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DOI: 10.61718/mon202511.03
UDC 340.1: 1-7

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3.9. Defining the boundaries of law: deconstruction and constructivist methodologies in the analysis of legal norms

This research employs deconstructionist and constructivist methodologies to demonstrate that legal norms are not fixed but are dynamic social constructs shaped by interpretation and values. Legal categories are depicted as flexible and influenced by moral imperatives, rendering legal authority both legitimised and constrained by societal context. The study advances a critical legal perspective, contending that the normative force of law arises from collective recognition and social consciousness, rather than from inherent or objective qualities. By analysing law's adaptive and communicative functions through teleological and practical reasoning, the paper proposes a nuanced framework for understanding law as evolving within ethical and sociopolitical contexts. Keywords: Deconstruction, Constructivism, Legal norm, Normative statement, Normative rule, Rule of conduct, Moral imperatives.

Introduction. The investigation of legal norms remains a pivotal yet contested area within legal science and jurisprudential philosophy. Although traditionally understood as a system of societal regulations enforced by state authority, the concept of the legal norm resists simplistic definition and demands a deeper, more nuanced analytical approach. This work adopts an original perspective by undertaking a rigorous deconstruction of legal norms, exposing their complex, heterogeneous character as normative statements, prescriptive rules, and social constructs embedded within dynamic social practices.

The objective of this paper is to critically reconceptualise legal norms by integrating deconstructionist and constructivist methodologies, thereby illuminating the dynamic, multilayered, and context-dependent character of law within contemporary society.The study further aims to:

(1) Deconstruct legal norms into their constituent components (normative statements, normative rules, rules of conduct) to reveal their flexibility and multilayered structure;

(2) Demonstrate how law evolves in response to shifting social, political, and ethical contexts, rather than remaining a fixed system of rules.

(3) Clarify the relationship between legal norms and moral imperatives, showing that moral principles legitimize and constrain legal authority but are ultimately subordinate to specific legal constructs.

(4) Advance teleological interpretation and practical syllogism as analytical tools for understanding law's purposive, adaptive, and communicative functions.

Going beyond traditional positivist and formalist approaches and acknowledging their limitations, this study situates itself within a new critical legal paradigm grounded in poststructuralist theory and constructivist epistemology. Drawing on Derrida's deconstruction, the study highlights the inherent instability, multiplicity, and ideological embeddedness of legal meanings. It contends that legal categories, rather than being fixed binary concepts, are context-dependent and shaped by interpretive frameworks influenced by evolving social, political, and cultural forces.

The theory of legal constructivism, on which this study relies, enables the assertion that law is not merely an external imposition of sovereign power, but a system of normative constructions arising from collective social consciousness. The normative force of law is thus located in the recognition and acceptance by its subjects, emphasising law's self-referential and autopoietic character. This acknowledgment challenges reductionist interpretations that confine law to sovereign commands or rigid normative prescriptions and creates opportunities for understanding law's adaptive, communicative, and purposive functions.

Central to this study is the integration of teleological interpretive methods, which prioritise the purposeful behaviour of legal actors and the social intentionality underlying normative application. Alongside an inquiry into the relationship between normative statements and moral imperatives, the research clarifies the ethical foundation of legal constructs, highlighting the essential role of morality in legitimizing legal authority and defining the boundaries of subjective rights.

This paper is structured as follows (beyond the Introduction and this section): the second section elaborates on the methodology and methodological framework of the study, detailing the theoretical premises of legal constructivism and deconstruction. The third section provides a structural and functional analysis of legal norms as primary elements of law, examining their multifaceted nature through critical deconstruction. The following section explores the normative foundations of law by addressing the grounds for normative statements and the interrelation between legal norms and moral imperatives. Finally, the conclusion synthesizes the findings, discusses their broader implications for legal theory and practice, and outlines potential avenues for future research.

Thus this study analyses the flexible, context-dependent nature of legal norms, revealing the underlying assumptions and ideological influences that determine their function and significance in modern legal systems. By combining critical deconstruction with constructivist theory and normative analysis, this work provides a profound understanding of law as a living, evolving phenomenon – an intersubjective social construct responsive to the exigencies of political organisation and societal transformation.

