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**A HISTORICAL STUDY  
OF NIKOLAI KORKUNOV'S  
CONTRIBUTION  
TO LEGAL THEORY**





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## INTRODUCTION

Literature on legal history and theory has significantly expanded over the last century but it is only in the last decades that the important contributions made by Nikolai Mikhailovich Korkunov (1853-1904) have become more widely recognized. As a nineteenth-century sociological legal thinker who applied an integrated social science approach to the study of law in late Imperial Russia, Korkunov's influence on this discipline and its evolution must be identified, examined, and traced in order to have a fuller picture of the field and its historical trajectory.

The central purpose of this study is to add to scholars' ongoing efforts to further integrate the Saint Petersburg lawyer and his work into the relevant historiography. I also aim to examine how concurrent and subsequent academics engaged with Korkunov's ideas in order to fully understand the impact of his theories on the legal field in relation to Imperial, Soviet, and modern-day Russia, as well as foreign law.

In part one, I will begin by providing an extensive literature review concerning scholarship on Korkunov and his work spanning from Russia's pre-revolutionary era to the present day. I will cover a significant number of works related to Korkunov, striving to provide Russian legal scholarship with a key element that has thus far been missing. I will outline how the lawyer was received among his contemporaries, his main arguments on the law, how he positioned his ideas among prevailing legal schools of thought, and his reception among Western thinkers.

I will also consider the Soviet period in order to understand how the characterizing principles of this era shaped, and often obscured, Korkunov's ideas and legacies. I will then highlight the resurgence of interest in Korkunov and his sociological conception of the law, as well as the potential reasons for this renewed attention, during the period after the fall of the Soviet Union up to the present day.

I will pay particular attention to how scholars have come to understand Korkunov's ideas as a new method for studying the law, how they have examined his relationship to Western liberalism, and how his framework for the law has been used as a way to reconsider the structure of Russia's legal system along with the history of its development. I argue that after 1917, Soviet academics largely overlooked Korkunov due to his notion of state power, which affords primacy to the state, as well as his desire to gradually transition Russia from an autocracy to constitutionalism.

For this reason, during the Soviet era, his ideas were often seen as a product of bourgeois thinking and a source of counter-revolutionary efforts. This contention greatly reduced Korkunov's academic and political weight and placed him in a position of obscurity until after the fall of the Soviet Union. Ultimately, I will try to show how the political upheaval of Russian society led to the underappreciation and undervaluation of Korkunov's work throughout history by legal historians and theorists until after the 1990s, despite the novelty of his thought. Furthermore, in part one I will analyze the reception of Korkunov's work in the United States and highlight how his sociological legal thinking predated and even helped spur on the historical and social turn in American legal thinking.

Following this, in part two I will focus on the English translation of Korkunov's major work, *General Theory of Law*, further examining its key concepts and definitions, studying his work in more detail in order to fully understand the influences behind Korkunov's conception of the law, his place in legal history and his influence on modern-day legal theorists.

In part three I will continue to examine Korkunov's place in legal history, specifically looking at his connection to the American legal scholar Nathan Roscoe Pound (1870-1964). Pound, like Korkunov, was heavily



influenced by the German jurists Friedrich Carl von Savigny (1779-1861) and Rudolf von Jhering (1818-1892). I will aim to show that despite their ideas being rooted in two separate social and political realities, they have similarities, with Pound even having read and cited Korkunov's *General Theory of Law*<sup>(1)</sup>. Studying their conceptions in tandem is important as it will demonstrate how both scholars' theories were constructed in response to the influence of liberalism in their respective societies, suggesting that the sociological turn in legal theory was part of a large historical process that defied borders and is tied to the modern social condition.

Moreover, it indicates that Korkunov's ideas, though undoubtedly shaped by the Russian imperial reality, were more broadly linked to the historical moment in which he lived. This highlights that Korkunov's work is not only relevant to the study of *Russian* legal theory and history, but is also reflective of shifts in the field as a whole, underscoring the importance of studying and interpreting it nowadays.

Throughout this work I try to propose a foundation for understanding the basis of Korkunov's theories, his position in legal scholarship, and the various linkages that can be made between his novel theory of law and broader sociological trends in legal history's evolution.

