

## THE CONCEPT OF LAW IN THE SOCIAL SCIENCES AND THE CONSTRUCTION OF REALITY: PHILOSOPHY, ECONOMICS, LAW

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**Introduction.** Against the background of the ongoing fragmentation of science, the changing images of science and scientists in the minds of man and society, discussions around categories with great potential for integrating diverse knowledge are becoming relevant again. These include the concepts of "science" and "law".

**Purpose.** The purpose of this article is to consider the crisis of the previous understanding of the law as a stable causal relationship in the social sciences and humanities.

**Methodology.** The following methods were used: discourse analysis, realistic and nominalistic approaches in philosophy, dialectics, determinism and stochastics in economics, interdisciplinary research, systemic legal and comparative legal approaches, system analysis.

**Results.** Results. The paper presents examples of the gradual disappearance of "laws" from philosophical and economic discourses, despite the previous orientation of social and humanitarian sciences to natural science and exact sciences as "reference". However, the complexity and variability of economic phenomena leads to the destruction of the previous clear functional dependencies. In turn, the ontology of modern economics is beginning to include an increasing use of various narratives. The opposite direction, which contains an attempt to preserve the previous understanding of the "law", is "econometricianism". The main area of use of the "law" remains the legal sciences, but here too the paradox of the "non-legal law" appears. Law, as a historical phenomenon, is directly related to ethical imperatives and the problem of legitimation. Social changes lead to the fact that the scope of "illegal laws" is expanding and threatens the existence of the institution of the state.

**Conclusion.** In conclusion, the kinship of the previous concepts of the "myth" is noted. The topic of law is discussed together with the concept of myth with a social construct, and social reform with myth—making. Humanitarians working in their fields do not discover, but create laws, influencing the forms of society: legal regimes, methods of economic exchange, forms of social communication. Thus, it is productive to shift the focus of the discussion from the laws of the relevant disciplines to the rules of communication of scientists in these disciplines. It is the humanities and social scientists who have a decisive influence on the process of legitimizing new laws, regardless of the personal motives of their own activities.

**Authors' contributions.** Sections 3, 4 prepared by P.A. Orekhovsky; sections 1, 2 prepared by V.I. Razumov, section 5 prepared by V.I. Razumov and A.A. Sapunkov jointly. In all other respects, authors made equivalent contributions to the publication.

## 1. Introduction: Problem Statement

Science is the pursuit in which scientists attempt to find the underlying causal relationships governing nature, humanity, and society. These foundations were traditionally referred to as «laws». For example, let's consider the Ten Commandments given to Moses on Mount Sinai. Among other things, violating the law resulted in negative consequences for those who placed themselves outside of it. From ancient times until the emergence of scientific laws in the 17th century, laws were understood as mechanisms governed by deities, and knowledge of these laws helped humans adapt to their environment and be more effective. During this period, knowledge of laws was possessed by religious leaders of different faiths.

The belief in the existence of laws as imperatives for human behavior, as well as processes occurring in nature and society of supernatural origin, accompanied progress for a long time (in fact, «progress» itself was long considered a law determining human history). The emergence of new technological advancements, the eradication of diseases that plagued people—all of this vividly demonstrated to people the utility of scientific endeavors [22]. Science gained strong philosophical justification in pantheism, attributing substance status to nature as a self-causal entity. This opened up horizons for natural science with its subject—Nature. A new understanding of laws was formed as concise and generalized descriptions of mechanisms underlying common physical processes. The identification of the scientist's image was linked to the search for laws of nature as early as the 18th century.

On the other hand, the search for laws governing society always made those in power wary. Pretensions of self-proclaimed individuals who presented «laws» to the public that could not be violated by authorities without negative consequences for all were dangerous for researchers specializing in social sciences. Moreover, scientists themselves often argued about the content of such laws and even whether they could be called «laws», declaring their

opponents intellectually deficient at best and enemies of the state at worst. Particularly among social thinkers, followers of Karl Marx stand out—as radical theorists confident in the existence of societal laws and as practitioners—social engineers who built socialism based on their theory. The collapse of the USSR largely destroyed this «solid core» of social optimists research program.