Materials and Methodological Framework of the Study. This study utilizes a theoretically rigorous methodological framework that synthesizes critical legal theory, constructivist epistemology, and deconstructive analysis to interrogate the structural, functional, and ethical dimensions of legal norms. Anchored in the traditions of continental jurisprudence, the research incorporates foundational texts in general legal philosophy (Kelsen, Hart, Habermas), legal constructivism and systems theory (Teubner, Luhmann), poststructuralist thought (Derrida, Foucault), and contemporary doctrinal literature, drawing upon both primary legal sources and authoritative secondary scholarship.

Adopting a critical theoretical and constructivist stance, the methodological approach is predicated on deconstructing legal norms into their constituent components: normative statements, normative rules, and rules of conduct. By deploying Derridean deconstruction, the study problematizes the fixity of legal categories, treating legal texts as fundamentally unstable, context-dependent, and permeated by ideological commitments, rather than as deterministic or univocal phenomena. This analytic approach exposes the underlying assumptions, latent contradictions, and ideological influences operative within legal texts and doctrines.

Legal constructivism, as conceptualized herein, views law as a dynamic system of normative constructions grounded in collectively constituted social consciousness. The categories and classifications employed by legal systems are seen not as mere products of normative prescription, but as collectively recognized and internalized juridical constructs. Drawing on the insights of Kelsen's Pure Theory of Law, Habermas's theory of communicative action, and Teubner's conception of autopoietic legal systems, the study foregrounds law's self-referential and autopoietic character: its capacity to maintain normativity and regulate its own creation and application within an internally coherent framework, largely independent of external worldviews.

Moreover, the framework incorporates teleological interpretation and practical syllogism to analyze the purposive conduct of legal actors. This permits an assessment of the indeterminacy and variability inherent in legal interpretation, emphasizing the goals and social intentionality underlying legal actions and normative practices, as opposed to a sole reliance on deductive reasoning.

The study also positions legal norms within the interplay between normative statements and moral imperatives, interrogating the influence of ethical principles and social morality on the legitimacy and effectiveness of law. Moral imperatives are treated as subordinate to juridical constructs, serving to delineate the boundaries of subjective rights and duties within the legal order.

In sum, this methodological framework facilitates a multifaceted and critical examination of legal norms as social constructs embedded within complex socio-political and ideological matrices. It provides a robust foundation for analysing the contingency, evolution, and intersubjective validation of law as a communicative, adaptive, and politically responsive phenomenon.

Results and discussions.

1. Deconstruction of Legal Norms: Structural and Functional Analysis of the Primary Element of Law. In legal science, as well as in the philosophical and methodological understanding of the phenomena of legal existence, a generally unified approach has developed to defining what is, with a certain degree of convention, called objective law. It is usually considered a system of norms "regulating the life of society, compliance with which, in turn, is guaranteed by state authority" [5, p. 12], or, for instance, "the system of rules of conduct, developed or recognised by the power of the state, which guides human behaviour in accordance with the social values of that society" and "the set of rules provided and guaranteed by the state, aiming at organising and disciplining human behaviour in the main relations in society" [12].

However, even with regard to the 'primary cell' of objective law – legal norms – there is no visible consensus among researchers. Specialised legal literature devoted to the study of specific areas of legal reality notes the ambiguity of the term 'legal norm' (a generally binding rule of conduct established by the state and enforced by its power; a formally defined provision of a normative act; a logical judgement of an implicative type) [*see*, e.g. 34], or the multifaceted nature of the concept under consideration (norms-prescriptions and norms-judgements) [*see*, e.g.13].

A coherent resolution of the questions addressed in this study is best achieved through a systematic deconstruction of the general legal category of 'legal norm' into its constituent components. This theoretical and critical approach enables the interpretation of legal norms by exposing the underlying assumptions, internal contradictions, and embedded ideological influences within legal doctrine. Such an analysis makes it possible to address and ultimately reconcile the opposition between the binary distinctions characteristic of law as realized in social practice, on the one hand, and as instantiated in legal texts, on the other.

