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The outline of the subject of biojurisprudence

(part 3)[*]

The Methodology of Biojurisprudence

The methodology of biojurisprudence is a constituent of biojurisprudence, whose subject are scientific methods considered for their cognitive importance determined by the results obtained. This subject comprises: concepts, theses, hypotheses, evaluations, norms, principles, and theories. Among the divisions of methodology, the principal one is the division into general or logical methodology, applied in all sciences, and particular methodology of individual sciences. Biojurisprudence is a social science but it has very close relations with other sciences, especially biological and medical. Its needs are best served by the methods of social sciences – logical, descriptive, philological, genetic, statistical, comparative and others. Methods are also developing, which apply to the investigation of the main value and norm of biojurisprudence, or life[1].

Biojurisprudence as the name of a new current in jurisprudence directly points to the connections of its subject with biology, especially bioethics and jurisprudence, identified here with the science of law, philosophy of law, theory of law, and legal thought. Indirectly, biojurisprudence is linked to the subject of technology – bio-technics enabling the application of biological achievements to its own needs – biotechnology, and to the needs of medicine – biomedicine. The subject of biojurisprudence does

[*] Закінчення. Початок статті див.: «Публічне право». – 2013. – № 3; 2013. – № 4.

[1] *See* e.g. Metodologia pomiaru jakosci zycia, (ed.) W. Ostasiewicz, Wroclaw 2002; E. Dolny, Metodologia budowy tablic trwania zycia [in:] Demografia i polityka ludnosciowa, available on the Internet; Also N. S. Jecker, A. R. Jonsen, R. A. Pearlman, Bioethics: An Introduction to the History, Methods and Practice, Jones and Bartlett Publishers 2007.

not cover all subjects of biotechnology, bio-technics and medicine. It embraces those of their parts that apply to human life and the life of nature, thereby requiring regulation by law – bio-law. The regulation, based on the comparative knowledge of religious and moral norms of different world cultures, is meant to protect them against risk-laden experimentation and its uncertain, still unpredictable effects[2].

Inquiries into the essence, sources and function of biojurisprudence and bio-law call for a closer definition of their character in the form of theses and hypotheses. Although biojurisprudence and biolaw are the most spectacular phenomena of jurisprudence introduced into science at the close of the twentieth century, they already encourage us to present the whole history of jurisprudence and law in light of their [biojurisprudential and biolaw] assumptions

Thesis one. Life, especially human life and the life of nature, defines the most profound sense of the subject of jurisprudence and the subject of law.

Hypothesis one. Before the conception of biojurisprudence and biolaw arose, the development of jurisprudence and law, in their most profound sense, was determined essentially by the natural processes of human life and the life of nature.

Thesis two. The current development of biological sciences (biotechnology), utilized through technology (bio-technics) by medicine (biomedicine) consists largely in artificial interference in the natural processes of life.

Hypothesis two. The effects of the artificial interference of biotechnology, bio-technics and biomedicine in the natural processes of life, considered by jurisprudence and regulated by law, determine the present contours of the subject of biojurisprudence.

Thesis three. The regularities of the rapid development of biotechnology, bio-technics and biomedicine show the broader and broader range of their artificial interference in the natural processes of life.

Hypothesis three. The widening range of artificial interference in the natural processes of life means the declining importance of traditional jurisprudence and the existing law with a simultaneous increase in the importance of biojurisprudence and bio-law.

Thesis four. The effects of artificial interference in the natural processes of life are subjected to various assessments, above all, however, to religious, moral and legal evaluations.

Hypothesis four. The religious, moral and legal evaluations of the effects of artificial interference in the natural processes of life are, in a comparative interpretation, an important constituent of the subject of biojurisprudence that significantly influences the practice of making and applying bio-law.

Thesis five. From a diversity of evaluations of artificial interference in the natural processes of life follows a conviction that not everything that is technically possible is axiologically acceptable and should not be permissible normatively.

Hypothesis five. A conviction that not everything that is technically possible should be normatively permissible defines the axiological framework for the practice of making and applying bio-law.

Thesis six. Unlike the speculative nature of earlier biological, technological and medical theories, contemporary biotechnology, bio-technics and biomedicine are of entirely practical character.

Hypothesis six. The consequence of the practical character of biotechnology, bio-technics and biomedicine in jurisprudence and law is the definitely practical orientation of biojurisprudence and bio-law.