In turn, in the West, the crisis of social sciences began even earlier, in the late 1960s, with the shift to postmodernism, which we interpret as «narcissistic culture» [13]. An increasing number of researchers began to abandon the search for «laws», and those who still seek the underlying causal relationships increasingly refrain from using that term. Analytical philosophy and postmodernist attitudes in general deprive the concept of law of its ontological status.

## 2. Philosophy as Part of Humanities Knowledge

Apparently, among the first to «violate laws» while avoiding negative consequences were researchers in the artistic sphere—art historians, philologists, architects... This led to the emergence of the humanities (in addition to the exact, natural, and social sciences—the latter being defined as «social» in Western classification). Phenomenology still dominates this sphere. The characterization of objects as «mentally graspable», noumena, has not completely disappeared in this sphere but occupies less and less space.

Historians did not hesitate for long either. One of the oldest scientific disciplines now hardly uses the concept of «law». Among historians, disputes periodically flare up—should history be considered a science? It is worth noting, however, that none of the disputants renounce their previously obtained academic degrees and titles...

Finally, the process gradually began to encompass other «fields» such as economics, political science, sociology, and law. The problem that arises in connection with this is whether disciplines that do not use the category of «law» in constructing their theoretical frameworks can be considered «sciences». And if we continue to

consider activities in this sphere «scientific» despite abandoning the search for «laws», what criteria should be applied to them? What can be considered a «scientific achievement» here, apart from citation indexes and prestigious awards bestowed upon a particular individual by other sympathizing individuals? Is there a place for philosophers in these discussions? And if so, what role do they play: equal participants in discussions, experts, or external resonators whose opinions differ little from the «public» opinion?

Is philosophy a science? The longevity of philosophy can be explained by the fact that it satisfies fundamental human needs: (1) the abstract, manifested in the desire to think in generalities and be interested in highly general essences; (2) the transcendent, through establishing boundaries of existence and striving to transcend them; (3) the existential, through human search for purpose and meaning of existence. The three listed needs satisfied by philosophy suggest that philosophizing can be carried out regarding any subject provided that the subject becomes meaningful in relation to the cosmos, projected into eternity, and characterized by its connection with the absolute.

The most convincing argument against categorizing philosophy among the sciences is the fundamental difference between scientific and philosophical problems. Scientific problems are aimed at finding solutions in the future. The value of philosophical problems lies in their fundamentally unsolvable nature while still remaining important for discussion [19]. The «non-scientific» nature of philosophical problems seemingly results in the absence of «laws», no matter how various «philosophical rules» are formulated by different directions<sup>1</sup>. However, this «shortcoming» outweighs philosophy's participation in integrating sciences and culture as a whole [16].

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<sup>1</sup> Thus, within the framework of dialectics, it is accepted to consider as laws the well-known ways of constructing rhetoric: the transition from quantity to quality, the unity and struggle of opposites, the negation of the negation. In other directions, Occam's Razor, deconstruction, pure existentialism, etc. can be considered as laws.

According to N. Taleb, the property of Antifragility can be applied to laws since a law exists for a significant amount of time compared to many concepts that were once invented but long forgotten [25]. Taleb suggests that only antifragile objects should be studied. In other words, «fragile objects» are denied a corresponding ontological status: they somehow exist, but they are already «almost gone».

A different approach, fittingly applied to the law, is expressed by M. Epstein. He notes that endowing objects with statuses of particular importance does not automatically turn them into areas of research interest [27]. It is easy to notice that here, a traditional respectful attitude towards reality is maintained as encompassing all observable phenomena.

