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LAW AS A LINGUISTIC PHENOMENON: ANALYTICAL APPROACH

Abstract. Law as a regulator of the conduct of social subjects cannot be directly equated with other methods of controlling the behavior in society. The grounds of legally significant actions allow determination of the context of the application of legal rules. The meaning of each legal term, as argued by L. Wittgenstein, depends on its “context of use” and the conventions of use at the moment. Therefore, the interpretation of the rules cannot be based solely on the principles of logic and be completely neutral. On the one hand, “we follow the rule blindly”, but at the same time, the repeatability of the behavior of other people and the ability to observe their behavior (by analogy with the mathematical concepts of addition and sum) encourage “learning” the rules and acting in accordance with the rules.

The ascription of the legal language and the “imputation” principle of the legal interpretation of facts allow defining a key concept that cannot exist beyond the constructed social reality. The attempts to analyze non-legal factors appeal not to legal arguments but to other phenomena. The legal term in its nature not only describes empirical facts but also encourages action.

The most dismal example of a change in philosophical argumentation and legal reasoning in the philosophy of law is the influence of Quine’s arguments. In the context of the methodology of legal explanation, the naturalization of the epistemology of law is possible only when the limitations and specifics of traditional methods of interpretation of legal reality are considered.

The article focuses on the analysis of some arguments made by the analytical legal philosophers regarding the linguistic content of legal rules with no reference to any social determination or formulation of the significant judgments about the linguistic nature of legal reality.

Keywords: analytical legal philosophy, normativism, legal rules, rule-following problem, imputation, ascription, linguistic turn, naturalization of jurisprudence, legal realism

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ПРАВО КАК ЛИНГВИСТИЧЕСКИЙ ФЕНОМЕН: АНАЛИТИЧЕСКИЙ ПОДХОД

Аннотация. Право как регулятор поведения субъектов не может сводиться к другим социальным нормам. Основания юридически значимых действий позволяют определять контекст применения юридических правил. Каждый юридический термин, если следовать позиции Л. Витгенштейна, при его использовании зависит от «контекста употребления» и конвенций употребления, существующих в данный момент. Отсюда следует, что интерпретация правил не может основываться исключительно на принципах логики и быть полностью нейтральной. С одной стороны, «мы следуем правилу слепо», с другой — повторяемость поведения людей и возможность наблюдать за ними (по аналогии с математическими понятиями сложения и суммы) способствует «обучению» и следованию правилам.

Аскриптивность юридического языка и принцип «вменения» при юридической интерпретации фактов позволяет нам сформулировать ключевое понятие, которое за пределами конструируемой социальной реальности не может существовать. При анализе неюридических факторов апеллируют не к правовым аргументам, а к другим феноменам. Юридические термины по своей сути не только описывают эмпирические факты, но и побуждают к совершению действий.

Философская и юридическая аргументация претерпели определенные изменения под влиянием работ У. Куайна. Натурализация эпистемологии права возможна с ограничениями и учетом специфики традиционных методов интерпретации правовой реальности.

В статье представлены некоторые аргументы аналитической философии права о лингвистическом содержании юридических правил без необходимости какого-либо учета их социальной детерминации и обоснован ряд положений относительно лингвистической природы правовой реальности.

Ключевые слова: аналитическая философия права, нормативизм, юридические правила, проблема следования правилу, вменение, аскрипция, лингвистический поворот, натурализация юриспруденции, правовой реализм

1. Introduction. Normativism as a Methodological Basis of Analytical Legal Philosophy

Analytical Legal Philosophy as an intellectual current was formed in the 40's–60's of the 20th century as a result of the rethinking of the problems in legal philosophy from the positions of the *empirical study of law, the analysis of the empirical content of legal constructions, and the study of the legal language and the logic of legal reasoning*. Considering the detailed elaboration of the methodology of study of legal phenomena and legal constructions, the purpose of the discussions among analytical legal philosophers was to clarify the specifics of legal language. The widespread popularity and citation of philosophical works written by the representatives of the analytical legal philosophy (H. Kelsen, H. Hart, P. Hacker, J. Raz, etc.) contributed to the formation of academic community and specific intellectual environment. In the second half of the 20th century, the development of the analytical tradition in philosophy of law was influenced by the general principles and methods of analytical philosophy (mainly, from the Oxford school of linguistic analysis and ordinary language philosophy), as well as by classical theories of philosophy and law.

Normativism is one of the best-known concepts in the philosophy of law and analytical jurisprudence, it is also known as the “pure theory of law.” Methodologically, this means that the essence of law is described as disregarding the political, sociological and psychological factors that define the social and historical grounds for legal system development. However, some aspects of Kelsen's theory along with the available publications of the later “American period” in life (1943–1973) provide more details on his scientific and philosophical views on state and law.

Kelsen's approach to ontology contains the important methodological assumptions that allow him to organize the legal norms in a single integrated system, while the explanation of the grounds for the system is provided. One of the foundations of the system is the assumption that the search principles used to establish cause-and-effect relations are not fully applicable in the theory of law due to the specific logic of the legal reasoning: “it is evident that the science of law does not at all aim at a causal explanation of phenomena, that in the propositions by which the science of law describes its object the principle of imputation, not the principle of causality, is applied”¹. By tracing the evolution of the concept of causality from ancient philosophy, H. Kelsen characterizes legal reality as a specific area of relations where causality cannot

¹ Kelsen, H. (1950). Causality and Imputation. *Ethics*, 61(1), p. 3.

be shown empirically. Just as during the fire, we do not rely upon natural disasters but we are looking for causality in human actions; in normativism, the imputation principle allows to classify actions as legally significant if the authorized subjects attach legal meaning to such actions. Essentially, H. Kelsen seeks not to expand the legal sphere to the whole array of social relations but rather to narrow it to the regulation of these relations by legal norms as the responsibility for the wrongful act can be “imputed” only for individual actions: “Since the connection between delict and sanction is established by acts the meaning of which is a prescription or a permission, or, what amounts to the same, a norm, the science of law describes its object by propositions in which the delict is connected with the sanction by the copula ‘ought’. I have suggested designating this connection ‘imputation’².