Derrida introduced the notion of deconstruction in *Of Grammatology* [10] as part of a critique of how meaning is formed in language. Rather than treating meaning as fixed, he demonstrated how interpretive structures rely on shifting relational contrasts. His later works further underline that meaning is never self-contained but always produced through differences and deferred interpretation (différance). Thus, deconstruction does not destroy meaning, but reveals how it is continuously re-created through interpretation.

From this early work, as well as later works in which he tried to explain deconstruction to others, particularly from *Letter to a Japanese Friend* [9], a basic explanation can be given of what is usually meant by deconstruction. In this work, Derrida identifies three key features that make deconstruction possible. First, the inherent urge to have a centre or focal point for structuring understanding (logocentrism); second, the reduction of meaning to a set of definitions tied to writing (there is nothing outside the text); and finally, how the reduction of meaning to writing fixes the opposition within the very concept itself (différance). These three features revealed the possibility of deconstruction as a continuous process of questioning the accepted basis of meaning [48]. Although this idea initially emerged in linguistic theory, it is equally pertinent in the analysis of law.

Jacques Derrida's work suggests that legal terminology is inherently ambiguous and unstable: its meaning shifts depending on interpretive context, which prevents legal categories from functioning as fixed binaries. Thus, wwhen applied to law, deconstruction demonstrates that distinctions such as guilty versus innocent or lawful versus unlawful function as interpretive constructs rather than stable opposites. Their meaning shifts depending on the institutional, cultural, and discursive context in which they are invoked. It shows how such norms are based on oppositions whose boundaries shift in different interpretative contexts.

In fact, deconstruction exposes the ideological commitment of law, demonstrating that legal doctrines contain hidden ideological assumptions and provides an opportunity to understand how legal arguments can contradict themselves or serve certain power interests (imperatives). Deconstruction reveals multiple meanings and interpretations. Legal texts and norms, at the centre of deconstruction, are considered overloaded with meanings that, depending on the context, often have different directions of orientation. Moreover, deconstruction shows that the terms privileged in legal norms depend on subordinate terms and can be reciprocally replaced by them, disrupting the hierarchy between them.

Legal deconstruction dismantles misconceptions by showing that legal texts are rich with evolving, diverse meanings rather than fixed or meaningless. It reveals that legal concepts have flexible, context-dependent boundaries, nested within interdependent oppositions that shift with interpretation. Instead of claiming legal doctrine's indeterminacy, it highlights how social constructions and ideological biases influence legal decisions and prioritize some arguments over others. While acknowledging fundamental human values, deconstruction sees justice as a transcendent ideal that law strives to express but never fully captures [4]. This approach supports the view that legal texts are inherently dynamic–neither stable nor fixed in meaning – but open to multiple interpretations. Since legal systems generate meaning through language, the significance of legal texts can shift according to who interprets them and the specific social context in which interpretation occurs.

In this sense, legal statements are a form, or more precisely – a means of communication that takes place within social constructions. Laws are created by social institutions and are subject to the influence of political (power), cultural, and economic factors, which serve as transcendent factors relative to legal constructions. At the same time, law is not something unchanging; it constantly changes, acquiring appropriate forms under the influence of the evolving needs and values of society.

Moreover, deconstruction makes it possible to distinguish between law and justice. Addressing the fundamental aporias of law – such as the tension between the general norm and the singularity of the decision, the endless deferral of justice, and the impossibility of reducing justice to the mere application of law – leads Derrida to the conclusion that "Justice in itself, if such a thing exists, outside or beyond law, is not deconstructible" [8, p. 945]. It is precisely this that makes deconstruction necessary, especially for the critical examination of the foundations of any juridical or political authority [*see* 36].

The observation that the content of law consists of legal constructs (forms of social consciousness represented by a set of norms) allows us to apply the method of deconstruction to it. Taking into account the distinctive features of law from other cultural forms of biosocial behaviour (commonality and universality, normativity, formality and clarity, publicity and accessibility, stability and flexibility, enforcement and sanctions, forward-looking nature), it becomes necessary to specify the structural and functional components of its primary element – legal norms.

