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HISTORICAL DEVELOPMENT OF THE CONCEPTS ABOUT THE LANGUAGE OF LAW IN WESTERN PHILOSOPHY AND SEMIOTICS OF LAW

The article deals with the historical development of ideas about the language of law in philosophical concepts from antiquity to the present. The fundamental and classic example of semiotic analysis sign construction and establishing affiliation (compliance) their use in the legal process can be considered the Plato's dialogue "Apology of Socrates" (after the incriminating speeches). The philosophers of the Middle Ages based on scholastic methods of analyzing sign construction are usually trying to use this analysis to characterize these and other problems of religious life and knowledge. Political and legal signs were considered by Niccolo Machiavelli in his books "History of Florence" and "The Prince" ("Il Principe").

In the philosophical concepts of I. Kant, J. Fichte and G. Hegel solution to the question of language in parallel with the resolution of political and legal issues and using of legal sign construction in their works is in the context of more general philosophical problems. In the concept of W. von Humboldt the problem of language comes to the fore, becomes the central problem.

G. Frege made demythologization of logic and set its objective value for the general scientific methodology and clarified concepts, made sense and significance of the sign (often mixed until today). Charles S. Peirce, an outstanding philosopher and logician, joined the creation of a general theory of signs as a prototype of modern semiotics.

B. Russell proposed the philosophical principles of logicism and logical atomism. These principles played an important role in the development of the scientific methodology of the first half of the twentieth century, and also influenced the formation of the methodological foundations of the semiotics of law. "Tractatus Logico-Philosophicus" of L. Wittgenstein, which contains the key ideas of the philosophy of language, later developed into modern logical positivism and analytic philosophy became the basis for the position of a generation of philosophers. Attempts by H. Kelzen and his other representatives to overcome logical positivism led to the interpretation of language in the legal positivism of the twentieth century.

The further development of sign theory was accompanied by an increase in interest in specific sign systems as spheres of the application of semiotic knowledge. In this case, the semiotics of law has become no exception. Consequently, today the semiotic-legal concepts "legal sign" and "legal symbolic construction" characterize the specifics of the structural organization of law as a sign system.

Keywords: semiotics of law, philosophy of law, legal sign, legal sign construction, legal reality, language of law.

Research issues in the field of sign system and structure of Law in the latest period of philosophical and legal science by using different methods and approaches, one of the most promising of which appears to semiotics of law. An increasing number of studies considering law as a variant of the exchange of information, communication, or more – social interaction. So modern philosophical and legal discourse is increasingly drawn to Intersubjectivism as a way to study law and tends to integrative theories of law, indicating a departure from the classic confrontation Jusnaturalism and Legal Positivism as a type of law

understanding. The emergence of communicative theories of law confirming this conclusion and stimulates the development of new theoretical and methodological tools, terminology, which can be used in studying the sign nature of law.

There is no doubt that the interdisciplinary study of law from the standpoint of semiotics can compete with many other theoretical and methodological approaches contribute to solving important problems of philosophical jurisprudence, as well virtually bring valuable for law results. That is why the necessity to study the basic legal concepts of semiotics, which is the legal sign and legal sign construction, is real.

Forming of semiotics as an independent science took place in the 1970s thanks to research V.V. Ivanov, Y. Stepanov, B.A. Uspensky, R. A. Jacobson, G. Kress, R. Bart, R. Hodge, J. Fiske – scientists who used to achieve the sign theory to analyze cultural phenomena. Great value for its forming was scientific activity Tartu-Moscow school of semiotics leading Y.M. Lotman, works of V.V. Ivanov, Y. Stepanov, B.A. Uspensky, and in the latest period – semiotic study of the political and the legal field that were conducted by G. Pocheptsov, I.A. Lebedev, R. A. Rakhimov, A.G. Khabibulin, E.I. Sheigal, semiotic analysis of social reality of Y. V. Romanenko and A.V. Chanturia, educational publications (courses, manuals) of E. Nikitina, N.B. Mechkovskaya, E.V. Savelova, and others.