Hence, the object of the legal science is a system of legal norms that in the course of their application act as the grounds for the legitimacy of the specific actions. Thereby, the scientific conclusions should be consistent with the principle of cognitive objectivity that H. Kelsen interprets in a traditional way as a consistency with reality: “The postulate of the separation of science from politics presupposes that the object of science is reality, that scientific statements are statements about reality as opposed to value judgments in the specific sense of the term”³.

This reasoning provides a basis for determination of the object of the legal science as a single complex consisting of positive legal norms that are created by the actions of individuals, and which, in the legal sense, constitute the acts of the law-making, while the hypothetical legal norms are used as criteria for assessment of individual behaviors.

2. The Linguistic Turn in Legal Philosophy

The “linguistic turn” in the legal philosophy originated not only as the result of the influence of the analytical philosophy methods used to clarify the meanings of the terms of the legal language but it also served for the purposes of justification of the conceptual analysis as the main method of resolving possible contradictions. The nature of legal statements began to be interpreted in the context of the linguistic content of legal rules. Additionally, in some cases, the social context began to be considered not from the viewpoint of law and social reality relations but as a context in which the

² Ibid., p. 2.

³ Kelsen, H. (1951). Science and Politics. *The American Political Science Review*, 45(3), p. 648.

legal terms are used, for example, in judicial argumentation or in the process of ascribing the legal significance to actions⁴.

The range of issues that relate to the analytical tradition in legal philosophy has not expanded significantly but has received a new impetus for further philosophical and legal research on the legal concepts. Based on the classic arguments of J. Austin and H. Kelsen, H. Hart updated the methodology of resolving the philosophical and legal issues. The rule-following problem and the possibility of its application to the legal language led to long discussions in the analytical legal philosophy⁵.

Along with conceptual analysis, the methodological basis of interpretation was introduced in the philosophy of law; and various forms of interpretation of the legal norms that may have a theoretical significance came to be acceptable. These methods of interpretation have become particularly important due to the complexity of resolving the issues related to judicial discretion and the “open texture” of law, and for the first time, they were reviewed in the philosophical and legal concept of Ronald Dworkin. R. Dworkin himself formulated a number of original arguments against legal positivism but, from a methodological viewpoint, he followed the views of the positivists, supplementing them with arguments; thus, he rather improved legal positivism than opposed it. Therefore, Dworkin’s theory of a “constructive interpretation” hardly can be viewed as the theory that opposes the legal positivism; rather, R. Dworkin is an opponent of some aspects of Hart’s concept, but, ultimately, a contributor to their development.

Another important phase of the development of analytical legal philosophy was the project of the “naturalization of epistemology”. Based on the ideas of W. Quine, the project partially addressed the realistic argumentation against legal positivism, and largely induced legal philosophers to discuss the extent to which Quine’s arguments were applicable in the legal sphere. Despite the fact that, since the beginning of the 20th century, legal realism developed as an independent current of legal philosophical study, its

⁴ In: Ogleznev, V.V. and Surovtsev, V.A. (2016). *Analiticheskaya filosofiya, yuridicheskii yazyk i filosofiya prava* [Analytic Philosophy, Legal Language and Legal Philosophy]. Tomsk: Tomskii universitet Publ., pp. 126–142.

⁵ Analysis of this conception in more details represents in papers of V. Ogleznev and S. Kasatkin (Ogleznev, V.V. (2012). *G.L.A. Khart i formirovanie analiticheskoi filosofii prava* [H.L.A. Hart and Formation of Analytic Legal Philosophy]. Tomsk: Tomskii universitet Publ.; Kasatkin, S. (2014). *Kak opredelyat’ sotsial’nye ponyatiya? Kontseptsiya askriptivizma i otmeyanosti yuridicheskogo yazyka Gerberta Kharta* [How to Define Social Concepts? The Conception of Ascriptivism and Defeasibility of Legal Language of Herbert Hart]. Samara: Praim.).

naturalized version can be attributed to discussions in the area of analytical legal philosophy.

The legal language characteristics and the ways of its philosophical study are determined by the specific functions of law that is a regulator of legally significant actions. There are a number of theories in the philosophy of law that focus on the issue of how legal phenomena are reflected in legal statements. Particularly, in Kelsen's normativism, law is presented in the form of the system of the interrelated legal norms that have a common and individual nature. These legal norms contain a model of a "proper" social relations development and methods of their regulation; however, traditional notions of the causality and effect are not applicable to such social relations as the empirically observed actions can get a legal meaning and significance only if there is an act of an authorized subject. In other words, legal reality is reflected in the legal language differently than the other objects in the world. Similarly, H. Hart notes the ascriptive nature of legal statements, since the use of grammatical constructions in law, unlike other areas of knowledge, suggests the simultaneous performance of a legally significant action, qualification and assessment of ongoing events and actions, and in some cases, prosecution⁶. Epistemological questions arise specifically during the analysis of interactions of the legal norms, legal relations, and actions.

3. The Rule-following Problem

The rule-following problem, formulated by L. Wittgenstein in the late period of his work, became one of the fundamentals of the so-called linguistic turn in the philosophy of law and the analytical tradition formation. Discussions of modern legal philosophers are still focused on the theories of L. Wittgenstein because the conceptual apparatus in the legal sphere is formed on the grounds of the basic philosophical categories of analytical philosophy.

The classical formulation of the rule-following problem of L. Wittgenstein is viewed as a paradox that has many linguistic interpretations, and it is formulated as follows: "This was our paradox: no course of action could be determined by a rule, because any course of action can be made out to accord with the rule"⁷. Wittgenstein's concept of "rule" confuses many legal

⁶ In: Hart, H.L.A. (1951). The Ascription of Responsibility and Rights. In: G. Ryle and A. Flew, eds. *Essays on Logic and Language*. Oxford: Blackwell, pp. 145–166.

⁷ Wittgenstein, L. (2001). *Philosophical Investigations*. 3rd ed. Oxford: Blackwell Publishers Ltd., p. 88.

philosophers but it emphasizes the normative consequences that apply to a variety of language practices where actions can be seen as right or wrong. Such assessment by its essence allows interpretation of the rules by describing the “language game” and determining the content of a rule.

The key philosophical issues are the search for a method of adequate interpretation, the elimination of contradictions in linguistic expressions, and the formulation of a rule that has been agreed upon by the linguistic community. However, following Wittgenstein’s ideas, the interpretation of a rule often allows replacing one formulation with another while the question of the level of degree to which the empirically observable actions reflect the rule remains open.