We start from the premise that a legal norm is a heterogeneous phenomenon, the true meaning of which can be grasped only in the legal process. Consequently, a legal norm, as well as an integrated legal construction represented in the text by a connected set of legal norms, can and must be deconstructed. The idea of the need for a clear distinction between certain slices of legal norms was suggested to the author by the works of Eugenio Bulygin [*for related discussion, see* 2;6]. As a result of deconstruction, the meaningful components of the legal norm will be:

• the *normative statement* – the central element of the legal system (normative statements are about rights, duties, permissions, or obligations established by law, and they form the basis for evaluating legal behaviour and decisions);

• the *normative rule* that serves as a guiding model for evaluating the behaviour of participants in legal communication in law enforcement activities (it is a binding standard or principle that guides and regulates behaviour within a legal system; it establishes expected conduct by stating what individuals or entities ought to do, must do, or are prohibited from doing under the authority of law);

• and the *rule of conduct* as the basis for the duties of subjects of legal communication (it is a specific guideline or principle that dictates acceptable behaviour within a particular setting for juris communication of persons).

To a certain extent, the proposed deconstruction of legal norms is influenced by the existence of two philosophical approaches to understanding their essence and nature: the giletical approach, which recognises the norms recorded in sources as an objective phenomenon external to the subjects of the legal process, and the expressionist approach, which asserts that norms are forms of expression of the normative experience of the subject of legal communication, reflecting the individual's internal will and imperative sense of duty. Thus, the giletical concept focuses on the formalisation of normative statements, their systematic nature, and their hierarchy within legal systems. In contrast, the expressionist approach emphasises the subjective aspect of law, highlighting that norm arise and are maintained through emotional, psychological, and verbal acts manifested in the minds of law enforcers and subjects of law.

Actually, ggiven sufficient clarity, a normative statement is presumably perceived similarly by participants in legal communication. However, since identity is possible only at the level of the signifying expression of events or phenomena, ssocial consensus in the event of a dispute is possible as a result of a unified interpretation of the relevant normative statement by the participants in legal communication. Thus, the necessity of the proposed differentiation of concepts is predetermined by the specific features of reference to the acting subject (actor) of the components of legal reality defined by these concepts, and accordingly, the function that these components perform in the process of legal communication.

2. Deconstruction and Legal Constructivism: Exploring the Normative Foundations of Law.

2.1. On the grounds for normative statements. In connection with the proposed deconstruction of the concept of 'legal norm' and its consideration in the focus of the theory of legal constructivism, several key questions arise, namely:

(1) Is the conditional figure of the legislator as the expresser of legally significant will in the form of a normative statement historically accidental?

(2) Can the foundation of power be reduced exclusively to the social practice established in a particular society, that is, to the so-called 'right to nomination', which allows the sovereign to accumulate 'legal capital' in their hands?

(3) Should the established linguistic legal practice alone be recognized as the source of law, excluding moral imperatives beyond the legal dimension?

In a broader sense, these are fundamental questions about the degree of influence of factors other than law on legal phenomena and, accordingly, about the extent to which legal constructs are determined by factors external to them. In other words, if the assertions of 'pure theory of law' about the justification of the normative content of law through self-reference are recognised as useless, then the answers to these questions allow us to identify the transcendental foundations of law (corresponding legal constructs).

It is known that every normative statement (normative proposition) is based on authority (auctoritas), which ensures its social legitimacy, and is equipped with measures of coercive enforcement, activated by the subject performing the function of *potestas*, whose essence consists in the ability of the political power subject to act. This subject is the sovereign, acting personally, or the hypostatized entity, which is the state, acting on behalf of the people – the bearer of sovereignty. It is significant to observe that in the consciousness of the subject of legal communication, political power is perceived as a form of their dependence on the object perceived by them as the source (principle) of the entity establishing normative prescriptions. Beginning with Kantian constructivism, the argument emerges that for norms to possess genuine binding force, they must not be wholly external to the agents they govern; instead, they require a measure of internalization by those subject to them. Thus, effective legal norms operate not only by regulating outward conduct but also by engaging the attitudes and acceptance of individuals – reflecting the importance of "the internal point of view" in contemporary jurisprudence [*see* 20].