Of particular importance for the development of semiotics of law were works of prominent philosophers and lawyers of the past, who carried out the philosophical (logical) analysis of the language of jurisprudence, the study by Bernard S. Jackson¹, Roberta Kevelson², Jan M. Broekman, Anna Wagner, Jack M. Balkin, J. Karzo, researches of A.A. Denisova, N.I. Khabibulina, A.K. Sarkisov, O.O. Merejko, V.D. Titov, S.E. Zarkhina, V. Rechytskiy, O.M. Balynska³, I.L. Chestnov and N.V. Razuvaev, works of S.G. Proskurin, D. Bocharov, N. Kovkel, V. Verenich⁴, V. Goncharov, A. Goryainov, N.V. Kostytska, N.I. Satohina, E.A. Tyuhashev and other contemporary scholars devoted to particular aspects of this problem⁵.

Semiotics and legal studies require the formation and development of adequate categorical basis to meet their own research needs and approaches⁶, takes into account both general semiotics traditions and peculiarities of the legal subject area. To this end, scientists are interested in significant issues in law, offer their own definition, specifying the starting points of semiotics and legal discourse. One of these key concepts that are fundamental to the formation and development of this area of expertise is the concept of "legal sign" and "legal sign construction", they deserve special attention of researchers.

The purpose of the article – definition of historical and philosophical tradition investigation, to identify trends and prospects of scientific development and definition of what constitutes "legal sign construction" in connection with the main elements of the sign system of law. Fundamental and classic example of semiotic analysis of sign construction and finding its adequate using in the legal process can be considered as a dialogue of Plato's "Apology of Socrates" (after incriminating speeches) in which Socrates says that he now walks everywhere – all looking and questioning, according to the word of God, is not it wise to recognize some of the aliens and citizens, or whenever it is not possible, it shows that this person is not wise, but they that are after him on their own, the children of the richest citizens are glad to hear how he feels people and often imitate it. Due to this fact, those who are experiencing, not angry at ourselves, and the Socrates and when they asked what he does, they say that it spoils the youth. However, when asked why he teaches, they do not know what to say and to hide this complication, they say that in general accepted to talk about anyone philosophize: that "in heaven and under the earth "that the "gods do not recognize" and "gives the lie for the truth" – these sign constructions that leads Plato, is the main arguments of the prosecution. Plato continues the saying on behalf of Socrates that the truth of these people do not really want to say how he thinks, because then it would be found that they just pretend like they know something. The accusation that Socrates put forward and put under oath, is that Socrates violates laws, including those that corrupt the youth, does not recognize the gods, which recognizes the city, and recognizes other new deities.

¹ Jackson, B.S. (1985). *Semiotics and Legal Theory*. London : Routledge & Kegan Paul.

² Kevelson, R. (1988). *The law as a system of signs*. New York, London: Plenum Press.

³ Балинська, О.М. (2013). *Семіотика права*. Львів: ЛьвДУВС.

⁴ Verenich, V. (2014). *Semiotic models of legal argumentation*. Tartu: University of Tartu Press.

⁵ Павлишин, О.В. (2017). *Правова реальність як знакова система*. Харків: Право.

⁶ Jackson, B.S. (1995). *Making Sense in Law: Linguistic, Psychological and Semiotic Perspectives*. Liverpool, UK: Deborah Charles Publications.

Socrates provides a consistent analysis of the situation of damage to young prosecutor Melit asking about who and how to make young people better and then concludes that in any event, even if it corrupts the youth, it does so unintentionally, so it must appear in court and should receive instruction in private. Socrates then proceeds to charge for damage to young people through education not recognize the gods, which recognizes the city, and to recognize other new deities, while it consistently and critically examines this thesis, demonstrating the inability to recognize both demonic and divine, not recognizing themselves gods. Each of these legal sign constructions important for the formulation of the charge, while their analysis points to the innocence of Socrates and destroys the logic of the charges. The same method applies Plato in the work "Republic" (Book 1), when analyzing the validity and leads Socrates to Kefal question of whether to consider the validity of simple honesty and returning borrowed and the same action can sometimes be fair and sometimes – cannot be fair.