Thesis seven. It is still difficult to fully estimate and even also predict all the

[2] *R. Tokarczyk*, Biojurysprudencja. Nowy nurt jurysprudencji, Lublin 1997, p. 11 et seq.

highly serious effects of artificial interference in the natural processes of life

Hypothesis seven. The seriousness of the effects of artificial interference in the natural processes of life may mean the necessity to entirely re-orientate the direction of the development of jurisprudence as well as the principles of making and applying the law.

Thesis eight. Divergence of views in jurisprudence and in the practice of making and applying the law stem from the lack of acceptance of life as a prevalue and prenorm.

Hypothesis eight. Acceptance of life as the prevalue and prenorm would create solid foundations for reinterpretation of the whole history of jurisprudence and law, which preceded the rise and development of biojurisprudence and biolaw[3].

The methodology of biojurisprudence starts from the actual manifestations of life, then evluates them mainly in religious and moral terms, to create norms on the basis of these evaluations and, basing on the general sense of sets of norms, to create principles, institutions, and branches of law – biolaw. The object of description, evaluation, and regulation is mainly human life, much less animal life or the life of nature. Although almost all branches of science try to describe life, its essence still remains the domain of biological sciences. Evaluation of life attracts particular attention of theology and ethics In some practical sciences, probably most clearly in medicine and economics, descriptions and evaluations of life merge into almost inseparable wholes. Descriptions of life form the basis evaluating it, which in turn is the basis for its moral and legal regulation. The triad of description, evaluation and regulation of life derives from divergences between views relating to life, which probably can never be eliminated[4].

The normative biojurisprudential evaluations, based mainly on selected religious and moral evaluations, show the value of different aspects of human and animal life and the life of nature in terms of sacredness and goodness for the purpose of making and applying biolaw. Showing the value of a particular aspect of life allows us to recognize the natural limits in regulating it. A biolegal norm is the formulation of duties of conduct correspondent with striving to protect and enhance the quality of a specific aspect of life. Sets of legal norms form institutions of biolaw- the right to birth, right to life, right to death or die. On their basis, braches of biolaw can be distinguished; each of them would regulate a specific aspect of human, animal, social, international and nature's life The branches of biolaw, in their logical relationships, could be called the system of biolaw, although the term system need not play such a significant role here as in the culture of . statutory law.

The description of methodology of biojurisprudence can be made more detailed by transferring onto its area the knowledge of four kinds of statements essential for description, evaluation, and regulation by law: descriptive, evaluative, obligational (directive), and performative[5].

Descriptive biojurisprudential statements describe the existence of specific facts of biojurisprudence or some aspects of life. An example of such a statement is the proposition: 'Human life exists'. Descriptive statements, aspiring to truth or to ascertain their falsity, have a logical value because truth or falsity are cognitive criteria, which logic deals

[3] *This* is a modified interpretation as compared with the interpretation in R. Tokarczyk, Prawa ..., p. 19 et seq.; The name biojurisprudence was used, when discussing similar issues, by P. Binetti, Biotechnology and the birth of a third culture, available on the Internet.

[4] *R. Tokarczyk*, Triady dobra najwyzszego, «Prawo i Zycie» 2000, no. 2, p. 72 et seq.

[5] *A more* developed presentation was elaborated by T. Pietrzykowski, Etyczne problemy prawa, Katowice 2005, p. 15 et seq.

with. Although the truth or falsity of description remain part of incessant philosophical and scientific disputes, yet Aristotle's classic definition of truth is still of fundamental significance. According to this theory, truth consists in the correspondence of description in a proposition with reality (adequatio rei et intellectus). In the example adduced, reality confirms the descriptive statement: 'Human life exists'.

Evaluative biojurisprudential statements express in their evaluations, through the language of the evaluating person, his/her inner experience of approval or disapproval of specific aspects of life. The diversity of points of view in biojurisprudential evaluations is just as immense as the vastness of areas of life, but the main role in it is played by moral and religious evaluations in their relationships with biotechnological and biomedical assessments. In respect of normative needs – those of making and applying law – we should distinguish between principal (proper, autonomous) biojurisprudential evaluations and instrumental (technical, utilitarian) biojurisprudential evlautions. The former evaluate life for its own sake, the latter – for other values. An example of the former can be the proposition 'Human life is the prevalue and prenorm'. An example of the latter is the proposition 'Social life, in all its manifestations, is the means of maintaining and enhancing the quality of human life.' The evaluative statements of biojurisprudence evaluate as fundamental not only the value of the lasting of life itself but also its variable qualities from conception to death.