This means the subject must, in some way, recognise or accept the norm for it to be binding upon them. Legal norms require an internal aspect of acceptance, adherence, or recognition by the subject, as norms whose validity depends solely on external imposition and political interests are not considered proper legal norms. If norms are imposed without any internal normative connection to the subject, they risk being seen as mere political interests rather than truly binding legal rules.

Only in the mind of the perceiver is such an object personified as the basis of normativity and endowed with the qualities of a subject; it is not recognised as such until communication with it is possible. The inclusion of subjects of legal communication in legal communication reflects the dynamic aspect of the legal order.According to Hans Kelsen, this aspect captures the process during which: "Law is created and applied – the law in motion" as "For it is a most significant peculiarity of law that it regulates its own creation and application" [30, p. 71]. Thus, for Kelsen, the legal system is characterized by an internal chain of authorization: each norm derives its validity from another norm within the system. In this sense, law maintains itself by offering rules for both producing and applying further legal rules. This concerns the 'norm of validity' in Kelsen's Pure Theory of Law, which refers to the concept that a legal norm is considered legally valid if it belongs to a system of norms that is generally efficacious or followed by the population.

However, it should be pointed out that the history of European law has seen various approaches to the legitimisation of normative statements. Thus, at the dawn of the Roman legal system, normative statements were illuminated by the authority of priestly colleges, and later by the authority of legal experts who formed the *ius*, and the Roman Senate; with the recognition of Christian teaching as 'absolutely true,' the authority of normative statements is illuminated by the power of the emperor, given by God:

"Everyone must submit himself to the governing authorities for there is no authority except that which God has established. The authorities that exist have been established by God. Consequently, he who rebels against the authority is rebelling against what God has instituted" [47].

In this vein, normative statements were also perceived by glossators, who regarded Roman law as *ratio scripata*, since rationality was considered synonymous with the divine in that era. Normative statements were recognised as such until the Christian conception of law was replaced by natural law – the new ius of the initially deistic and later secularised era – which ultimately degenerated in the 'East' into the authority of the will of the ruling class. Behind this lay, and still lies, the idea that *pure power*, without any real factors providing minimal legitimacy in the form of democratic procedures, is a blessing for the population over which a monstrous dictatorship is established.

In turn, contemporary methodological studies of the validity of normative statements in the 'West' are based on the search for grounds for their effectiveness. Accordingly, the hypothetical effectiveness of legal norms here appeals to a political-legal approach, which boils down mainly to an economically effective assessment of the action of law: from the point of view of utilitarianism, the moral and, consequently, legal value of behaviour is determined by its usefulness.

In this case, we face the problem of determining the limits of market freedom concerning to merit goods with public value (the limits of commodification). We believe that: (1) public value refers to goods with intrinsic value in a legal and social context; (2) legal constructs regard to merit goods are based on moral and ethical principles; (3) the moral foundations of law remain vitally important, even in legal systems heavily influenced by economic or utilitarian goals [*see* 32].

2.2. Normative statements and moral imperatives. In this context, the relationship between normative statements and moral imperatives is significant. We consider that the relationship between the legal and the moral is determined by the content of subjective law. In legal culture, power, understood as a person's freedom concerning legitimately appropriated objects, is recognised as a social good. The assessment of this social good depends, on one hand, on its recognition by society and its protection by the legal order, and therefore cannot be indifferent to the legal order; on the other hand, it depends on the person (the autonomous subject) who exercises control over the object, which consequently allows responsibility to be attributed to them if the recognised boundaries of lawful behaviour are violated.

In this sense, subjective right (right as an attribute of the subject) is a measure of freedom recognised and protected by the legal order in relation to the benefit legally assigned to a person – freedom from the variability of factual circumstances (right as the subject's dominion over the object). The realisation of the latter depends on the recognition of the freedom of an autonomous subject by others. This proposed minimum condition establishes the normative dimension of the category of 'subjective right' and can be considered almost the main constructive element of legal matter.