Wittgenstein’s arguments on the rule-following problem led to a number of ambiguous interpretations of this philosophical problem in the analytical legal philosophy, in particular, with regards to the issues of certainty and prescriptions of legal rules. Realists point out that law by its nature is a fundamentally vague phenomenon, and the reasons behind this is the ordinary language. The uncertainty of the language and its constructions inevitably lead to an uncertainty of legal statements because the function of legal norms (containing the rules of behavior) is to reveal the diversity of human actions and relations.

Realists largely rely on the interpretation of Wittgenstein’s arguments given by S. Kripke. If the mathematical concept of addition is used intuitively (for example, if we need to continue the numerical series according to the rule of “add 2”), then we always find the right answer conducting the mathematical operations⁸. Realists believe the same thing happens when legal decisions are taken. When a judge makes a decision, he relies not on a formal legal rule that is vague in content and has gaps but on existing social practices of application of the rule, as well as on other social factors defining the context of the decision (the moral, ideology, professional standards, etc.). Realists emphasize that uncertainty is insurmountable and is present in every case. Legal rules initially contain a number of alternative interpretations, the choice of which is exercised by a judge or other officials, with the exception of formal limitations (for example, appeal and revocation of a decision by a higher authority).

Is that a correct way to interpret Wittgenstein’s ideas? The opinion of one of the discussion participant, Brian Bix, is that Kripke’s interpretation of Wittgenstein’s views raised a number of questions a long time ago, and

⁸ In: Kripke, S.A. (1982). *Wittgenstein on Rules and Private Language*. Cambridge: Harvard University Press, pp. 8–9.

its extrapolation into the sphere of law is unacceptable⁹. L. Wittgenstein emphasizes the conventional nature of the language and the variety of “language games” but this fact does not imply the absence of at least a temporary consensus on the use of words. This consensus can have a political and ideological foundations, and, thus, the application of the rules can be flexible and sufficiently defined.

Realists do not consider another consequence of using the Kripke’s interpretation which is a skeptical argument that distorts the ideas of L. Wittgenstein. The skeptical argument is a situation when we don’t know whether we follow a rule or not (“we follow a rule blindly”), and that does not allow to justify the process of following a rule. At the same time, L. Wittgenstein emphasizes the question of how the rule determines the actions. If the structure of the rule does not contain all the signs and symbols sufficient to define the certain actions to be performed, then, the addition of signs and symbols may not cure the uncertainty. Along with many other realists, David Peirce shares the idea of the skeptical argument pointing out that the language can be used regardless of its relation to the environment: “no rule can be completely laid down in words, and the complete expression of any rule must include its actual applications”¹⁰. Thus, following a rule is inseparable from actions that correspond to it or do not correspond to it: “and hence also ‘obeying the rule’ is a practice. Moreover, to think one obeying the rule is not to obey the rule. Hence it is not possible to obey the rule ‘privately’: otherwise thinking one was obeying the rule would be the same thing as obeying it”¹¹.

B. Bix suggested a simplified realistic approach in the legal philosophy to the interpretation of Wittgenstein’s views, which has led to unreasonable conclusions about the specifics of the legal language. The core of the problem of following a rule is the concept of the language as a “form of life”, and the distinguishing the simple cases of its usage from the complex cases. In simple cases, we apply the rules identically. For example, we can continue the statement following the rule of “add 2” as follows: “1000, 1002, 1004”¹². The word “we” in this case refers to everyone who shares the same “form of life”, and who learns the same rules, in the same way. However, the fact

⁹ In: Bix, B. (1993). *Law, Language and Legal Determinacy*. Oxford: Clarendon Press, p. 46.

¹⁰ Pears, D. (1988). *The False Prison. Volume 2: A Study of the Development of Wittgenstein’s Philosophy*. New York: Oxford University Press, p. 468.

¹¹ Wittgenstein, L. (2001). *Philosophical Investigations*, p. 88.

¹² In: Bix, B. (1993). *Law, Language and Legal Determinacy*, p. 48.

that we act in the same manner does not mean that we act in accordance with a rule. Certain criteria of a correct usage of words should be defined, or we should rely on the notion of “rule-following” in the use of linguistic expressions.

In simple cases, according to L. Wittgenstein, there are no factors that may define the actions precisely: no mental state, no inner voice, and no metaphysical idea. There is nothing that could justify or explain why we act in a certain way, using the rule of “add 2”. It is the case when people learn to act in a similar way following the same rules¹³.

The question of why we consider a way of following the rule as a correct one arises in discussions about the problem of following a rule in the philosophy of law. Thus, Dennis Patterson considers two possible answers: the belief that the rule itself determines how to act, or the social consensus makes one approach more correct than the other. He believes that the interpretation of the rules can be broad, and its limitations are defined by the social context of the application of the rule¹⁴. In the legal language, a combination of various linguistic constructions often allows the interpretation of the legal norm; thus, providing an adequate explanation of its meaning. For example, a judge gives an explanation on enforcement of judicial decision, and the legislative body defines the terms embodied in a law. In the countries of the Common Law legal system, cases of the interpretation of legal rules by legal doctrine are common, and that allows to apply the relevant legal norms uniformly. These convenient practices of interpretation, according to D. Patterson, allow overcoming the paradoxes of following a rule in the legal language. Similar arguments are given by Brian Langill, who argues that “the idea of Hart on judges using social rules from an internal point of view, is the application of basic argument of Wittgenstein on rule-following to the legal rule”¹⁵.

B. Bix, along with the other anti-realists, does not support an arbitrary interpretation of Wittgenstein’s arguments in relation to law because the law is a reflection activity, participants of which consider, discuss and argue their actions and decisions¹⁶. Unlike the example with the concept

¹³ Baker, G.P. and Hacker, P.M.S. (2009). *Following Rules, Mastery of Techniques, and Practices*. In: Baker, G.P. and Hacker, P.M.S. *Wittgenstein: Rules, Grammar and Necessity*. Volume 2. 2nd ed. Chichester: Wiley-Blackwell, p. 136.

¹⁴ In: Patterson, D. (1990). *Law’s Pragmatism: Law as Practice and Narrative*. *Virginia Law Review*, 76(5), p. 937.

¹⁵ Langille, B. (1988). *Revolution without Foundation. The Grammar of Scepticism and Law*. *McGill Law Journal*, 33(3), p. 498.