The philosophers of the Middle Ages based on scholastic methods of analyzing sign construction are usually trying to use this analysis to characterize these and other problems of religious life and knowledge. In particular, the rigorous study of many categories found in the study guide with free science (*artes liberales*), works on logic (translations, commentaries and treatises), theological treatises and artistic and philosophical satur "Consolation of Philosophy" ("Consolatio Philosophiae") Boethius, the treatises "On the Eternity of the World", "On Being and Essence" and especially – in the four-volume "Summary against the Gentiles" ("Summa contra Gentiles") and "Summary of Theology" ("Summa Theologiae") St. Thomas Aquinas, the treatises "Monologion" and "Proslogion" St. Anselm of Canterbury, and the "Greater Work" ("Opus maius") R. Bacon and commentaries of John Duns Scotus on the maxims of Peter Lombard, which consist of three main parts – the orderly presentation of the author, notes for lectures and recordings of words, and his treatise "On First Principle" ("De primo principio").

Political sign construction was considered by Niccolo Machiavelli in his books "History of Florence" and "The Prince" ("Il Principe"). It considers the relationship of church and secular authorities, sharply criticizing the Roman papacy because of the harm that it brings Italy. From his point of view, the papacy and political reformation in Italy are incompatible, because it made a hypocritical church and the state – negligible, hence it requires the destruction of the Roman Church, religion, secularization, replacement new Roman religions by the ancient Roman, church – by state or even, as it can be argued, replace religion by patriotism.

In the philosophical concepts of I. Kant, J. Fichte and G. Hegel solution to the question of language in parallel with the resolution of political and legal issues and using of legal sign construction in their works is in the context of more general philosophical problems. Particularly productive in this sense should be considered, and therefore considered a more dialectical theory of G. Hegel, in which law and language are combined in a single system in connection with the search and determination of conditions of absolute morality. Logical-semiotic ideas of representatives of classical German philosophy of law and other scientists who formed the basis of modern semiotics of law, sources of research and philosophical foundations of language of law are shown in detail in the fundamental work of V.D. Titov and S.E. Zarkhina¹ and theoretical, historical and legal aspects of the legal sign construction were the subjects of the of A.K. Sarkisov's thesis.

In the concept of W. von Humboldt the problem of language comes to the fore, became the central problem (unlike his predecessors), and the individual displays any object he sees the reflection of the general idea, which only took the form of an individual to realize it fully, because it supports the most versatile personality development, but most favor the approach could bring funders and representatives of the historical school of law. In particular, in the writings of philosophers and lawyers of the time, who shared these views and have formed the basis for a fundamentally new historical understanding of the nature of law and its withdrawal from the "national spirit", it is derived from the national law of justice (F.C. von Savigny) history of language points directly to the genesis of legal concepts (G. von Hugo), and sources of law are to some extent correlated with the forms of the language reflected in the customs legislation and jurisprudence (G.F. Puchta). At the same time, the incorrectness of the complete analogy of language and law is reasonably criticised by R. von Jhering, who notes that forming of law is a will-determined and way that is purposeful, through conscious goal-setting and the struggle for higher purpose, while language develops spontaneously.

¹ Титов, В.Д., Зархина, С.Э. (2009). *Историческое развитие философско-логических концепций языка права*. Х.: ФИНН.

The purpose of law is crucial in studies of F. von Brentano, who analyzes the concept of "universal rights", "natural sanction", "goal in law", "means to an end in the right" and other legal sign constructions, trying to overcome the separation of positive and natural law by identifying legal sign's intentionality, its difference from other signs that indicate the actual actually existing objects. By using a phenomenological approach semiotics of law got important, if not invaluable material for further research of essence, nature, and characteristics of a legal sign as a fundamental concept in this theory.

A general theory of signs as a prototype of modern semiotics, which joined the great philosopher and logician Charles S. Peirce, and to identify areas of practical application of semiotics as a method of forming the formulation of precise scientific terms and the development of criteria for its analysis and evaluation (including eligibility criteria, ease of, convenience, present etc.) was transferred to the legal cognition. His constant reference to the "pure" logical connection object description of the subject, which is described through a system of logical relations between object, sign and interpretant becomes the basis for semiotic analysis of specific legal phenomena expressed in legal sign constructions in civil law (the act of giving) or criminal law (act of murder) fields. This semiotic analysis of legally relevant situations require the use of different types of signs – unary relations are indicated by indices, binary – icons, ternary – symbols. In developing his views, it can be argued that through the using of symbolic language description is quite possible to do a logical analysis of typical relationships that are of interest to lawyers, more accurate and transparent as possible by using natural spoken language.