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(1) Roscoe Pound, "The Scope and Purpose of Sociological Jurisprudence," *Harvard Law Review*, 25 (6), 1912, pp. 489-516 (p. 491, p. 499). It should be noted that Pound was using the 1909 English translation by Hastings, see: N.M. Korkunov, *General Theory of Law*, trans. by W.G. Hastings (Boston, MA: The Boston Book Company, 1909).



## PART I

# N.M. KORKUNOV'S LEGAL IDEAS AND THEORY A HISTORIOGRAPHICAL REVIEW

### 1.1. The Importance of Korkunov's Work

Korkunov's ideas have occupied a distinct position in both Eastern European and Western intellectual circles since their publication, rising and falling in popularity for over a century, often in conjunction with political moments, such as the implementation of communism in Russia, which brought his theories about the law and state to the fore of political thought<sup>(1)</sup>.

An innovative legal thinker, Korkunov has remained a subject of interest in the study and interpretation of legal theory in general and Russian legal theory in particular since the mid-to-late nineteenth century, due to the novelty of his ideas as well as their scope<sup>(2)</sup>. His *General Theory of Law* represented a landmark contribution to jurisprudence

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(1) Ol'ga Shapoval, "Uchenie N.M. Korkunova o prave," 2005, PhD dissertation. Shapoval traces the interest in Korkunov's theories throughout the Soviet period, noting that the first mention of a study on Korkunov appeared in S.A. Piatkina's article entitled "O pravovoi teorii russkogo iuridicheskogo pozitivizma," *Pravovedenie*, 4, 1964, pp. 116-120. However, Shapoval notes that the aim at the time was to relegate Korkunov's theories to the past due to their mention of a monarchy. Piatkina incorrectly defines Korkunov as a full legal positivist and provides a well-founded, but foundationally incorrect, critique of his theories.

(2) This trend is easily seen in the number of legal theorists that interacted with his theories, both positively and negatively, both in Russia and the West. The fact that Korkunov's theories overlap several schools of thought meant that a large pool of jurists had a vested interest in his ideas.

when it was originally published in Russian in 1896 and later translated into English in the United States in 1909<sup>(3)</sup>. Although they did not reach particular notoriety at the time, Korkunov's theories soon became a topic of popular interest among legal historians, legal theorists, and sociologists<sup>(4)</sup>.

Across numerous published works, Korkunov remained concrete on his definition of the law. At its most basic level, he defined the law as the delimitation of interests. He argued that people adhere to the delimitation of interests because the norms and relationships they operate with in form the basis of their own power<sup>(5)</sup>.

(3) N.M. Korkunov, *General Theory of Law*, trans. W.G. Hastings (New York: The Macmillan Company, 1922). Although Pound was using the 1909 edition, as stated above in footnote 1, I will use the more recent 1922 edition. For the purposes of this work, the English translation of Hastings's translation of *General Theory of Law* will be accompanied by the original Russian taken from N.M. Korkunov, *Lektsii po obshchei teorii prava* (Saint Petersburg: Iuridicheskii tsentr, 2004) as the original is written in an older form of the Russian language.