¹⁶ In: Bix, B. (1993). *Law, Language and Legal Determinacy*, p. 48.

of mathematical addition, violations of legal norms imply non-following the rules provided by legal norms. In addition, the terminology used by L. Wittgenstein has nothing to do with legal terminology. For example, in his view, the term “grammar” is a completely different concept that includes the practices of words usage, criteria and grounds of an adequate word usage. He believed that many philosophical problems arise from the violation of the grammatical rules. Thus, outside the linguistic context and “language games”, it is impossible to detect the problem of following a rule by analogy.

Anti-realists also deny the thesis that ordinary language is fundamentally vague. It is not implied in the Wittgenstein’s arguments, that the stable meaning of expressions and conventions with respect to word usage cannot be reached. Following the rules is determined by the social context of the expressions usage; and learning to understand the rules contributes to certainty (B. Langill, A. Marmor, and others)¹⁷. The practice of application of law allows resolving complex court cases and contributes to the continuous clarification of the legal provisions.

The arguments above interpret only the ways of application of Wittgenstein’s theory but do not affect the specifics of the legal terminology use. The legal norm not only has a linguistic content and is formulated based on the rules of grammar but also performs the regulatory functions, that is, it contains instructions, violation of which leads to legal liability or other forms of liability. H. Hart fairly points out the ascriptive nature of legal concepts and legal statements, as the key function of legal terms is to provide a qualified assessment of the actions performed, and to establish a link between the legal rules and social relations¹⁸. In this sense, legal norms are imperative and can not be viewed from the perspective of the truth or falsity of their content as they act as an instrument of social regulation. However, the normative prescription in the structure of the legal norm is the rule, and in complex cases, the uncertainty of the rule may lead to gaps in law, or uncertainty in the legal qualification of actions, which makes it difficult to apply the legal norm. Hence, Wittgenstein’s arguments in the legal sphere are still relevant and actual.

One of the questions is whether legally significant actions can be defined by legal norms. Based on Hart’s concept, the primary and secondary rules

¹⁷ Langille, B. (1988). Revolution without Foundation. *The Grammar of Scepticism and Law*, pp. 451–505; Marmor, A. and Sarch, A. (2015). The Nature of Law. In: E.N. Zalta, ed. *The Stanford Encyclopedia of Philosophy*. [online]. Available at: <https://plato.stanford.edu/archives/fall2015/entries/lawphil-nature/> [Accessed 12 June 2018].

¹⁸ In: Hart, H.L.A. (1951). The Ascription of Responsibility and Rights, pp. 145–146.

form the foundations of the legal system and the course of its development¹⁹. Primary rules that regulate the social relations directly, record the expressions of ordinary language in the legal form, permitting alternative behaviors. While the secondary rules define at the meta-level the legal procedures, authorities, and mechanisms for making legal decisions. In other words, the secondary rules contribute to the stability of the legal system and fill in gaps in the primary rules. However, an “open texture”, or a room for interpretations, may occur in the system of rules, where the primary rules do not establish a way of social relations regulation. Unlike the approach in realism, Hart does not admit the fundamental uncertainty of the rules, because the judicial discretion is limited by the purposes and principles of the legal system development, and by the minimum of moral content in legal norms.

The second important issue is the influence of the rule-following problem on the conditions of legitimacy of legally significant actions. The problem of following a rule eliminates the arbitrary nature of legal decisions, while the judgment is based on the legal qualification of empirical facts and events. Hart's concept corresponds to the thesis of a “rule of recognition” that ensures the interaction of the rules levels and contains criteria for the systemic legal regulation²⁰, and, in some cases, the fundamental values of the legal system as a whole. The rule of recognition acts as a conceptual foundation and a condition for the formation of the rules of other types, which contributes to certainty and stability of the interpretation of regulatory prescriptions and legal decision-making.

There are arguments by H. Baker and P. Hacker that the interpretation of the rule prior to its application is impossible, hence, the facts of a rule application create its interpretation²¹. The practice of using judicial precedents in the countries of the Common Law legal system corresponds to this thesis. Normative prescriptions to the reasoning part of the precedent contribute to more flexible decision-making, application of the analogy of the law and right; and, generally, they are interpreted in the process of their application. The legal language specifics is demonstrated by the notion that situation of following the legal rules can also take place in the process of passing a law (compliance with parliamentary procedures, or definition of

¹⁹ In: Hart, H.L.A. (1994). *The Concept of Law*. 2nd ed. Oxford: Clarendon Press, p. 94.

²⁰ Ibid., p. 95.

²¹ Baker, G.P. and Hacker, P.M. (1984). *Scepticism, Rules and Language*. Oxford: B. Blackwell, pp. 128–129.

general concepts in law, for example, the concept of “vehicle” by H. Hart), which is before the occurrence of legal regulation; later, during the process of law enforcement, the explanation and interpretation of the rules are necessary for their appropriate application. The legitimacy of procedures determines the further appropriation of actions of legal subjects and serves as a basis for certainty in legal decision-making. Thus, the analysis of the positions of realism and anti-realism, as well as skeptical arguments about the problem of following a rule in the classical works of L. Wittgenstein and his followers is important for understanding the legal language and legal statements specifics.

4. The Theory of Ascriptive Legal Statements by H. Hart

Relying on the new tradition of linguistic analysis in the philosophy of law, Hart reconsiders the ontological propositions of the legal philosophical theory. While the basic thesis of legal positivism regarding the dependence of nature of law on social facts still applies. In one of the early works of 1949, H. Hart states that there is a special kind of linguistic expressions, the function of which is not in describing the specific situations but in the expression of legal requirements and legal qualifications of events, states, and actions, that ascribe legal significance to natural and social phenomena. Therefore, a philosophical analysis of human behavior in the legal sphere is performed with the use of ascriptive statements that express legal acts, assign responsibility for actions, and, in a broad sense, ascribe legal significance to empirical facts²². Thus, in case of drafting a will, we can observe the process of a text creation by a person as the physical activity (an empirical fact). If witnesses are present and the legal form of the document is appropriate, then the notary acting as an authorized official who “ascribes” the legal significance (the text becomes a will with all of its legal consequences upon a notary’s certification) to the relevant empirical facts observed (writing the text). Oral expression of words by a person will have an ascriptive nature if the person performs acts of legal significance at the same time. The person may express the intent on the future state of the property and set conditions on those to whom it shall be transferred. The person may define certain conditions underlying the transfer of property to a specific heir (in case of a disclaimer will), or may refer to the inheritance procedure established by law in a will, and determine the order of transfer of property. This freedom of choice creates the legal reality of a will as a unilateral deal, and the state

²² In: Hart, H.L.A. (1951). *The Ascription of Responsibility and Rights*, p. 146.

recognizes the legal consequences of such transaction. Even the analytical philosophy sees the transformation of reality through linguistic forms.