Because F.L.G. Frege made demythologization of logic and set its objective value for the general scientific methodology and clarify the concepts made sense and significance of the mark, often mixed and to date, he essentially stimulated the development of deontic logic and formation of logical foundations of semiotics of law. Moreover, Frege proposed to analyze judgments not in terms of subject and predicate, but in terms of logic functions, and showed the error of mixing criterion validity and meaningfulness of expression, because the meaning is in all kinds of sentences, but not all of them can be characterized in terms of truth or falsity (incentive sentences containing orders, sentences containing suggestions or requests, shouts, interrogative sentences). Logician, mathematician and philosopher raised and other important information for logical and semiotic analysis of language topic – expression and sense of denial that correctly understood as a statement about the lack of truth or the lack of meaning in a certain sentence. As he notes, the introduction of negation operator in the sentence (or remove this statement) significantly affect the form and content of expression – for example, judgment "accused at the time of the murder was (or was not) in Berlin".

As modern scholars emphasize, that B. Russell not only offered philosophical principles of logical atomism, which played a major role in the scientific methodology of the first half of the twentieth century but also concluded that the structure of natural languages can be reduced to the "basic structure" of the formal language of logic. The main obstacle to such a construction, he believed vagueness (vagueness) natural language, which can help to get rid of only mathematical logic as a tool to clarify the content of sentences of any natural language. To identify the "basic structure" of sentences of natural language Russell proposed to distinguish between "atomic" and "molecular" statements. The first part is a single word, while the latter is formed from two or more atomic expressions using logical conjunctions "and" "or" "if then" and so on. Thus, it is possible to decompose any molecular expression in the set of atomic statements and logical connection. The value of molecular expression may clarify analytically decomposing it into its constituent atomic expression. Task logical language, so is the right description (descriptions) of what is happening in the world. Russell proposed the theory of descriptions based on the fact that due to improper use of language philosophers often misleading readers and listeners likely reasons that do not really exist and has never existed.

Causing an immediate reaction from the scientific community, the highly acclaimed contemporary "Tractatus Logico-Philosophicus" of L. Wittgenstein, which contains the key ideas of the philosophy of language, later developed into modern logical positivism and analytic philosophy became the basis for the position of a generation of philosophers. According to this approach, language sentences are descriptions of "pictures" of the facts that form the world. Expression of logic and mathematics do not say anything concrete about the world – they just organize positive knowledge. Of the world to give factual information can only natural statements that are experimental verification. By contrast, as well as statements of logic and mathematics, sentences of metaphysics, ethics, and law (as can be concluded from his position) – a lack of actual meaning of pseudo-sentences. They do not reflect the real world but create pseudo-images of the world and simultaneously a pseudo-problem. Since the "disguised language

of thought" to avoid any possible linguistic traps should be used very precise language, which will multiple-valued signs and to use precise logical syntax. If a refinement of thought cannot be done, it should generally give up trying to say something about a particular situation, such as the statement does not make sense.

Opinions M. Schlick, O. Neurath and R. Carnap on the nature of the language of science as the development of the main provisions of the "Tractatus Logico-Philosophicus" embodied in the ideological justification of logical positivism. Based on this perspective, the main objective of the logical analysis is to separate empirically verifiable (and therefore meaningful) sentences from unverifiable (and therefore meaningless) metaphysical assertions, thus get rid of any science" simulated theoretical content where it does not exist. "Every utterance that makes sense, should be either analytic or synthetic, but not both of them simultaneously. All analytical expressions are formal logic, since they are true because of its formal structure, and all synthetic statements require experimental verification. Analytical expression study examined the meanings of words that they include, and inference predicate of the subject. Synthetic speech is the result of combining two logically unrelated but, in fact, related things.