The Cartesian reflective act of consciousness of the subject (cogito), considered as the *iusta causa* of subjective law, undergoes a process of 'purification' in Kantian constructivism: legally significant will is recognised as the content of subjective law if it complies with ethical principles. The *ratio* of law, under this condition, is recognised as 'good will,' independent of specific circumstances or individuals. Rationalization of will allows it to be separated from irrational or insufficiently rational elements of subjectivity, and, most importantly, this state, transformed in the consciousness of an autonomous individual, makes it possible to subordinate the individual's life to rules [*see* 27, p.227].

As Jürgen Habermas rightly observes: "Under the revolutionary premise that everything is permitted which is not explicitly prohibited, subjective rights rather than duties constitute the starting point for the construction of modern legal systems" [22, p. 471]. Thus, it is the concept of subjective law, rather than command, that enables us to overcome the dependence of the behaviour of subjects of legal communication on the world of physis by subjecting their behaviour to nomos – a self-sufficient sphere of legal reality, isolated from other phenomena. At the same time, we note that the connection between legal and non-legal phenomena is not lost; however, unlike the world of physical phenomena, it is correlational rather than causal in nature. In cases where social experience necessitates 'elevating a fact to law', factual phenomena are assessed only within the context of phenomena that constitute the sphere of legal reality.

This thesis clearly demonstrates a definition of the boundaries of subjective rights that is sufficiently universal for all types of societies and is enshrined in normative statements. The boundaries of an individual's freedom when performing behavioural acts related to legitimately appropriated limited resources are defined by the imperatives of 'duty morality' and 'aspiration morality', which are enshrined as fundamental principles in the text of the law. (The concepts of 'duty morality' and 'aspiration morality' were introduced into scientific discourse by American jurist Lon L. Fuller, who studied the specific moral requirements of law [*see* 19]).

The 'morality of duty', as the absolute lower limit of personal freedom, aims to prevent conflict within society, since the law prescribes not desiring what belongs to others, but giving everyone their due. (How can we not recall the famous definition of justice given in Justinian's Digests: "Justice is the constant and perpetual will to give everyone their right" [11]). The upper limit of personal freedom is determined by the freedom of others to dispose of legitimately appropriated limited resources ('morality of aspiration'), as no legal order can function sustainably by imposing, rather than creating, opportunities for individuals to appropriate, exercise, and defend their subjective rights.

Thus, in its moral dimension, law arises from a well-known controversy: while it does not permit the establishment of normative prescriptions dictating how a person should act to achieve the best result, it requires compliance with the aforementioned 'morality of duty', which obliges everyone to refrain from encroaching on a limited resource legitimately appropriated by another. Fuller differentiates between two ethical dimensions: one establishes the minimal boundaries required for social cooperation, while the other concerns the pursuit of higher ideals of human conduct. These dual expectations shape how legal systems define the acceptable scope of individual freedom. The freedom granted to a person to act within these limits serves as the natural legal basis for law as a whole and its main systemic element – *normative statement*.

On the other hand, the legal possibility of acquiring, exercising, changing, terminating, and protecting a subjective right is determined by a rule of law. This allows us to conclude that the essence of a right, its *essentia*, can be defined in the context of the relationship between a normative statement legitimising a person's legally significant behaviour and a normative rule determining the legal consequences of such behaviour. Normative statements establish values, while descriptive statements describe facts.

When we say, for example, that it's not okay to mess with someone else's subjective right, like their right to performance, we're not just describing what's going on, but setting out how we should act, so that the person who owes something – the debtor or a third party – doesn't mess with that right, and if they do, they'll be held accountable. In other words, normative statements indicate how we should behave in a specific factual situation. Herbert Lionel Adolphus Hart states that a normative rule in law is not a straightforward prediction about how people will actually behave in specific cases. Instead, a normative rule functions as a standard or model – a benchmark against which we judge behaviour and make decisions about how we ought to act. It sets a guideline rather than determining actual actions. Thus, it cannot be inferred from the presented normative rule that we *will* behave in this particular way, but it is a *benchmark* (model) and, possibly, *our decision* on how we should act in a given situation [26, p. 333]. Thus, both the regulatory and protective effects of the norm are evaluative in nature: *there are no objective links between the facts and their legal consequences, nor can any such links be established*. In other words, the relationship between facts and legal outcomes is established by legal conventions, interpretation, and social practices–not by an objective or natural connection.