(4) Examples include: Nina Eduardovna Pegova, "Printsip 'sub'ektivnogo realizma' v teoretiko-pravovoi metodologii Nikolaia Mikhailovicha Korkunova," *Gumanitarnye i sotsial'no-ekonomicheskie nauki: nauchno-obrazovatel'nyi i prikladnoi zhurnal*, 4 (83), 2015, pp. 82-86; George Yaney, "Bureaucracy and Freedom: N.M. Korkunov's Theory of the State," *The American Historical Review*, 71 (2), 1966, pp. 468-86 (pp. 483-485); Eric Lohr, "The Ideal Citizen and Real Subject in Late Imperial Russia," *Kritika: Explorations in Russian and Eurasian History*, 7 (2), 2006, pp. 173-94; Iuliia Poltorak, "To Bridge the Gulf: State, Society, and the Russian Bureaucratic Ideal at the Turn of the Twentieth Century," PhD dissertation, University of Pennsylvania, 1996; Andrei Poliakov, "The Theory of State and Law by Nikolay Korkunov," in: *Russian Legal Realism*, eds. Bartosz Brozek, Julia Stanek and Jerzy Stelmach (New York: Springer, 2018), pp. 67-78; Iuliia Aleksandrovna Komnatnaia, "Istoriia otechestvennoi nauki kollizionnogo prava: teoriiia osnovaniia iuridicheskogo fakta N.M. Korkunova (1853-1904)," *Istoricheskie, filosofskie, politicheskie i iuridicheskie nauki, kul'turologiia i iskusstvovedenie. Voprosy teorii i praktiki: nauchno-teoreticheskii i prikladnoi zhurnal*, 7 (13), 2011, part 2, pp. 122-124; Vera Ignat'evna Bochkareva, "'Iurist-sotsiolog' N.M. Korkunov," *Zhurnal sotsiologii i sotsial'noi antropologii*, 17 (2), 2014, pp. 88-100; Patrick Lally Michelson, "The First and Most Sacred Right: Religious Freedom and the Liberation of the Russian Nation, 1825-1905," Ph.D. dissertation, University of Wisconsin-Madison, 2007; Igor Andreevich Isaev, "Konseptsiiia vlasti N.M. Korkunova i ee psikhologicheskie paralleli (iz istorii iuridicheskoi psikhologii v Rossii)," *Pravovoe gosudarstvo: sviaz' vekov (istoriko-teoreticheskie aspekty)*, 1991, pp. 35-46; Elena Nikolaevna En'shina, "Teoriia sovместnosti vlastvovaniia N.M. Korkunova," *Izvestiia Iugo-Zapadnogo gosudarstvennogo universiteta. Seriia: Istoriia i pravo*, 2 (19), 2016, pp. 35-40; Pavel Vladimirovich Galkin, "Problemy statusa i kompetentsii organov mestnogo samoupravleniia v trudakh M.I. Sveshnikova i N.M. Korkunova," *Istoriia gosudarstva i prava: nauchno-pravovoe izdanie*, 13, 2011, pp. 36-39.

(5) Korkunov, *General Theory of Law*; Korkunov, *Lektsii po obshchei teorii prava*; Nikolai Korkunov, *Russkoe gosudarstvennoe pravo*, 6th ed., 2 vol. (Saint Petersburg: Tip. M.M. Stasiulevicha, 1909); Nikolai Korkunov, *Ukaz i zakon* (Saint Petersburg: Tip. M.M. Stasiulevicha, 1894); Nikolai

At the crux of his theory of the law is the notion that the individual and state power are reliant on and inseparable from one another through individuals' awareness of their dependence on the state<sup>(6)</sup>. According to the imperial lawyer, state power develops out of individuals' regard for the law, which can be manipulated to suit their own needs. However, since independently acting individuals cannot maintain political power, this power is held at the state level and represents a unity of wills<sup>(7)</sup>.

Despite being a trailblazing legal thinker, Korkunov was neither the first nor the last scholar to take a sociological approach to the law. As I aim to show in this work, many of his ideas were inspired by the teachings of German legal thinkers such as Jhering, but tenets of his work also featured prominently in the development of sociological jurisprudence in the United States.

Korkunov's seminal work was rooted in his criticism of society's stagnation, which he saw as a result of poor governance and a consequence of the peculiar features of the Russian autocracy<sup>(8)</sup>. While criticizing the school of natural law and the positive law school – which represented the dominant legal schools of the time – for their abstract principles, he was influenced by the infusion of Western liberal principles into Russian intellectual circles<sup>(9)</sup>.

Although he found the liberal ideas useful for Russian society, he was aware of the care that they would require when adapted to Russia and feared that Western individualism could impede the development of his country. Regardless of his theoretical legal ideals, he approached the law and its problems from a practically informed, but fairly theoretical, stance.

Despite Korkunov's theories finding their basis in issues particular to the Russian legal system, his work was reflected in the Western world,

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Korkunov, *Istoriia filosofii prava: Posobie k lektsiiam* (Saint Petersburg: Tip. M.M. Stasiulevicha, 1896); Nikolai Korkunov, *Sbornik statei N.M. Korkunova 1877-1897* (Saint Petersburg: Izdanie iuridicheskogo knizhnogo magazina N.K. Martynova, 1898).