Another discourse on the discussion of laws is related to the introduction of the concept of complexity. It is implicitly assumed that previously causal relationships were simpler, and this is transferred to the foundations of such relationships. For example, the Einstein-Podolsky-Rosen paradox is itself complex to understand, and explaining the physical processes that support it becomes even more complicated. This way of discussing links complexity with progress. Thus, the diminishing attention to laws from representatives of fundamental sciences is due to the radical complication of reality and its objects [13]. This is observed with the transition from classical to non-classical and post-non-classical science. In its most general form, a law expresses a specification of determinism: how one or several causes, under suitable conditions, produce one or several effects. The causality of classical science directs researchers from the phenomenon—«the phenomenon of causal relationships»—to essence, to law. Post-non-classical science, along with postmodernism, does not consider such a transition at all. The problem of ignoring the concept of «law», both in realistic and nominalistic traditions, lies in the fact that, with the exception of stochastic processes, classical science described reversible processes. In the evolution of society, nature, and humanity, stochasticity plays a significant and sometimes decisive role.

In the science of the second half of the 20th

century and the beginning of the 21st century, scientific discourse is changing, and the very concept of «law» is used less frequently. The crisis in understanding laws is linked to their excessive anthropocentrism, occurring in conditions where more and more phenomena that do not meet the criteria of human-scaledness are entering the subject area of science.

Thus, the indicated problem of applying «criteria of scientificity» to researchers who deny the existence of laws in the study of various objects is alleviated: they are simply engaged in «non-classical and post-non-classical science». As a way to soften the rigidity of the formulations of «law», one can also add the distinction between determinism and stochasticity. In this case, any observed phenomenon can highlight the influence of two groups of factors affecting reflection—descriptive and prescriptive. Descriptions are built relative to norms, ethics, and are dominated by determinism; prescriptions lie in the realm of actions and decisions, and due to their subjectivity, stochasticity predominates here [14]. In such an ontology, descriptive elements play the role of «antifragile» phenomena, while prescriptive elements are «fragile». This could even bring representatives of the humanities back into the fold of social sciences if it were not for the ambiguity and internal contradictions of ethics. The differences between just and unjust, noble and base are interpreted very differently by philosophers, but in each specific case, they orient themselves towards a certain ontology, not to mention interpretations of concepts such as «freedom» and «slavery».

### **3. Economics: narratives and «econometric faith»**

Economics is a discipline in which researchers have long tried to approach the ideal of the natural sciences and, curiously enough, this influence seems to have been mutual. Thus, it was the theory of T. Malthus that influenced C. Darwin's views on natural selection [28]. On the other hand, according to F. Mayrowski, L. Walras's ideas on general equilibrium were strongly influenced by the theory of thermodynamics,

which was developing at that time [12]. The mathematical formalisation of economic expressions, carried out by V. Leontiev's postgraduate student P. Samuelson, was included in the textbook that became popular [21]. After that, in the second half of the XX century, almost in the majority of scientific articles, which in one way or another touched upon quantitative relations in the economic system, numerous mathematical expressions of various kinds were used.

Despite (or, if you like, because of) their adherence(s) to the dialectical method, many Soviet political economists were also convinced of the existence of economic laws. From time to time, one or another debate was resumed, mainly around the contradictory interaction of the laws of «systematic proportional development» and «value»<sup>2</sup>. However, for example, there was little disagreement about the laws of labour distribution and/or monetary circulation.

The collapse of Soviet socialism and the disintegration of the USSR led to the implicit recognition of the fallacy of ideas about the "economic laws of socialism". Of course, there were

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<sup>2</sup> Discussions began in the early 1950s. Here is a characteristic statement of Stalin: «Some comrades deny the objective nature of the laws of science, especially the laws of political economy under socialism. They deny that the laws of political economy reflect the laws of processes that occur independently of the will of people. They believe that in view of the special role given by history to the Soviet state, the Soviet state and its leaders can abolish the existing laws of political economy, can «form» new laws, «create» new laws. These comrades are deeply mistaken. They appear to mix the laws of science, which reflect objective processes in nature or society, occurring independently of the will of people, with those laws which are issued by governments, created by the will of people and have only legal force. But they cannot be mixed in any way. Marxism understands the laws of science - whether we are talking about the laws of natural science or the laws of political economy - as a reflection of objective processes that occur independently of the will of people. People can discover these laws, cognise them, study them, take them into account in their actions, use them in the interests of society, but they cannot change or abolish them. Especially they cannot form or create new laws of science» [24, c. 3-4]. Despite this authoritative opinion, political economists returned to the topics of economic laws again and again [3, 7, 11, 26, etc.].