Because the truth analytical expression does not depend on the existence or nonexistence mentioned in these articles, but solely on their logical form, they are trivial, while true synthetic speech is always informative because they have a certain statement about the world. The principle of verification is to establish that the statement that is verified or is analytic or synthetic, or meaningless. Assuming that part of metaphysics and the "theory of norms", R. Carnap argues that the alleged statements of the industry are completely ridiculous. This is a direct challenge to all professionals in the field of law, which was passed by them and caused a broad discussion of the future that continues to date.

Interpretation of language in legal positivism of the twentieth century was due to the efforts of H. Kelsen and its other members to overcome the logical positivism based reasoning more powerful philosophical direction, namely, in a similar way as was the case in phenomenology F. von Brentano and Husserl. The basis for this assertion is actually methodological emphases made by Kelsen to "clean" his approach to law and establish its meaning, related general philosophical phenomenological approach. Kelsen actually uses the method of phenomenological reduction in sequential purification authentic meanings provided key legal concepts (right, provision, causality) that, in his view, you can set a specific legal standard compared to any other provisions and ethical standards in particular. Mixing Ethics and Law is based on undifferentiated between norm-founding act and rule set as the meaning of this act. Objective legal significance of a particular act cannot perceive directly, as opposed to the perception of the physical properties of the object. H. Kelsen resort to philosophical and semantic analysis of legal sign construction "must" (sollen) and shows that the law is a concept used in a wider than usual normative sense, act intentionally aimed at human behavior. Category "must" here also includes "may" and "entitled". The position of H. Kelsen, as a rule, specific meaning act intentionally aimed at regulating the behavior of others, is different from the act of the will, the meaning of which he is. Semantic analysis eliminates the problem – the fact that something is, cannot follow that something should be, as well as the fact that something needs to be, cannot follow that something is. For further development of semiotics of law of fundamental importance had another position of H. Kelsen as follows: if we denote the existence of specific rules as its "reality," then the same will be distinct special nature of its existence – as opposed to being natural facts. This mode actually defines all aspects of social life, from its material and economic to the religious element, and generally describes the specifics of the human perception of the world and of any change in the system of social relations.

Logical and linguistic idea of "rules of language games" later Wittgenstein and his followers in Britain J.L. Austin and P.F. Strawson significantly affected the analytical jurisprudence of H.L.A. Hart. According to Hart, an analytical approach to the values of the terms used in the law designed to overcome the "entanglement theory of law" and help answer the fundamental question "what is law?". The fact that this issue is still unresolved for most lawyers is a consequence of the complexity of the question when it is logical and semantic analysis is decomposed into three problems which may lead to the definition of law: what distinguishes law from orders strengthened threats and what unites them? What are the differences and similarities between legal and moral obligations? What are the rules and the extent to which the right is the result of applying the rules? These issues are relevant for modern jurisprudence, as there are still camps of supporters of "reborn" concepts of natural law (or New Natural Law theory), avid defenders of the theory of legal positivism, legal realism and representatives of other directions.

Further development of the sign theories with rising interest in the particular sign systems as applications of semiotic knowledge, not the exception became the semiotics of law that arose from the use

of structuralism's methodology and applications of logic, general linguistics and semiotics (semiology) for a critical analysis of the problems of modern jurisprudence, but at present it seems quite promising for the development of new approaches to the explanation of the nature of law.

Formation of theoretic and methodological instrumental basis of this field of knowledge cannot be implemented without a systematic study and showing of the history of formation and development of linguistic theories in general and the most advanced concepts of language of law, some results of which are presented in this article and for which is dedicated the fundamental work of Ukrainian researchers in the field of logic and philosophy of law V.D. Titov and S.E. Zarkhina.

Characteristically, the development of the theory of the sign, which started back in ancient philosophical thought and restored in modern science, in fact, until the twentieth century may not be combined with studies of specific legal sign construction, examples of which are lacking in many works, from the Socratic tradition and in scholastic dialectics sample.