(6) A.V. Petukhova, "Sotsiologicheskaiia kontseptsiiia N.M. Korkunova," *Sotsiologiia i sotsial'nye nauki*, 3 (27), 2021, pp. 74-78 (p. 77).

(7) This idea is explored mostly fully in his *Lektsii po obshchei teorii prava*.

(8) Due to the censorship and governance of legal studies at the time, Korkunov was not able to explicitly make any criticisms of the monarchy or government. However, he does say that there were certain inefficiencies in the way the state was run, such as with law and legislation.

(9) K.K. Oganian, "Lichnost' i obshchestvo v sotsial'no-pravovoi kontseptsii N.M. Korkunova," *International Research Journal*, 6 (13), 2013.

particularly in the United States with thinkers such as Pound, who also approached legal thought through a sociological lens. Pound constructed his sociological view of the law from the very realities that Korkunov feared. His notion of sociological legal thinking was developed in response to the hyper-individualism of American society and its legal system in the early 20th century, which he claimed came at the detriment of the collective.

Throughout this work I aspire to analyze the similarities between both Korkunov's and Pound's legal thought in order to discuss Korkunov's place in the wider legal sphere, as well as highlight the importance that he placed on the issue of individualism. This question of the individual's place in relation to the state and legislation was a much-discussed topic in the nineteenth century, with competing arguments arising from the various schools of legal thought that dominated Russia's intellectual sphere in Korkunov's time. As is well known, the positive law school argued that laws arise from governing structures and the will of the legislator, whereas its opponent, the school of natural law, claimed that law should arise from ideal concepts such as justice.

Despite legal positivism and *jusnaturalism* being the main movements of legal thought in the Russian Empire, they were often challenged by the emergence of liberalism, which advocated for individual freedoms and the rule of law, along with the advent of sociological, historical, and psychological approaches to the law<sup>(10)</sup>. Such ideas often traveled to Russia via German academic texts or institutions, where many Russian theorists and lawyers were educated<sup>(11)</sup>. Many scholars also combined these ideas to devise unconventional approaches to studying the law. It was these novel theories that greatly influenced Korkunov, functioning as his building blocks and fueling his rejection of traditional theories.

As I aim to show, Korkunov had a complex relationship with legal positivism, a nuanced idea of state power, and an atypical understanding

(10) For more information on the impact of legal positivism on Russian legal theory, in addition to an overview of Russian legal philosophy in the late nineteenth and early 20th centuries, see: Elena Pribytkova, "Personality, Person, Subject in Russian Legal Philosophy at the Turn of the Twentieth Century," *Studies in East European Thought*, 61 (2-3), 2009, pp. 209-220.

(11) German culture had a significant impact on Russian society in the nineteenth century, influencing education and legal ideologies on top of clothing, entertainment, and other cultural imports. For more on the relationship between Germany and Russia in the nineteenth century, including the controversy of this relationship, see: Terry Martin, "The German Question in Russia, 1848-1896," *Russian History*, 18 (4), 1991, pp. 373-434.

of liberalism. His ideas arose from the specific conditions of his country, which entered a period of instability and ultimately decline in the late nineteenth and early twentieth centuries, culminating in the Russian Revolution, but they were also part of a general shift in legal thinking that took place on both sides of the Atlantic at the turn of the 20th century<sup>(12)</sup>.

Although his theories were conceived in response to the growth of liberalism in continental Europe, they were also designed to have a general applicability<sup>(13)</sup>. This meant that they could be debated and examined by both Western and Russian legal scholars due to their uniquely integrated conservative and liberal content. Despite Korkunov's limited popularity throughout his lifetime and the Soviet era – Soviet scholars rejected his works due to his seeming affinity for the monarchy – newfound interest in his publications emerged in the 1990s with the fall of communism.

The first part of this work is composed of four sections, throughout which I will follow the chronology of the discussion around Korkunov's legal theories in order to show the relevance of his work during different political shifts and ages.