no public confessions on this issue by political economists and other social scientists (in fact, we are not even aware of any representative discussions on this issue in the 1990s among philosophers, economists, sociologists («scientific communists») and historians, who had previously formed the «ideological education block» in Soviet higher education). Economists simply stopped using the old Marxist discourse, although this was not easy for them. As A. Klammer points out: « ... I wondered what it was like for all those who had spent their lives teaching Marxist political economy and doing research with Capital as their main source to have to master so suddenly and so irrevocably a different economic language. As I learned from colleagues teaching in the Eastern Bloc countries at the time, they had to throw away all their lecture notes and learn in a short time the neoclassical economic theory that was to become their new paradigm. I can't imagine how I would feel if I were forced to make such a transformation. What about my integrity? How could I deny a theory that I had proclaimed to be true? Could I then be trusted? Even if I could overcome this moral anguish, how could I master an approach that was completely new to me, with new concepts, new methods, and, yet, new ways of doing things?» [10, p. 23].

Marxism was rejected, but the belief in the «objective character» of economic laws certainly persisted. The enthusiasm for neoclassicism meant that the concept of «law» was now widely used in teaching theories of demand, the firm, economic growth, financial markets, and so on. The problem, however, was that by the 1990s, mainstream economic theory (the mainstream) began to use the concept of «law» less and less, as previously seemingly unambiguous cause-and-effect relationships became less and less likely to be observed in practice. For example, the infamous «law of demand» assumes a simple functional relationship between price and volume of demand - as price falls, volume rises and vice versa. Economists are familiar with the objections of T. Veblen, who pointed to the effects of demonstrative waste and idleness, which led to «violations» of the law of demand - the price could

rise, but demand could remain the same or even increase [4]. Such effects were considered exceptions that belonged to «luxury goods and services». However, as incomes rise, more and more goods that were previously thought to satisfy only «primary needs», including foodstuffs such as bread, milk, vegetables and meat, have become subject to «Veblen effects». If black bread used to be cheaper than white bread because of its lower calorie content, it now costs either the same or more because of this very characteristic: marketers and advertisers have taken care of it. The functional dependence between demand and price has been destroyed, as P. Baudrillard wrote in one of his early works [2]; it retains its relevance only for a relatively small range of goods (mainly components and semi-finished products).

Of course, neither Western nor Russian textbooks usually mention these peculiarities of the «law of demand», although of course there are special reservations about 'exceptions' and «Veblenian effects». These are the general features of «disciplinary knowledge» that allow us to single out «laws» and «exceptions to them». However, the general logic of the destruction of knowledge about the foundations of previous causal dependencies has led to the rise of mainstream criticism. The latter quickly became a good tone for many authors, and soon this critique itself became part of the mainstream, which now includes not only neoclassicism and Keynesianism, but also most of the various strands of institutionalism. To be convinced of this, it is enough to look at the classification of economic literature accepted in the West (the latter has the abbreviation JEL - Journal of Economic Literature: a journal devoted to reviews of monographs, theses and other publications on economics). This classification includes, among others, both Marxism and the Austrian school - trends that are usually classified as heterodox.