In fact, H. Hart reinterprets the problem of following a rule of L. Wittgenstein by applying the concept of ascription: aligning with the legal rule means “ascription” of the legal meaning to certain actions, which characterizes the constructive and pragmatic sides of legal activity. However, the ascriptive approach defines the structure of the ontology of legal reality and characterizes the specifics of the legal language application.

Analyzing the specifics of judicial activity, H. Hart points out, in the first place, the impossibility of applying the descriptive model to the legal statements and further verification of their “truth/falsity”. Since the final phase of the legal process is the making of a judicial decision, then its function is not only to determine the truth of the facts (“Smith put poison in coffee in wife’s cup, and as a result his wife died”), but also in ascription of legal consequences to these facts (“Smith is guilty of murder, and court ordered a sentence to him and defined order of its execution”)²³.

If the judicial activity only refers to the legal qualification of behavior, then it is unclear how the facts support or oppose the legal conclusions. H. Hart describes the judicial decision as a mixture of empirical facts and legal norms. However, he criticizes the model of descriptive legal statements, as the judge’s purposes are more complex than simply agreeing on facts, for example, of the necessary and sufficient conditions of the contract conclusion as provided by law. When the judge reviews a contract to establish its legal validity, his function is not to interpret the facts correctly but to recognize the existence of agreement through the accurate qualification of the actions of the parties fulfilling the obligations. Further, “the Treaty exists in the timeless sense of the word ‘is’ concerning legal decisions”²⁴. Thus, the judge does not make deductive conclusions because the legal decisions are not based solely on the empirical facts.

In the new positivist interpretation of legal reality, the mechanism of “ascription” is a universal cognitive method that is used to prescribe the ascriptive form to empirical facts that become normative facts afterward and serves to differentiate the legal sphere from other spheres of nature and

²³ Therefore in Hart’s legal theory to describe the “intention” for the action means that any human activity in the legal sense depends (of) on this intention as some authors argued (Stern, K. (1959). Mr. Hampshire and Professor Hart on Intention: A Note. *Mind: A Quarterly Review of Psychology and Philosophy*, 68(269), pp. 98–99; Boden, M. (1959). In Reply to Hart and Hampshire. *Mind: A Quarterly Review of Psychology and Philosophy*, 68(269), pp. 256–260).

²⁴ Hart, H.L.A. (1951). The Ascription of Responsibility and Rights, p. 155.

society. Further, normative facts are embodied in the structure of legal norms (laws, and precedents), and they get the status of legal facts acting as the basis for the origin, change or termination of legal relations. The dismal example provided by H. Hart is the one regarding the different meanings of the statement “he was writing a will”. This may refer to the person’s physical actions (empirical fact), the performance of a legal act (normative fact), or, if the necessary conditions are met (appropriate citizenship, presence of witnesses, signature of the will, and the record of the testator’s death), to a legal fact as the basis of regulation of the relationships by inheritance law.

5. Quine and the Legal Epistemology

Nowadays, the discussions about the naturalization of epistemology in the analytical legal philosophy and the development of a naturalized jurisprudence are based on the well-known statement of the American legal philosopher Brian Leiter about the “naturalistic turn” in the philosophy of law: “While each of the major areas of philosophy — meta-ethics, philosophy of language, epistemology, philosophy of science, philosophy of mind — have undergone a naturalistic turn in the last quarter of a century, the Anglo-American philosophy of law remained untouched by this intellectual trend”²⁵. One of the most significant factors underlying the evolution of the legal epistemology in this direction was the effect of the ideas and arguments of classical legal realism on the explanation of the legal reality and the essence of law. The criticism of traditional jurisprudence in legal realism emphasizes the significant difference of the analysis of the essence of law and the actual practice of legal proceedings and judicial decision-making under the concepts of legal positivism. Additionally, the popularity of ideas of naturalization in the legal epistemology in the second half of the 20th century, is associated with a multiple contradictions in the explanation of the objectivity and normative nature of law, which allow, in the context of the classical philosophical and legal concepts, to form an idea of a single and logically closed system of legal norms capable to influence the practice of law application comprehensively (H. Kelsen, H. Hart). The concepts of normativism and new positivism in the philosophy of law have been most criticized in modern interpretations of legal realism, since the notion of law as an interrelated system of legal norms does not contribute to explanation of

²⁵ Leiter, B. (1998). Naturalism and Naturalized Jurisprudence. In: B. Bix, ed. *Analyzing Law: New Essays in Legal Theory*. Oxford; New York: Clarendon Press; Oxford University Press, p. 80.

the boundaries of judicial discretion in the decision-making process, as well as to reflecting the influence of other social factors on the judicial system. In this view, Hart's concept of "open texture" of law and the development of the concept of ascriptive legal statements were considered as methodological means of modeling and forecasting the practice of legal norms application. However, the complex process of interaction of legal norms at the time of qualification of the legally significant behavior of participants of legal relations, as well as the need to follow the formal procedures in the judicial decision-making, have actualized the issues of the new descriptive concept of legal proceedings development.

The grounds for the development of the naturalistic approach in the philosophy of law is the attempts to draw an analogy between the philosophical arguments of W. Quine on the criticism of a priori knowledge and classical epistemology, which is focused on the use of abstract philosophical concepts, and arguments related to the explanation of the need for the philosophy development in the context of empirical sciences²⁶. One of the factors contributing to the possibility of drawing an analogy in the philosophy of law was the convergence of the argumentation of legal positivism and legal realism in reasoning the system of legal rules in the structure of the legal system. Based on Hart's concept, the secondary rules (rule of recognition, rule of change, and rules of adjudication) in their essence serve to set up the formal requirements and procedures for development and enforcement of legislation, and for appointment and allocation of the powers on the governmental officials.