Obligational biojurisprudential statements play the key role in the languages of religion and theology, morality and ethics, law and jurisprudence. The obligations contained in these statements define the normative limits of imperatives and prohibitions of lawful behavior under given circumstances. In biojurisprudence, obligational statements unambiguously define one's attitude to human life as the prevalue, creating for it the norm of maintaining and enhancing quality of life. Relations between evaluative statements and obligational statements are bilateral: evaluations can justify norms and norms – evluations. When, however, evluations are subject to axiological choices, norms aspire to indisputable bindingness in the sense of practical manifestation of their normativity.

Performative biojurisprudential statements are ones that treat the description of accomplishment as identical with the accomplishment itself. The statement itself about accomplishment is treated here as the simultaneous act of accomplishment. There are many examples of performative statements in biojurisprudence. Some of these include: 'I give the name John', 'I pronounce you man and wife', 'I accept your offer', 'You are the accused on the strength of the indictment', 'By virtue of the sentence you become a prisoner', 'the court decrees the conviction null and void'. In Polish legal terminology, performative statements are called conventional acts. Convention or conventionality provides such statements with their legal causative force – accomplishment of specific changes in man's life or in other spheres of life.

Descriptive biojurisprudential statements allow us to speak of descriptive biojurisprudence, while evaluative, obligational and performative statements co-constitute normative biojurisprudence. While the former can have the character of both theoretical and practical biojurisprudence, the latter is clearly practical biojurisprudence.

In biojurisprudential thought, there disappears a serious difficulty of normative sciences, and this should be stressed, called the naturalistic fallacy, which consists in deriving obligational statements from descriptive ones: «ought» from «is»[6]. The naturalistic fallacy denotes equation

[6] *See* note 30.

of the values of the object being evaluated with its described empirical properties. If, according to biojurisprudence, man's empirical life as a condition for his/her spiritual and social life, is the prevalue because all other values follow from it, by self-evidence, there is no need to consider or prove it at length. Man's life combines the sphere of being and the sphere of obligation into one; maintaining life and enhancing its quality is a duty towards him, dictated both by the instinct of self-preservation and man's rationality, aware of the value of his/her humanity. This duty, however, encounters limits when the evaluation of quality of life is negative. This is associated with the problems of wrongful life, suicide, euthanasia, and death penalty for homicide.

Biojurisprudence, recognizing the prevalue and prenorm in human life at the same time, also overcomes the dispute over cognizability of values. This is a dispute between the standpoint, which supports the idea of cognizability of values – cognitivism, and the standpoint, which maintains that values are not cognizable – non-cognitivism. If human life is the prevalue – the source of and condition for all other values, then the cognition of life must the obvious condition for maintaining it and enhancing its quality. This is where the cognition of all social sciences and most biological sciences ultimately aims at. Even technical and exact sciences, seemingly not directly related to the protection and quality of man's life, can exist also thanks to his/her life and serve it in some indirect ways. We also know that many aspects of human life are still being investigated more thoroughly, or are even still unknown. Knowing these aspects of human life would broaden and deepen the knowledge of its values[7].

From human life, as the prenorm according to biojurisprudence, there follows the four-level structure of its normativity as the basis of biolaw. On the first level there are evaluations of particular cases or situations, which are made by any rational man. On the second level, these evaluations acquire the features of obligation in the norms (rules) that can be applied not only to one particular case or situation but also to other similar cases or situations. Norms tell their addressees what to do and not to do. On the third level, principles appear, which are sometimes difficult to distinguish from norms. This distinction is based on discerning a greater generality and depth of principles than norms. Principles do not tell us concretely and specifically what to do and not to do. They provide a basis for developing and properly understanding norms as the application of principles. Finally, on the fourth level, we find normative theories, even broader and more general than principles, such as natural law theory, utilitarianism, Kant's deontology, virtue theory, etc. Normative theories generalize normative principles leading to norms and those to evaluations of particular cases or situations[8].

The first two levels of normative structure of biojurisprudence belong to casuistry (as the basis of case law). «Casuistry» derives from Latin casus denoting a case, event, or situation. There are countless works by theologians, lay philosophers and lawyers who justified or used casuistry. Casuistry constitutes the foundations of justice in the common law culture. In the eighteenth century this term had a pejorative meaning in the descriptions of practices by Christian theologians, known as «conscience cases». Since the 1970s casuistry has consolidated and developed its importance in bioethics[9], and since the 1990s – also in biojurisprudence and biolaw. This

[7] *See* T. Pietrzykowski, Etyczne ..., p. 35 et seq.

