law (1973/89)." In Eugenio Bulygin, *Essays in Legal Philosophy*, 88-116. Oxford: Oxford University Press, 2015a[1973-89].
- Alchourrón, Carlos E., & Eugenio Bulygin. "The Expressive Conception of Norms (1981)." In Eugenio Bulygin, *Essays in Legal Philosophy*, 146-170. Oxford: Oxford University Press, 2015b[1981].
- Amselek, Paul. "Les règles juridiques en tant qu'objets mentaux [Legal Rules as Mental Objects]." *Archiv für Rechts- und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy* 79(3) (1993): 311-320.
- Amselek, Paul. "Comment je vois le monde du droit [The Law as I see it]." *Phenomenology and Mind* 13 (2017): 30-40.
- Aristotle. *De sensu and De memoria. Text and translation with introduction and commentary*. Translated by George Robert T. Ross. Cambridge: Cambridge University Press, 2014.
- Conte, Amedeo G. "Studio per una teoria della validità [A Study Towards a Theory of Validity]." In Amedeo G. Conte, *Filosofia del linguaggio normativo. I. Studi 1965-1981*, 55-74. Turin: Giappichelli, 1995[1970].
- Conte, Amedeo G. "Saggio sulla completezza degli ordinamenti giuridici [An Essay on the Completeness of Legal System]." In Amedeo G. Conte, *Filosofia dell'ordinamento normativo. Studi 1957-1968*, 71-302. Turin: Giappichelli, 1997[1962].
- Conte, Amedeo G. "Norma." In *Enciclopedia filosofica*, vol. VIII, 7945-7948. Milan: Fondazione Centro Studi Filosofici di Gallarate & Bompiani, 2006.
- Conte, Amedeo G. "Norma: cinque referenti [Norm: Five Referents]." In Amedeo G. Conte, Paolo Di Lucia, Antonio Incampo, Giuseppe Lorini, & Wojciech Żelaniec, *Ricerche di Filosofia del diritto*, 27-35. Turin: Giappichelli, 2007.
- Conte, Amedeo G. "Norma: cinque referenti." In *Filosofie della norma*, edited by Giuseppe Lorini & Lorenzo Passerini Glazel, 57-65. Turin: Giappichelli, 2012.
- Conte, Amedeo G. "Norme: cinq référents." *Phenomenology and Mind* 13 (2017): 22-28.
- Di Lucia, Paolo & Lorenzo Passerini Glazel. "Two Semiotic Shifts in the Philosophy of Norms: Meaning Shift and Referent Shift." *Phenomenology and Mind* 13 (2017): 10-18.
- Fittipaldi, Edoardo. *Everyday Legal Ontology: A Psychological and Linguistic Investigation within the Framework of Leon Petrażycki's Theory of Law*. Milan: LED, 2012.
- Fittipaldi, Edoardo. *Leon Petrażycki's Conception of Legal Dogmatics as a Science at the Service of the Principle of Legality: A Critical Defense*. 2015. https://www.academia.edu/7448211/Leon_Petra%C5%BCycki_s_Conception_of_Legal_Dogmatics_as_a_Science_at_the_Service_of_the_Principle_of_Legality_A_Critical_Defense_Russian_translation_published_on_the_journal_Pravovedenie_2013.5_ (accessed January 20th, 2018).
- Fittipaldi, Edoardo. "Introduction: Continental Legal Realism." In *Legal Philosophy in the Twentieth Century. Tome 2: The Civil Law World Main Orientations and Topics*, edited by Enrico Pattaro & Corrado Roversi, 297-318. Dordrecht: Springer, 2016a.

- Fittipaldi, Edoardo. "Jerzy Lande." In *Legal Philosophy in the Twentieth Century. Tome 2: The Civil Law World Main Orientations and Topics*, edited by Enrico Pattaro & Corrado Roversi, 505-526. Dordrecht: Springer, 2016b.
- Fittipaldi, Edoardo. "Leon Petrażycki's Theory of Law." In *Legal Philosophy in the Twentieth Century. Tome 2: The Civil Law World Main Orientations and Topics*, edited by Enrico Pattaro & Corrado Roversi, 443-503. Dordrecht: Springer, 2016c.
- Fittipaldi, Edoardo. *A Defense of "Strict Petrażyckianism"*. Available at https://www.academia.edu/30077494/An_Exchange_on_Petra%C5%BCyckianism_between_Andrey_V_Polyakov_and_Edoardo_Fittipaldi (accessed April 25th, 2018).
- Fittipaldi, Edoardo, & Elena V. Timoshina. "Theory of Custom, Dogmatics of Custom, Policy of Custom: On the Threefold Approach of Polish-Russian Legal Realism." *Ratio Juris* 30(1) (2017): 105-122.
- Guastini, Riccardo. "Disposizione vs. norma [Disposition vs. Norm]." *Giurisprudenza costituzionale* 34 (1989): 3-14.
- Guastini, Riccardo. *Dalle fonti alle norme [From Sources to Standards]*. 2nd edition. Turin: Giappichelli, 1992.
- Guastini, Riccardo. "Normativism or the Normative Theory of Legal Science: Some Epistemological Problems." In *Normativity and Norms. Critical Perspectives in Kelsenian Themes*, edited by Stanley L. Paulson & Bonnie Litchewski Paulson, 317-330. Clarendon: Oxford, 1998.