What is the nature of these rules? If the primary rules have a regulatory function and are formulated based on the practice of existing legal relations, then, it is possible to provide their empirical justification, which the judges can use in settling disputes. At the same time, the secondary rules, such as rule of recognition embodied in the Constitution and constitutional laws, are not empirical in their nature. The political compromise is required to recognize the legitimacy of the rules, and this compromise should be reflected in the Constitution; additionally, the confirmation of compliance with the constitutional rules in everyday practice by officials is required. Such compromise is a factor that influences the formation of the legal system but it should be considered as a non-legal factor. J. Raz notes that without practical application, it is impossible to determine which legal norms refer to rules of recognition, while this methodological aspect in Hart's concept and legal

²⁶ Quine, W.V. (1953). *From a Logical Point of View, 9 Logico-Philosophical Essays*. Cambridge: Harvard University Press.

positivism is often ignored as unimportant²⁷. In the project of the naturalized epistemology of law, a positivists' discussion about secondary rules is viewed as a manifestation of traditional epistemology, in which a priori knowledge rarely relies on empirical facts of legal sciences as a basis of the explanation of philosophical and scientific conclusions. Hence, formulated by analogy with Quine's argument, the proposal to replace the classical normative theory of law with other descriptive theories contributing to the study of the practical application of law was presented in the most conceiving way by B. Leiter. The philosophy of law, according to B. Leiter, and its development should be based on the branches of legal science, both in terms of continuity of knowledge and continuity of methods.

However, the analogy with Quine's critics on the classical epistemology fundamentalism is difficult to apply in the philosophy of law. The closest relevant examples are the normativism of H. Kelsen and new positivism of H. Hart.

In Kelsen's normativism, the law is a system of legal norms. A legal norm acts as an object of cognition in jurisprudence, and the legal norms classification is based on the recognition of the a priori existence of a "basic norm" with the highest legal force. As the content of the "basic rule" is the basis for maintaining the legal order and the functioning of the state, the hypothetical nature of these rules does not allow their embodiment in the international conventions or in the text of the constitutions. The "basic norm" is postulated as an existing, and, at the same time, a transcendental category; the logic of the constructed hierarchy of legal norms and their practical application cannot be ensured without the "basic norm". B. Leiter states that according to Kelsen's concept, the essence of the law is defined by the possibility of applying the sanctions embodied in the structure of the legal norm; this idea contributes to the further development of normativism in the naturalistic perspective²⁸. However, such restatement and conclusions cannot be taken for granted as the main purpose of normativism was the development of a "pure theory of law", within which the methodology of investigation of legal reality cannot be based on the methods of other sciences and other non-legal factors. Additionally, the normative concepts of legal qualification and identification of the legal significance of specific actions of the individuals, in some cases, provide grounds for an effective explanation

²⁷ In: Raz, J. (1985). Authority, Law and Morality. *The Monist*, 68(3), p. 297.

²⁸ In: Leiter, B. (2008). Naturalizing Jurisprudence: Three Approaches. *University of Chicago Public Law and Legal Theory Working Paper*, [online] (246). Available at: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1200&context=public_law_and_legal_theory [Accessed 17 June 2018].

of the nature of the legal norm application, as well as the judicial decision-making. Therefore, in the context of law application and regulation of legal relations, classification of legal norms into common and individual is based on a priori knowledge of the content of the “basic rule”, and, at the same time, on the legal interpretation of empirical facts and the behaviors of legal subjects. The naturalization of the concept does not contribute to the expansion of scientific knowledge about the essence of law or the legal system.

Another example of the viewpoint on the naturalized epistemology of law is Hart’s new positivism. In new positivism, the basic concepts and methods were modified to understand the problem of the correlation between normative and descriptive essence in the legal system. H. Hart becomes the founder of the “linguistic turn” in the philosophy of law while relying on the ideas of analytical philosophy. At the same time, B. Leiter states that Hart’s theory can be disclosed in a naturalistic perspective because it is based not on the traditional concepts but on the attempts to describe these concepts with reference to theories of “ordinary language” and “open texture” of law which permit judicial discretion²⁹. Hart recognizes the possibility of gaps in the law and the uncertainty of the content of legal norms that the judges apply in the decision-making process. Even in this case, the naturalization of epistemology facilitates the distortion of the original purposes of new positivism in the philosophy of law on the following grounds.

Firstly, the concept of H. Hart (including the context of Raz’s arguments) provides the unification of the legal system into the system of primary and secondary rules solely through the legal means, such as compliance with the principles of the legislative process by parliament, constitutional compliance, and the prohibition of the broad judicial interpretation without the legal language consideration. While a priori secondary rules limit judicial discretion and become a practical guide in the development of legislation branches.

Secondly, the epistemological significance of Hart’s concept of ascriptive legal statements is that it provides the basis for ascription of legal significance to empirical facts; this is important for prevention of judicial arbitrariness and violations of legal principles.

The examples provided above show the uncertainty of the term “naturalism”, which has various specific meanings, and each of the meaning is applicable to different areas, such as legal positivism, legal realism, and

²⁹ In: Leiter, B. (1997). Rethinking Legal Realism: Toward a Naturalized Jurisprudence. *Texas Law Review*, 76(2), p. 296.

theories of natural law. In particular, the term “legal naturalism” is applicable to metaphysical concepts of natural law, where the natural law is viewed as a form of manifestation of the laws of nature or rational representations of natural and inviolable human rights. In this case, the classical concepts cannot be naturalized within the frames of epistemology because they are based on a conceptual apparatus and arguments that are not related to empirical methods of the final conclusions justification.

However, the discussion about the naturalization of the legal epistemology, in addition to the development of Quine’s arguments in the legal philosophy, covers attempts of B. Leiter to analyze actual practices in legal proceedings in the context of legal realism. B. Leiter reviews an analogy with the Quine’s thesis on the uncertainty of the translation and explains the concept of the uncertainty of legal norms and the impossibility of predicting the court decisions by using legal norms. The uncertainty that characterizes the content of the legal norm is caused by the use of legal concepts that are not relevant to empirical facts. Thus, the interpretation of legal norms in the course of decision-making by officials and judges is required. In legal realism, the traditional methods of philosophical and legal reasoning do not apply, while the judicial decision is explained by the analysis of facts performed by a judge on the basis of the existing legal norms (Hart’s concept), which are not defined in its content and expand the possibilities of judicial discretion³⁰.