[8] *D. P. Gushee*, Ethical Method in Christian Bioethics: Mapping and Terrain, http://www.cbhd.org/resources/bioethics/qushee-2003-08-05.htm

[9] *A. R. Jonsen, S. E. Toulmin,* The Abuse of Casuistry: A History of Moral Reasoning, Berkeley and Los Angeles 1988.

is a method of analyzing and resolving particular cases by interpreting normative principles and theories in the contexts of their circumstances. It consists in moderating tension between general norms, principles and theories, and particular decisions, which is called proportionism[10]. Proportionism, referring to the Aristotelian golden mean, recommends that extreme judgments, norms (rules), principles and theories be avoided. Aristotle also maintained that ethical judgments do not belong to the realm of scientific knowledge but are the domain of practical wisdom – prudence (*phronesis*) – rational perception of facts rather than generalities.

The inclusion of casuistry in methodology is a procedure not entirely compatible with its character, but it has to be posited somewhere within the subject of biojurisprudence. Casuists avoid general descriptions of the ways of their action because they are convinced that such descriptions are possible only in relation to particular cases. The sources of casuistry are found more in rhetoric than in philosophy. Both rhetoric and casuistry see the ultimate goal of action in its moral and legal character. It is from rhetoric that casuistry adopted the categories of paradigm and analogy. The paradigm requires that there should be invariable features in the field of discourse, e.g. in clinical ethics, which is the sphere of interest of biojurisprudence: medical indications, preferring the patient, quality of life, costs of treatment, allocation of resources. Analogy consists in analyzing and resolving a specific case in the context of earlier, similar cases. The paradigm refers to general principles while analogy allows for exceptions justified by special circumstances. While the paradigm aims at certainty and definiteness, analogy stops at the level of probability – probabilism. Casuistry, maintaining a close connection of evaluations with cases, is not, however, another name of situationism or contextualism; it can take selected elements from many different theories, combining them into new wholes adjusted to the case being analyzed and resolved[11].

In the beginnings of the development of ethics, casuistry did not enjoy such recognition as principles. The aforementioned Tom Beauchamp and James Childress, recognizing negligible usefulness of general theory in analyzing and resolving particular cases, proposed mid-level principles: respect for autonomy, beneficence, nonmaleficence, and justice, without giving precedence to any of them[12]. This proposal has been established in science as principlism [from *principle*][13]. Principlism replaces education based on general theories of seeking relationships between a specific case and inductive moral intuitions stemming from understanding the mid-level principles. Principlism is criticized from different standpoints, not only by proponents of casuistry. Critics recognize that the principles of nonmaleficence and beneficence are essentially one principle, only expressed once negatively and next time positively. They point out that principlism is not sufficiently well-grounded because it does not explain where its specific principles stem from and it offers no guides of resolving conflicts of the principles themselves. They accuse principlism of particularism

[10] *Tak* L. Lovat, The Contribution of Proportionism to Bioethical Deliberation in Moderately Post Scientific Age, http://dlibrary.acu.edu/research/theology/ejournal/Issue3/Lovat.htm

[11] *See* Encyclopedia of Bioethics ..., vol. I, p. 374 et seq.

[12] *See* note 25.

[13] *In Polish* literature this term sometimes occurs as principialism, which is a mistake. Principialism, as the principle in itself, does not cover other principles, especially the aforementioned mid-level principles. This erroneous interpretation is found inter alia in B. Chyrowicz and K. Szewczyk, Debatujmy, poszukujmy, uprawiajmy, Internetowy Serwis Filozoficzny [Internet Philosophical Service], Diametros.

similar to liberalism concentrated on the physical self, unrelated to deeper psychical spirituality[14]. Although principlism should be acknowledged by biojurisprudence, yet it is clearly falling behind the already highly developed knowledge of legal sciences on legal principles useful for jurisprudence and legal practice.

American principlism was contrasted with European principlism. The Copenhagen Center for Ethics and Law drew up the *Basic Ethical Principles in European Bioethics and Biolaw*, which became the basis for the document adopted in 1998, called the *Barcelona Declaration*[15]. The *Declaration* defined four principles: autonomy, dignity, integrity, and vulnerability. The *Declaration* is in harmony with the assumptions of biojurisprudence, which emphasizes the unity of the body and spirit (psyche, ego) of man involved in the social relations of concern, solidarity and justice. Autonomy – as the *Declaration* formulates it – is something more than merely liberal permission to conduct procedures and experiments. This is, moreover, the ability to create ideas and define life goals, to gain a moral insight into oneself for legal self-regulation and privacy, to think and ask without constraint; to bear personal responsibility and conduct political activity; and to grant consent after being informed. Dignity shows that respect for a person is closely connected with respect for his/her 'living body'. Integrity consists in mutual relationships and determinants between man's bodily, spiritual, and social life. Finally, vulnerability expresses the moral imperative of care over vulnerable, fragile and finitude-laden human life. The principles of the *Declaration* show close relationships between bioethics and biojurisprudence.