A normative statement alone does not answer the question of why certain social relations are linked to legal norms, implying that this question should be resolved by appealing to faith in the rationality of the 'legislator', who can determine which factual situations deserve recognition and protection and which should be ignored. In this context, it should be noted that fact and law are not in a causal relationship similar to that characteristic of natural phenomena, which can be described by their laws (*physis*). The relationship between cause and effect is 'factual and empirical', while the relationship between grounds and consequences is 'conceptual and logical' [*see* 49]. The basis is not intended to influence the world of facts, but, on the contrary, the assessment of actual behaviour–action or inaction – takes place from the point of view of the legal effects provided for by the normative rule. Thus, the performance of an obligation to transfer an item (actual action) has a legal effect – it terminates the obligation by proper performance because the disposition (sanction) of the norm indicates the legal consequences of performing the relevant actions aimed at terminating the obligation. Nevertheless, this circumstance does not render legal discourse irrational: the logic of normative judgements is constructed as a system of propositions that are binding as long as they constitute a specific set of prescriptions binding on participants in legal communication, which in turn forms the normative system.

The rule itself, according to Leon Petrazhitsky's theory, influences human behaviour and is experienced by them as subjects of law [*see* 40]. Based on Hart's empirical argument, under the influence of legal norms, certain types of human behaviour are transformed from arbitrary to mandatory [*see* 26]. At the same time, the obligation expressed in a normative statement is related to the execution of the sovereign's order, whereas the obligation expressed in a normative rule – that which guides the jurisdictional authority – does not fully correspond to the orders, "because it is introduced 'on the basis of well-known legal procedures that are universally binding and apply to many people" [29, p.332-333]. (This observation, *a propos*, once again confirms the inconsistency of reducing the concept of law to the orders of the sovereign). Consequently, the algorithm of interaction between a normative rule and legal effects is determined by a sequence in which a legal norm defines (regulates) the behaviour of a participant in legal communication, implemented in certain legal forms, including legal relations. In any case, it should be recognised that there is no need for an intermediary in the form of a legal relationship between the legal norm and the legally significant behaviour of participants in legal communication.

2.3. Questions of logical validity of normative statements and normative rules. In connection with the proposed deconstruction of the concept of 'legal norm,' a number of critical considerations arise regarding the logical validity of normative statements and normative rules. This concerns the well-known 'Hume's paradox or guillotine' (is – ought problem), which, as is well known, suggests two possible solutions: either a complete rejection of the possibility of deducing what ought to be from what is (a conclusion derived from Edmund Husserl's concept of phenomenology [*see* 28]), or the recognition that what ought to be has a factual origin and goes back to social experience (the theory of action developed by John Searle [*see* 44]).

Let us try to examine this problem through the prism of logical truth. It is known that logical truth is based on arguments applicable in deductive or inductive reasoning. At the same time, deductive reasoning involves the application of the criterion of validity (logical correctness). Valid reasoning is based on the fact that only a correct conclusion can follow from correct premises. It should be recognised that deductive reasoning is logically impossible for understanding the behaviour of a participant in legal communication, which is carried out by evaluating the behaviour in question against a general rule that establishes established ideas about what is proper. The fact is that deductive reasoning is always strong: in it, the cause is causally linked to the effect.

To assess the behaviour of a subject of legal communication, a "weak understanding*"* is applicable, taking into account the purpose of their behavioural acts (teleological understanding and explanation, as subsuming under a generally accepted truth). To assess the behaviour of a subject of legal communication, a *weak understanding* approach is applicable by focusing on the teleological understanding and explanation of their actions. This means interpreting their behaviour by considering the purpose or goal (telos) behind their acts within a generally accepted truth framework.