B. Leiter claims that the epistemological foundation of legal realism is based on philosophical ideas of naturalization, while the process of scientific research of legal phenomena should be based on empirical facts, such as the actual procedures for decision-making by judges and practical activity of the administrative governmental bodies. The uncertainty of the boundaries of judicial discretion causes the legal realists to refuse the standard model of legal explanation where the content of the legal norm is determined by the judges. Instead of the standard model, they formulated a descriptive concept of a judicial decision that functions as a tool to predict the actions of a judge in making a decision depending on social and psychological factors, which serve as empirical evidence of the truth. Thus, the theory of law in the naturalized perspective turns into a scientifically-based theory of judicial decision-making.

The analogy with Quine’s argument on the epistemology as part of psychology, as well as the need for the empirical justification of our beliefs and intuitions, were considered by B. Leiter in his statements on the

³⁰ In: Leiter, B. (2001). Legal Realism and Legal Positivism Reconsidered. *Ethics*, 111(2), p. 281.

fundamental uncertainty of laws. The uncertainty of the law implies multiple identically legitimate methods of interpreting its provisions, also it accepts the revisions of prior court decisions and precedents. If the content of the law does not allow to predict the identical judicial decisions in similar cases in a reliable manner, then, according to B. Leiter, it is necessary to investigate further and search for other grounds for explanation of judges' decisions. The traditional assumption in legal realism is that a judge has an unlimited choice of alternatives in making a judicial decision, and this assumption undermines the scientific nature of the legal prediction and forecast.

What is the foundation of the judicial discretion and possible forecasts? In actual judicial practice, the discretion of the judge in regards to the interpretation of laws can be based on the existing economic model, or on the attempt to make the best decision given the social and economic conditions. Thus, the naturalized theory of law preserves the traditional conceptual apparatus but it can use the empirical facts of the social sciences to study the social mechanisms of making judicial decisions. Therefore, other concepts and terms in the legal sphere are subject to conceptual analysis, and this slightly distinguishes the views of legal realists on the legal reality from the views of positivists.

However, such interpretation of Quine's philosophical argumentation and legal realism concepts used to explain the naturalistic approach in the philosophy of law is unreasonable. As some legal cases require additional explanation and interpretation in various ways, the revocation of the court decision by the appellate instances does not mean there was a methodological error in the decision-making or error in the methods used by scientists during the investigation of the judicial practice. Further, from the theory of law perspective, the justification of a decision made by a judge or a governmental official implies not only the search and systematization of empirical facts but also the reasoning behind the legal nature of the decision, and its compliance with legal principles and legal norms, which is subject to verification by a higher court. The relevant principles cannot be revised due to the discovery of judicial errors and are used only to clarify the content of the judicial precedents to be implemented by the judges in the future decision-making cases.

Arguments of legal realists criticize the formalism in law and interpretation of the letter of the law; these arguments distort the actual practice of judicial proceedings because compliance with formal procedures as provided in law by all participants of the process is the basis to make the legitimate judicial decision, and in situation of not following the requirements, the decision should be reconsidered or revoked. Thus,

the rationalization of a judicial decision does not depend on the possible uncertainty of legal norms, but on the search and application of legally significant argumentation, which does not require the naturalization of epistemology in the radical version, as presented by B. Leiter.

Thus, the versions of the development of the naturalized epistemology of law described above are based on the application of Quine's arguments by analogy in the area of legal philosophy, but with certain limitations. Examples of direct application of Quine's arguments to the critics on the a priori and uncertainty of legal norms in judicial practice (legal realism) and to the critics on the traditional positivist epistemology in terms of the limits of judicial discretion (Hart's concept) prevent the search for an adequate legal argumentation to provide reasoning to the conclusions. Refusal to comply with formal legal rules turns the process of judicial decision-making and law enactment into a political process due to the influence of ideology and current moral concepts, and prevents the possibility of compliance with legal principles and development of the effective legal system. Thus, in the naturalized perspective, the uncertainty of law is increasing.

REFERENCES

- Baker, G.P. and Hacker, P.M. (1984). *Scepticism, Rules and Language*. Oxford: B. Blackwell.
- Baker, G.P. and Hacker, P.M.S. (2009). Following Rules, Mastery of Techniques, and Practices. In: Baker, G.P. and Hacker, P.M.S. *Wittgenstein: Rules, Grammar and Necessity*. 2nd ed. Volume 2. Chichester: Wiley-Blackwell, pp. 135–156. DOI: 10.1002/9781444315691.ch4
- Bix, B. (1993). *Law, Language and Legal Determinacy*. Oxford: Clarendon Press.
- Boden, M. (1959). In Reply to Hart and Hampshire. *Mind: A Quarterly Review of Psychology and Philosophy*, 68(269), pp. 256–260.
- Hart, H.L.A. (1951). The Ascription of Responsibility and Rights. In: G. Ryle and A. Flew, eds. *Essays on Logic and Language*. Oxford: Blackwell, pp. 145–166.
- Hart, H.L.A. (1994). *The Concept of Law*. 2nd ed. Oxford: Clarendon Press.
- Kasatkin, S. (2014). *Kak opredelyat' sotsial'nye ponyatiya? Kontseptsiya askriptivizma i otmenyaemosti yuridicheskogo yazyka Gerberta Kharta* [How to Define Social Concepts? The Conception of Ascriptivism and Defeasibility of Legal Language of Herbert Hart]. Samara: Praim. (in Russ.).
- Kelsen, H. (1950). Causality and Imputation. *Ethics*, 61(1), pp. 1–11. DOI: 10.1086/290742
- Kelsen, H. (1951). Science and Politics. *The American Political Science Review*, 45(3), pp. 641–661. DOI: 10.2307/1951155
- Kripke, S.A. (1982). *Wittgenstein on Rules and Private Language*. Cambridge: Harvard University Press.

Langille, B. (1988). Revolution without Foundation. The Grammar of Scepticism and Law. *McGill Law Journal*, 33(3), pp. 451–505.

Leiter, B. (2008). Naturalizing Jurisprudence: Three Approaches. *University of Chicago Public Law and Legal Theory Working Paper*, (246). [online]. Available at: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1200&context=public_law_and_legal_theory [Accessed 17 June 2018].

Leiter, B. (1997). Rethinking Legal Realism: Toward a Naturalized Jurisprudence. *Texas Law Review*, 76(2), pp. 267–315.