Both the American and European conceptions of principlism are correspondent with the elements of many general normative theories of bioethics. The main role in bioethics is played by utilitarianism, Kantian deontologism, and virtue ethics. Here we can discern the similarity of principlism to casuistry and their dissimilarity to whole, particular and general, normative theories of bioethics. While casuistry and principlism accept compromises justified by the character of the cases being considered and resolved, none of the aforementioned general normative bioethical theories consents to compromise. Each of these general theories is characterized by principialism (to be distinguished from principlism), or rigidly sticking to one's own views only[16]. Unlike general ethical and bioethical theories, in jurisprudence its separate trends, previously at variance with one another, become more convergent. The most pertinent example of this is probably the thought of natural law becoming closer to the thought of legal positivism, which already approves «a minimum of values» centered around the protection of human life. The competition of many trends of thought in jurisprudence is overcome by biojurisprudence, pointing to their common value – the prevalue of life and their common norm – the prenorm of life. Owing to this fact, biojurisprudence already aspires to the status of universal legal thought, while bioethics, like traditional jurisprudence, are still unable to go beyond the level of many

[14] *H. R. Wulff,* Against the Four Principles: A Normic View [in:] Principles of Health Care Ethics, (ed.) E. Gillon, Chichester 1994, p. 697.

[15] *J. D. Rendtorff,* Basic Ethical Principles in European Bioethics and Biolaw: Autonomy, Dignity, Integrity and Vulnerability – Towards A Foundation of Bioethics and Biolaw, «Medicine, Health Care and Philosophy» 2002, no. 5, pp. 235–244.

[16] *For* more, see. P. A. Martin, Bioethics and the Whole: Pluralism, Consensus and the Transmutation of Bioethics Method into Gold, «Journal of Law, Medicine and Ethics» 1999, Vol. 27, No. 4.

conflicting trends, at variance with one another[17].

Legal regulations require negotiation of different evaluations and opinions because they should express at least a comparatively uniform view. For this purpose, since the 1970s, teams of experts, called bioethical committees or councils, have been set up in the United States, Canada and European countries. Their job is to 'formulate opinions on fundamental ethical, legal and social dilemmas arising in connection with advances in biological and medical sciences and with the development of technology'[18]. There are also such teams working with international organizations, e.g. with UNESCO and with the European Community Commissions, expressing their opinions inter alia in the *Bioethical Convention* and in the *Declaration for the Protection of Human Genome*. Meant to express the plurality of worldviews of the societies, they consist of experts in biological, medical, philosophical, theological, ethical, legal and sociological sciences. At the request of a specific institution, they formulate opinions or recommendations and propagate the knowledge concerning bioethical issues that are controversial at a given moment. Such opinions and recommendations are even indispensable for legislators and those who apply the law, but they are not binding on them. Having different status in the structures of authority in a given state, these committees/councils operate, however, as entirely independent. A contentious matter is the way of appointing members of such teams, obligated to quickly reveal the results of their work, not always approved of by all parties in pluralist societies.

Токарчик Р. Окреслення предмета біоюриспруденції (частина 3)
Методологія біоюриспруденції

Методологія біоюриспруденції включає як наукові методи, так і концепції, тези, гіпотези, оцінки, норми, принципи й теорії. Серед різних вимірів методології основним є логічний розріз, що застосовується в усіх науках, а також вибрана методологія окремих дисциплін. Біоюриспруденція – соціальна наука, але вона має тісні зв'язки з іншими науками, особливо з біологією й медициною. Її потреби найкраще забезпечують методи соціальних наук – логічної, дескриптивної, філологічної, генетичної, статистичної, компаративної та інших. Методи звичайно розвиваються, як того потребує дослідження головної цінності й норми біоюриспруденції – життя.

Біоюриспруденція – назва нового напряму юриспруденції, покликаного виявити зв'язки її предмета з біологією, особливо зв'язки біоетики й юриспруденції, що тут ототожнюються з правовою наукою, філософією права, теорією права й правовою думкою. Непрямо біоюриспруденція пов'язана з предметом технології (біотехнологія) та медицини (біомедицина).