#### 4. Narrative economics and plausibility

Such omnivorousness has not been in vain. As the famous economist D. Rodrik writes: «Economic models are like fables...». This analogy has not escaped the attention of the best economists. In moments of reflection on their work,

they are ready to admit that the abstract models they create are like fables. As the famous theoretical economist Ariel Rubinstein notes, «the word «model» sounds more scientific than «fable» or «fairy tale», but I don't see much difference between them». As the philosopher Allan Gibbard and the economist Hal Varian have written, «[an economic] model always tells a story of some kind». Philosopher of science Nancy Cartwright uses the term «fable» to refer to economic and physical models, although she believes that economic models are more like parables. According to Cartwright, unlike fables, where the moral is obvious, economic models require a lot of work to explain the results and draw conclusions about public policy. This difficulty stems from the fact that each model is only true in a particular context and its conclusions only apply in particular circumstances» [18, pp. 32-34].

As a result, some economists, including Nobel laureate R. Shiller, began to talk about «narrative economics» [5, 6, 29, 30]. The notion of a «law» in the narrative of unemployment, inflation and/or financial bubbles turned out to be superfluous: everything depends on the context and, accordingly, emphasis is placed on the circumstances in which economic actors act. This deprives the results obtained by economists of any claim to universality, but makes them much more plausible.

The assessment of plausibility, in turn, is carried out with the help of econometrics. R. I. Kapelyushnikov, who criticises his colleagues for ignoring theoretical foundations such as the «law of demand», in which he himself continues to believe, introduces the ironic neologism «econometrictrust» [9]. It is easy to see, however, that this worthy economist also relies on econometrics for most of his logical conclusions about the Russian labour market [8].

One could go on and on with such examples; as philosophers know, induction does not prove anything, but rhetoric persuades. The general trend is clear: economists, who claimed to give their science the status of a natural science, if not of an «exact science», have become like ordinary humanists in the 21st century. They

create their «worlds» for the public, and sometimes these worlds are relatively small, connected with the formation of individual urban ghettos, and sometimes they claim to understand the types of all existing state structures [1, 20]. They differ from ordinary literati in the use of a rather sophisticated mathematical apparatus. According to N. Taleb, whom we quoted earlier, this often allows them to hide their incompetence. Those who want to can believe in the digital economy, the fourth industrial revolution, the progress of open societies, communism, post-capitalism or something else. But the economists who construct the relevant ontologies by appealing to this or that trend no longer use the concept of «laws independent of the will and consciousness of people» [25].

It should be noted that «objective laws in economics» are often invoked by «systemicists», who liken them to control mechanisms in various systems, including individual human beings. The beauty of this «systemic worldview» is that the researcher naturally places himself outside such systems, which allows him to retain his personal free will and engage in social construction, while ordinary individuals become obedient puppets, objects of manipulation. However, it is worth recognising that it is normal for social scientists, like their counterparts in the humanities, to appeal to the public's sense of the unconscious, using their symbolic power and recourse to authoritative discourse. Narratives and econometrics are designed to do just that.

On the other hand, a section of the public still prefers the archaic, talking about productive forces, relations of production and the imminent triumph of the working class. Well, why not - the writings of contemporary neo-Marxists also satisfy the demand for such stories.

## **5. Conclusion. Social reality and the new role of laws**

We believe that the modern understanding of «narrative» is quite adequate to the above interpretation of «myth», and that «social reform», including the necessary changes in public consciousness, is in many ways tantamount to myth-making. In this case, in the social sciences, laws play

the most important role in legitimising new legal regimes, modes of exchange and building the necessary communication. If laws as statements of the correct state of affairs can be correlated with the scientific-theoretical level of understanding of the state and changes in society, then legality in this case is a concrete-historical practice of social actors who seek to comply with/counteract the laws.

Based on this position, the new understanding of social (and human) laws compared to the earlier «industrial» era is that these laws are not so much «discovered» as «created». Whatever the motives of social scientists and humanities scholars, their work has a significant impact on the shape of contemporary «reality». If this is recognised, then what should be discussed is not so much the «laws» of philosophy, economics and law, about which there are great debates from time to time, but the rules of communication in humanities communities. Otherwise, the «brave new world» that is emerging, thanks in part to our collective intellectual efforts, could be very dehumanised, devoid of continuity [23].

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