Leiter, B. (1998). Naturalism and Naturalized Jurisprudence. In: B. Bix, ed. *Analyzing Law: New Essays in Legal Theory*. Oxford; New York: Clarendon Press; Oxford University Press, pp. 79–104.

Leiter, B. (2001). Legal Realism and Legal Positivism Reconsidered. *Ethics*, 111(2), pp. 278–301. DOI: 10.1086/233474

Marmor, A. and Sarch, A. (2015). The Nature of Law. In: E.N. Zalta, ed. *The Stanford Encyclopedia of Philosophy*. [online]. Available at: <https://plato.stanford.edu/archives/fall2015/entries/lawphil-nature/> [Accessed 12 June 2018].

Ogleznev, V.V. (2012). *G.L.A. Khart i formirovanie analiticheskoi filosofii prava* [H.L.A. Hart and Formation of Analytic Legal Philosophy]. Tomsk: Tomskii universitet Publ. (in Russ.).

Ogleznev, V.V. and Surovtsev, V.A. (2016). *Analiticheskaya filosofiya, yuridicheskii yazyk i filosofiya prava* [Analytic Philosophy, Legal Language and Legal Philosophy]. Tomsk: Tomskii universitet Publ. (in Russ.).

Patterson, D. (1990). Law's Pragmatism: Law as Practice and Narrative. *Virginia Law Review*, 76(5), pp. 937–996. DOI: 10.2307/1073154

Pears, D. (1988). *The False Prison. Volume 2: A Study of the Development of Wittgenstein's Philosophy*. New York: Oxford University Press.

Quine, W.V. (1953). *From a Logical Point of View, 9 Logico-Philosophical Essays*. Cambridge: Harvard University Press.

Raz, J. (1985). Authority, Law and Morality. *The Monist*, 68(3), pp. 295–324. DOI: 10.5840/monist198568335

Stern, K. (1959). Mr. Hampshire and Professor Hart on Intention: A Note. *Mind: A Quarterly Review of Psychology and Philosophy*, 68(269), pp. 98–99.

Wittgenstein, L. (2001). *Philosophical Investigations*. 3rd ed. Oxford: Blackwell Publishers Ltd.

БИБЛИОГРАФИЧЕСКИЙ СПИСОК

Касаткин С.Н. Как определять социальные понятия? Концепция аскриптивизма и отменяемости юридического языка Герберта Харта. Самара: Прайм, 2014.

Оглеzneв В.В. Г.Л.А. Харт и формирование аналитической философии права. Томск: Изд-во Том. ун-та, 2012.

Оглеzneв В.В., Суровцев В.А. Аналитическая философия, юридический язык и философия права. Томск: Изд-во Томского ун-та, 2016.

Baker G.P., Hacker P.M. Scepticism, Rules and Language. Oxford: B. Blackwell, 1984.

Baker G.P., Hacker P.M.S. Following Rules, Mastery of Techniques, and Practices // Baker G.P., Hacker P.M.S. Wittgenstein: Rules, Grammar and Necessity. 2nd ed. Vol. 2. Chichester: Wiley-Blackwell, 2009. P. 135–156. DOI: 10.1002/9781444315691.ch4

Bix B. Law, Language and Legal Determinacy. Oxford: Clarendon Press, 1993.

Boden M. In Reply to Hart and Hampshire // Mind: A Quarterly Review of Psychology and Philosophy. 1959. Vol. 68. No. 269. P. 256–260.

Hart H.L.A. The Ascription of Responsibility and Rights // Essays on Logic and Language / Ed. by G. Ryle, A. Flew. Oxford: Blackwell, 1951. P. 145–166.

Hart H.L.A. The Concept of Law. 2nd ed. Oxford: Clarendon Press, 1994.

Kelsen H. Causality and Imputation // Ethics. 1950. Vol. 61. No. 1. P. 1–11. DOI: 10.1086/290742

Kelsen H. Science and Politics // The American Political Science Review. 1951. Vol. 45. No. 3. P. 641–661. DOI: 10.2307/1951155

Kripke S.A. Wittgenstein on Rules and Private Language. Cambridge: Harvard University Press, 1982.

Langille B. Revolution without Foundation. The Grammar of Scepticism and Law // McGill Law Journal. 1988. Vol. 33. No. 3. P. 451–505.

Leiter B. Legal Realism and Legal Positivism Reconsidered // Ethics. 2001. Vol. 111. No. 2. P. 278–301. DOI: 10.1086/233474

Leiter B. Naturalism and Naturalized Jurisprudence // Analyzing Law: New Essays in Legal Theory / Ed. by B. Bix. Oxford; New York: Clarendon Press; Oxford University Press, 1998. P. 79–104.

Leiter B. Naturalizing Jurisprudence: Three Approaches. University of Chicago Public Law and Legal Theory Working Paper. 2008. No. 246. URL: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1200&context=public_law_and_legal_theory (дата обращения: 17.06.2018).

Leiter B. Rethinking Legal Realism: Toward a Naturalized Jurisprudence // Texas Law Review. 1997. Vol. 76. No. 2. P. 267–315.

Marmor A., Sarch A. The Nature of Law // The Stanford Encyclopedia of Philosophy / Ed. by E.N. Zalta. 2015. URL: <https://plato.stanford.edu/archives/fall2015/entries/lawphil-nature/> (дата обращения: 12.06.2018).

Patterson D. Law's Pragmatism: Law as Practice and Narrative // Virginia Law Review. 1990. Vol. 76. No. 5. P. 937–996. DOI: 10.2307/1073154

Pears D. The False Prison. Volume 2: A Study of the Development of Wittgenstein's Philosophy. New York: Oxford University Press, 1988.

Quine W.V. From a Logical Point of View, 9 Logico-Philosophical Essays. Cambridge: Harvard University Press, 1953.

Raz J. Authority, Law and Morality // The Monist. 1985. Vol. 68. No. 3. P. 295–324. DOI: 10.5840/monist198568335

Stern K. Mr. Hampshire and Professor Hart on Intention: A Note // *Mind: A Quarterly Review of Psychology and Philosophy*. 1959. Vol. 68. No. 269. P. 98–99.

Wittgenstein L. *Philosophical Investigations*. 3rd ed. Oxford: Blackwell Publishers Ltd, 2001.

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