Summarizing the results of scientific research at this stage of the semiotics of law, we can determine that the legal sign – an element of reality, chosen or created by the person, that has legal significance. The legal sign combines definitions, signified object and legal reality that is affected. Thus, it includes: 1) the expression shape shell – definition, and 2) an object of thought, which is defined, it is often expressed in the notion – the signified 3) exists in the real world phenomenon of legal reality (object, process, status the system of relations), which are indicated. As you know, the process of character passes through three stages – forming signs, codes, signs, copies, signs and symbols. Although the vast majority of legal signs are legal symbols, however, we note the existence of legal signs-codes and signs-copies indicating the respective genesis of legal signs, the specifics of the course and the main stages of the process.

Legal sign construction – is an integral combination of legal signs, which has independent legal significance. Legal sign construction is an integral part of the legal reality, sustainable and meaningful holistic combination of legal signs. Configuration legal signs embodied in it, reflected in a separate legal concept. That legal sign construction is an integral entity which has separate, independent legal significance, and this is different from complex signs, which also consists of several signs, but they are not content, but in its aggregate volume complement synonymous reinforce some one concept.

Semiotics and legal term "legal sign" and "legal sign structure" characterized by specific structural organization of law as a sign system, reveal its complex, hierarchical structure, determine the primary and fundamental particles of the sign system of law, therefore, of particular importance for understanding the nature and specificity of legal reality that is the subject of philosophical and legal research today, the object of interest and stimulus for research activity thinkers of the modern period.

Ontologically-legal values of legal sign construction are determined that a legal sign and legal sign construction reflects sign type of the existence of the law, they are a special forms of the ontology of law, sign manifestations of its existence in its entirety relations between its constituent elements at all structural levels of hierarchically organized system.

Epistemologically-legal values of the study of legal sign construction determined that the knowledge of law provides its analysis of the positions of the various approaches and using different terminology categorical apparatus. This process is due including that rich variety of expressions right which is fixed while trying his knowledge, understanding and building its holistic vision. Enrichment epistemology of law and legal semiotics approach reveals those aspects of legal life that can not be replicated in any other way. In this concept of fixed special knowledge of law as an object of human knowledge.

Axiological-legal values analysis of the legal sign construction due to hierarchy and other sign features, including structuring elements of the legal reality that correlate with the outstanding features of the system of legal values, the relationship between them and a set of assessments by legal entities.

Anthropological-legal values of the legal sign construction and studying it is that man creates, modifies and interprets legal signs – man, who has own worldview, that is a holistic ideal formation – the integrative unity of values and orientations, principles, ideals, hopes, beliefs, and many other elements that are described as man's place in the world in general and the place of law in this ideological system. These ideas about the world itself, its place in the world right an impact not only on the particular legal interpretation of signs (semantics law), but also on the way human perception of the content of the data symbols, in other words, determine the specific subject of personality assessment carried out his interpretation of the symbolic meaning of the sign, expressed in relation to it.

Praxeological-legal values of legal sign and sign construction due to the need to solve a number of problems in the area of legal practice that can not be done without an adequate understanding of the nature,

essence and the structural organization of law. Moreover, fixing the sign patterns of functioning law can significantly help both directly in lawmaking, law enforcement, protection of rights and legal education, and to create appropriate automated electronic systems, software, information and trying to make a partial automation of legal action.

Legal sign construction reflects the logic of law itself indicates significant legal phenomenon. Specifying the idea of law, it denotes a separate legal phenomenon and, along with the legal sign is an important element of the cognitive structure of legal reality, revealing the contents and nature of the structures, which are organized legal existence, characteristics and features of law as an object of knowledge.

Philosophical and legal understanding of corporate processes and events aimed at opening display features right, individually or public opinion, as well as knowledge of the laws of social and legal interactions, a study of intersubjective characteristics that are fundamental to understanding the idea of law in its entirety its manifestations. The theoretical origins of semiotic analysis of legal sign construction found in ancient attempts philosophical understanding of law in the works of the Cynics, Plato and Aristotle, medieval scholastics, Renaissance humanists, philosophers and scientists modernity logic of the twentieth century. Semiotics and legal research to develop and enrich the philosophical and legal methodology at the present stage of its development. Fixing examples of semiotics and legal analysis of the works devoted to individual elements of the legal reality, creates a broad historical and philosophical and theoretical basis for developing a categorical apparatus semiotics of law in the modern period.

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