Предмет біоюриспруденції не охоплює всієї проблематики предметних галузей біотехнології, біотехніки та медицини. Він обіймає лише ті частини, що мають стосунок до життя людини і природи, а отже, потребують регуляції з боку права або біоправа. Регулювання, засноване на компаративному знанні релігійних і

[17] *See* R. Tokarczyk, Global Meaning Values and Norms of Biojurisprudence [in:] Values and Norms in the Age of Globalization, Hrsg. Ewa Czernicka-Schupp, «Dia-Logos», Bd./Vol. 9, Peter Lang, Frankfurt am Mein, Berlin, Bern, Bruxelles, New York, Oxford, Wien 2006, pp. 397–413; See also B. Benett, G. F. Tomossy (Editor), Globalization And Health: Challenges for Health Law and Bioethics, Springer Verlag 2006.

[18] *E. Zielnska,* Rady Bioetyczne i ich rola w rozwiazywaniu dylematow bioetyki, «Prawo i Medycyna» 4, Vol. 1, 1999. See also The Special Edition of this scientific journal of 2004, entirely devoted to bioethical committees or councils.

моральних норм різних культур, має на меті захистити людину і природу від ризикованих експериментів та від сумнівних, поки ще навіть не передбачених наслідків, що пов'язані з ними.

Дослідження сутності, джерел і функцій біоюриспруденції й біоправа представлено в статті у формі тез і гіпотез.

Опис методології біоюриспруденції може бути більш деталізованим через перенесення його у площину чотирьох типів тверджень, сутнісних для дескрипції, оцінки й регуляції права: дескриптивного, оціночного, зобов'язувального, перформативного.

Дескриптивні твердження біоюриспруденції описують існування специфічних фактів біоюриспруденції або деяких аспектів життя.

Оціночні судження біоюриспруденції виражаються в думці людини, що оцінює – її схваленні або несхваленні певних аспектів життя. Різноманіття поглядів в оціночних судженнях біоюриспруденції так само широке, як і простір людського життя, але основна роль тут належить моральним і релігійним оцінкам, їхньому зв'язку з біотехнологічними й біомедичними оцінками.

Зобов'язувальні положення біоюриспруденції відіграють ключову роль у мовах релігії й теології, моралі й етики, права та юриспруденції. Зобов'язання, або приписи, містять положення, що визначають нормативні рамки імперативів і заборон правової поведінки за визначених обставин.

Стосунок між оціночними твердженнями й зобов'язувальними твердженнями – двосторонній: оцінки можуть обґрунтовувати норми, а норми – оцінки. Проте оцінки є предметом аксіологічного вибору, а норми прагнуть незаперечної всезагальності й обов'язковості в сенсі маніфестації їхньої нормативності.

Перформативні положення біоюриспруденції дозволяють ідентифікувати загрозу звершення дечого з самим звершенням. Саме судження про звершення дечого розглядається як одночасне із актом звершення.

Біоюриспруденція, проголошуючи людське життя першоцінністю та першонормою, водночас вступає в дискусію про пізнаваність цінностей.

Завдяки зосередженню на концепті життя у цьому контексті біоюриспруденція вже претендує на статус універсальної правової думки, у той час, як біоетика і традиційна юриспруденція поки залишаються на рівні суперечки багатьох конфліктних трендів, ворожих один одному.

Токарчик Р. Характеристика предмета биоюриспруденции (часть 3)

Статья посвящена методологии биоюриспруденции. Исследование сущности, источников и функций биоюриспруденции и биоправа представлено в статье в форме тезисов и гипотез.

Автор отмечает, что описание методологии биоюриспруденции может быть более детализированным посредством переноса его в плоскость четырех типов утверждений, сущностных для дескрипции, оценки и регуляции права: дескриптивного, оценочного, обязывающего, перформативного.

Ключевые слова: биоюриспруденция, методолология, предмет биоюриспруденции.

Tokarczyk R. The outline of the subject of biojurisprudence (part 3)

Article is devoted to methodology of biojurisprudence. Research entities, sources and functions of biojurisprudence, biolaw are presented in an article in the form of theses and hypotheses .

The author notes that the description of methodology of biojurisprudence can be made more detailed by transferring onto its area the knowledge of four kinds of statements essential for description, evaluation, and regulation by law: descriptive, evaluative, obligational (directive), and performative.

Key words: biojurisprudence, metodolology of biojurisprudence, the subject of biojurisprudence.