(12) Historians often attribute this destabilization to the imperial regime's inability to adjust and address the needs of its complex and evolving society because it sought to maintain a degree of power. They also reference administrators' and scholars' contrasting political visions during the nineteenth century, which marked a period of transition across Modern Europe. See: Richard S. Wortman, *Scenarios of Power: Myth and Ceremony in Russian Monarchy* (Princeton, NJ: Princeton University Press, 2006) pp. 383-396; Richard Pipes, *The Formation of the Soviet Union: Communism and Nationalism* (Cambridge, MA: Harvard University Press, 1997); Michael A. Reynolds, *Shattering Empires: The Clash and Collapse of the Ottoman and Russian Empires 1908-1918* (London: Cambridge University Press, 2011); Theodore Weeks, *Nation and State in Late Imperial Russia: Nationalism and Russification on the Western Frontier, 1863-1914* (DeKalb, IL: Northern Illinois University Press, 1996); Eric Lohr, *Nationalizing the Russian Empire: The Campaign Against Enemy Aliens During World War I* (Cambridge, MA: Harvard University Press, 2003), see chapter 1 in particular.

(13) For more on the rise of liberalism and modernization processes in Modern Europe see: Jonathan Sperber, *The European Revolutions, 1848-1851* (Cambridge: Cambridge University Press, 1994); Christopher Clark, *Revolutionary Spring: Europe Aflame and the Fight for a New World* (New York: Penguin Random House, 2023); Leonid Grinin, "The European Revolutions and Revolutionary Waves of the 19th Century: Their Causes and Consequences," in: *Handbook of Revolutions in the 21st Century, Societies and Political Orders in Transition*, ed. Jack A. Goldstone et. al. (New York: Springer, 2022); Christopher Hobson, *The Rise of Democracy: Revolution, War and Transformations in International Politics Since 1776* (Edinburgh: Edinburgh University Press, 2015); William E. Pomeranz, *Law and the Russian State: Russia's Legal Evolution from Peter the Great to Vladimir Putin* (London: Bloomsbury Academic, 2019), see in particular chapter 3, pp. 37-56.

In this section, 1.1., I will provide a general overview of how Korkunov's work was perceived over time, addressing some of the main reasons why his theory of law was often not examined in enough detail. I will also briefly examine the reception of his ideas in both Russia and the West, specifically the United States, to highlight any comparisons between the two.

In section 1.2, I will address the period up until the Russian Revolution, when Korkunov was read and received by his contemporaries in the Russian Empire, the United States, and Europe. I will pay particular attention to how they understood his ideas in relation to legal positivism, jusnaturalism, and liberalism in order to reconstruct the legal culture and atmosphere of the time and determine his position within it.

In section 1.3, I will examine how Korkunov's work was received and evaluated during the Soviet era in order to consider the impact of his teachings on legal scholars of the time and the differences in attitudes to his ideas given the shift in legal thinking caused by the rise of communism in Russia. Throughout these two sections, I will focus on both Western scholars' reception and application of Korkunov's ideas, showing the disparity between the West's preconceived notion of Western and Eastern European thought and the actual integration of legal concepts into both.

Finally, in section 1.4, I will examine the renewed interest in Korkunov, which emerged in the post-Soviet period, both inside and outside of Russia. Here I will analyze the elements of his work that continue to resonate with scholars as well as new interpretations and applications of his legal theories, his methodological intervention, and the extent to which he was shaped by Western liberalism, his relationship to positivism, and the interconnected nature of his ideas.

I will also pay special attention to how recent scholarship has used Korkunov's work to retrospectively interpret social and political developments in Imperial Russian society. In the final section of the first part, I will analyze several scholarly works concerning the imperial lawyer that were written after the fall of the Soviet Union, as this is the time in which his ideas reached peak interest among scholars, in order to examine why they were reintroduced into the circle of legal thought and the impact that they had on modern-day thinking.



Korkunov's works were read, dissected, and applied by numerous academics from a wide range of disciplines, including legal theory, legal history, and sociology. Their distinct approaches to his ideas and publications are a testament to their intellectual riches and originality.

Legal theorists and sociologists have greatly explored his philosophy of the law, highlighting its relation to other legal ideas through comparative work and identifying the assumptions on which Korkunov based his theories. On the other hand, legal historians have provided novel interpretations of the origins of the jurist's legal philosophy, reflecting on the image of imperial society and the legal system it presented. Together, these various approaches offer a multifaceted understanding and analysis of his works, life, and thought. However, throughout this work, I will argue that Korkunov was not adequately known by legal historians and theorists until the 1990s, despite the relevancy of his ideas.