- Hage, Jaap. *Studies in Legal Logic*. Dordrecht: Springer, 2005.
- Husserl, Edmund. *Ideen zu einer reinen Phänomenologie und phänomenologischen Philosophie. I. Buch: Allgemeine Einführung in die reine Phänomenologie*. English translation *Ideas pertaining to a Pure Phenomenology and to a Phenomenological Philosophy. First Book*. The Hague, etc.: Martinus Nijhoff, 1983[1913].
- Kant, Immanuel. *Metaphysik der Sitten*. English translation *The Metaphysics of Morals*. Cambridge: Cambridge University Press, 1991[1798].
- Kelsen, Hans. *Allgemeine Theorie der Normen*. English translation *General Theory of Norms*. Oxford; New York: Clarendon Press; Oxford University Press, 1991[1979].
- Lande, Jerzy. "Historia filozofii prawa [History of Legal Philosophy]." In Jerzy Lande, *Studia z filozofii prawa*, edited by Kasimierz Opałek, 405-557. Warsaw: PWN, 1959[1929-30].
- Passerini Glazel, Lorenzo. "Disused Norms: Norm Atrophy and Nomotrophic Behaviour." In *The Nature of Social Reality*, edited by Claudia Stancati, Alfredo Givigliano, Emanuele Fadda & Giuseppe Cosenza, 55-64. Newcastle upon Tyne: Cambridge Scholars Publishing, 2013.
- Passerini Glazel, Lorenzo. "Shared Norms and Nomotrophic Behaviour." *Phenomenology and Mind* 9 (2015): 148-159.
- Passerini Glazel, Lorenzo. "Normative Experience: Deontic Noema and Deontic Noesis." *Phenomenology and Mind* 13 (2017): 96-107.
- Passerini Glazel, Lorenzo. "Norme vissute e norme meramente pensate: noema deontico ed esperienza normativa in Kelsen, Weber, Petrażycki e Weinberger [Lived Norms and Merely Thought Norms: Deontic Noema and Normative Experience in Kelsen, Weber, Petrażycki and Weinberger]." *Sociologia del diritto* 45(1) (2018): 7-28.
- Pattaro, Enrico. "Il positivismo giuridico italiano dalla rinascita alla crisi [Italian Legal Positivism from Rebirth to Crisis]." In *Diritto e analisi del linguaggio*, edited by Uberto Scarpelli. Milan: Edizioni di Comunità, 1976[1972].
- Petrażycki, Leon. *Nowe podstawy logiki i klasyfikacja umiejętności [New Foundations for Logic and Classification of Science]*. Warsaw: Nakładem Towarzystwa im. Leona Petrażyckiego, 1939[1925-26].
- Petrażycki, Leon. *Vvedenie v izučenie prava i npravstennosti: Osnovy émocional'noj psihologii [Introduction to the Study of Law and Morality. Fundamentals of Emotional Psychology]*. 3rd ed. Partial English translation in Leon Petrażycki (Nicholas Timasheff ed.) *Law and Morality*. New Brunswick: Transaction Publishers, 2011[1908].

- Petrażycki, Leon. *Teorija prava i gosudarstva v svjazi s teoriej npravstvennosti* [Theory of Law and State in the Connection with the Theory of Morality]. 2nd ed. Partial English translation in Leon Petrażycki (Nicholas Timasheff ed.) *Law and Morality*. New Brunswick: Transaction Publishers, 2011[1909-1910].
- Polyakov, Andrey V., & Edoardo Fittipaldi. *An Exchange on Petrażyckianism*. Available at https://www.academia.edu/30077494/An_Exchange_on_Petra%C5%BCyckianism_between_Andrey_V._Polyakov_and_Edoardo_Fittipaldi (last retrieved on November 4th, 2017).
- Reinach, Adolf. *The Apriori Foundations of the Civil Law. Along with the Lecture "Concerning Phenomenology"*. Berlin: De Gruyter, 2012[1913].
- Spiegelberg, Herbert. *Gesetz und Sittengesetze. Strukturanalytische und historische Vorstudien zu einer gesetzesfreien Ethik* [Law and Moral Laws. Analytical, Structural and Historical Introductory Studies towards an Ethics without Laws]. Zürich: Max Niehans, 1935.
- Timoshina, Elena V. *Kak vozmožna teorija prava? Ėpistemologičeskie osnovanija teorii prava v interpretacii L. I. Petrażyckogo* [How is the Theory of Law Possible? The Epistemological Foundations of the Theory of Law in L. I. Petrażycki's interpretation]. Moscow: Izdatel'stvo "Jurlitinform", 2012.
- Weinberger, Ota. "Die Norm als Gedanke und Realität." *Österreichische Zeitschrift für öffentliches Recht* 20 (1970): 203-216.
- Weinberger, Ota. "The Norm as Thought and as Reality." In Neil MacCormick & Ota Weinberger, *An Institutional Theory of Law*, 31-48. Law and Philosophy Library. Dordrecht: Springer Netherlands, 1986.
- Wright, Georg Henrik von. *Norm and Action A Logical Enquiry*. London: Routledge and Kegan Paul, 1963.