Even though he did not obtain significant notoriety during his lifetime, partially due to the fact that many of his contemporaries were preoccupied with implementing liberalism or generally redesigning the Russian autocratic system, which they often used as a device to assess ideas rather than critically engage with their content, the imperial lawyer was not entirely disregarded at the time.

Later, Korkunov's theories were most commonly dismissed due to the significant level of primacy that they gave the state. His association with autocracy and the imperial period likely made him easy to dismiss in the Soviet era and early post-Soviet period, even though legal scholars of the time generated similar ideas, often covertly referencing his works.

Regarding Western legal thought, Korkunov's ideas did gain traction amongst legal theorists in the United States and flew under the radar of many prominent American scholars, but not on a particularly large scale. Significantly, he was not credited with influencing sociological jurisprudence in the United States, which also aimed to balance individual welfare and the state, even though his ideas preceded the sociological turn in that country and numerous local lawyers also devised similar theories. More often, his ideas were explicitly linked to the historical conditions of Imperial Russia and the supremacy of the state<sup>(14)</sup>.

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(14) The complicated relationship between Russia and Western countries in the 20th century impacted studies of Russian law, including Korkunov's works. For more information on

The collapse of the Soviet Union led to the emergence of a renewed interest in Korkunov, as scholars attempted to understand the causes and consequences of communist rule on that society<sup>(15)</sup>. While his ideas were often used to confront contemporary political problems in the post-Soviet transition, lawyers paid significant attention to how he balanced the individual and society in his theoretical framework, his relationships with liberalism and legal positivism, and his critiques of late imperial legislation and governance, wondering how his legal theory could be used as a new method for studying the law.

Collectively, the most recent literature has shown the originality of his ideas and their complex relationship with liberalism. In addition, the interest shown in him by contemporary scholars demonstrates that these discussions remain ongoing.

By addressing Korkunov's sociological, historical, and psychological approach to the law, they have identified the challenges that characterized the later Russian Empire, highlighting the reasons for its instability and ultimate collapse. More importantly, they have drawn renewed attention to this social-based approach to the study of law, indirectly emphasizing that the power to change the law rests not on political state structures, but on society itself.

## 1.2. Korkunov and his Contemporaries (Pre-1917)

### 1.2.1. *A Brief Biography of Nikolai Korkunov*

Born in Saint Petersburg in 1853, Korkunov was the son of a hereditary nobleman. His father, Mikhail Andreevich (1806-1858) was a state counselor, well-known specialist on ancient historical landmarks, lecturer at the Saint Petersburg Academy of Sciences in the department of Russian language and literature, and manager of the state's archeographic

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Russian autocracy and state power in this era (and why many Soviet scholars were associated with these ideas), see: Robert G. Wesson, "The Soviet State, Ideology and Patterns of Autocracy," *Soviet Studies* 20 (2), 1968, pp. 179-186.

(15) This shift was part of a transition in Russian studies in institutions outside of Russia. After the Soviet era, there was a renewed interest in studying the period. Julie A. Buckler, "What Comes after 'Post-Soviet' in Russian Studies?," *PMLA*, 124 (1), 2009, pp. 251-263.

commission<sup>(16)</sup>. His academic gifts were clearly passed onto his son Nikolai, who, after studying law, graduated in 1874 and was appointed teacher of the encyclopedia of law at the Imperial Aleksandr Lyceum in 1876<sup>(17)</sup>. Following in his father's footsteps, Nikolai progressed through the ranks in his chosen field: law. He eventually moved on from the Imperial Aleksandr Lyceum to teach the fundamentals of international law and the public law of foreign states at the military law academy<sup>(18)</sup>. From 1889, he served as a Privatdozent in state law and chaired the department of Public Law at St Petersburg University, taking over from his teacher Aleksandr Gradovskii, whose influence I will discuss later<sup>(19)</sup>.

Despite such a successful career trajectory, Nikolai returned to his university roots and applied to obtain his doctoral degree in 1894. However, unlike his master's thesis, which was entitled "Russian State Law," his doctoral thesis, entitled "Decree and Law," reached far beyond the academic sphere, and was even discussed in the press as it resonated with the public due to its handling of the main question gripping the Russian state at the time: the legal transition from absolutism to a constitutional monarchy<sup>(20)</sup>. I will delve into the specifics of this work later on in this text, but the main discussion of the thesis focused on the

(16) This was an institution charged with the collection and study of landmarks from the period of Russian antiquity. Andrei Nikolaevich Medushevskii, "N.M. Korkunov kak teoretik prava i politicheskii myslitel'," *Sravnitel'noe konstitutsionnoe obozrenie*, 2 (69), 2009, pp. 173-189 (p. 173).

(17) Andrey Poliakov, "The Theory of State and Law by Nikolay Korkunov," pp. 67-68.

(18) *Ibid.*, p. 68.

(19) *Ibid.*

(20) Original title of his master's thesis: "Русское государственное право." Original title of his doctoral thesis: "Указ и закон." There has been some confusion in publications referencing Korkunov's life as to when he received his master's. This is due in part to the structure of the Russian educational system in the mid to late 1800s. At that time, there were two separate degrees which today may be called "masters." The first was achieved by Korkunov in 1876, which then allowed him to begin teaching. The second was in 1893, which granted him the title of "Master of State and International Law." It was for this second degree that he wrote the master's thesis referenced here, published in 1893 as a two volume set and building on an 1892 one volume publication of lectures on the topic. Thus, the 1893 two volume publication is also technically a second edition. Copies of both versions of "Русское государственное право" can be found online at the Russian National Electronic Library (<https://rusneb.ru/>). A short biography of Korkunov was published as part of a volume of biographical information on all the professors and instructors who taught at the Imperial University in St. Petersburg from 1869-1894: Leningrad (R.S.F.S.R.) Universitet. *Biograficheskii slovar' professorov i prepodavatelei imperatorskogo S.-Peterburgskogo universiteta za istekshuyu tret'iu chetvert' veka ego sushchestvovaniia. 1869-94.*, 2 vol. in I.Q. Russia, 1896.

procedural and theoretical criteria for the legal separation of these two types of normative acts as, under absolutism, decree and law are one and the same as they both fall under the sovereign's will. It is important to note here that Nikolai Korkunov's most active years of political involvement and scholarship – 1880-1890 – coincided with the Russian Empire's slow destabilization and return to stringent autocratic governance, despite the growing and urgent interest in liberal reforms<sup>(21)</sup>.

Despite the commotion surrounding his doctoral thesis, in 1895 he was appointed full professor in the Department of Encyclopedia and Philosophy of Law at St Petersburg University and Assistant State Secretary of the State Council<sup>(22)</sup>. Unfortunately, only two years after this appointment, Nikolai suffered a breakdown and withdrew from scientific and social work before fully retiring in 1898. He never returned to academic or state work before his death on 27 November, 1904<sup>(23)</sup>.

However, the work undertaken by Nikolai Korkunov throughout his career is certainly impressive, especially given the time period in which he worked. He showed that serious scientific work was possible and even set new standards for studying law according to three categories: 1) the encyclopedia of law, which is the construction of system of knowledge; 2) the philosophy of law, which is the deductive construction of a doctrine of law; and 3) the general theory of law, which is the extraction of general principles from empirical material<sup>(24)</sup>.

Although his work was innovative, Korkunov was naturally influenced by other thinkers at the time, both in Russia and in Europe. It is these influences and how they were adapted to suit a Russian audience that is of key interest in the study of Korkunov's legal thought.

### 1.2.2. *Nikolai Korkunov's Legal Influences*

Before delving into which theorists, philosophers, and schools of thought influenced Korkunov, it is important to first talk about the legal and philosophical background of the time. Born and working in nineteenth-century Russia, Korkunov was faced with the ongoing battle

(21) Medushevskii, "N.M. Korkunov kak teoretik prava i politicheskii myslitel'," p. 176.

(22) Poliakov, "The Theory of State and Law by Nikolay Korkunov," p. 68.

(23) Ibid.

(24) Medushevskii, "N.M. Korkunov kak teoretik prava i politicheskii myslitel'," p. 176.