Teleological understanding in legal theory seeks to uncover the purpose, objectives, or functions of legal norms and actions rather than merely focusing on their literal or formal aspects. It provides a dynamic and flexible interpretative method by subsuming behaviour under accepted social and legal objectives, recognizing that actions are motivated by intended ends relative to legal or societal purposes. In this context, *weak understanding* involves interpreting conduct with an appreciation of the actor's intent and the broader goals of their actions, without imposing overly rigid or strong assumptions. This allows legal communication to be interpreted teleologically, balancing subjective intentions with generally accepted social norms and truths, thus facilitating explanation and subsuming actions under normative frameworks. It reflects a nuanced approach that integrates purpose-driven explanation with recognized legal truths and collective meanings in communication acts [*see* 15; 24].

A *weak understanding* is a problematic, inductive inference [*see* 41; 43]. In legal theory, *weak understanding* can indeed be seen as a problematic, inductive inference type because it involves interpreting legal norms or behaviours without decisive or fully determinate reasons. This *weak understanding* reflects a form of inference that is not strongly deductive or necessarily conclusive but is instead probabilistic, tentative, or dependent on the context and purpose of the behaviour or norm. Specifically, *weak understanding* acknowledges that legal actors may interpret acts and norms with a degree of uncertainty and partial evidence, inferring intentions or purposes (teleological understanding) while subsuming them under generally accepted truths or social norms. However, since this inference is inductive, it remains open to revision, contestation, or error, making it weaker than a firm, deductive legal reasoning based strictly on clear-cut rules or evidence. *Weak understanding* is thus a practical necessity for navigating complex social realities and subjective human behaviours, even though it introduces potential weaknesses in certainty and legal predictability [*see* 34].

The scheme of *weak understanding* is as follows: ‘A is the basis for B. B is a social good; therefore, A is also likely to be a good’. For example, actual possession of an item (A) serves as the basis for protecting the ownership situation of a bona fide owner (B), the stability of which is recognised as a social good; therefore, actual possession of an item is also likely to be a good. The probability here is that the normative rule presumes the social value of possession based on the likelihood of good faith behaviour by the person who actually possesses the item. In any case, the question of what kind of actual possession is recognised as social good remains at the discretion of the court, which considers accumulated social experience when making its decision.

A *weak understanding* of the assessment of the behaviour of a participant in legal communication, carried out by applying a general rule, includes, in addition to the assessment of the behaviour itself, the goal for which the subject behaves in the manner prescribed by the rule. According to Georg Henrik von Wright, the logical form of understanding the goal-oriented behaviour of a participant in legal communication is a practical syllogism, which serves as a teleological explanation of the underlying model. Practical syllogism is a form of practical reasoning where an agent acts because they have a goal (major premise) and believe that a certain means will achieve that goal (minor premise), leading to the conclusion that the agent performs the action. Thus, in practical syllogism, the initial premise refers to a certain desired goal (the goal of the action); in the minor premise, the action as a means of achieving it is linked to the desired result; in conclusion, a conclusion is made about the use of the means to achieve the goal [*see* 49]. From the perspective of a teleological explanation, it is possible to understand the behaviour of the actor, or more precisely, the effect of the rule of conduct by which they are guided; however, it is not possible to know with certainty whether the actor's behaviour led to the desired result. The assessment of the achievement of the intended result in the event of a conflict situation is only possible in an inductive conclusion, which assumes that specific premises are linked to the conclusion through certain factual grounds that are not formal in nature [*see* 1]. Thus, courts often evaluate a party’s intent or whether a particular result has been achieved in both criminal and civil proceedings by using fact-driven inductive reasoning – relying primarily on the detailed evidence, context, and practical judgment in each case, rather than exclusively following abstract legal rules or formal logic [*see, e.g*. 50; 7].

Further logical analysis of the rule of law is determined by the correctness of the answer to the question: does law exist as an objective phenomenon? The result obtained determines the resolution of two closely related problems: first, whether law (in the sense of a normative statement) is the result of human experience, excluding rational or empirical a priori assumptions; secondly, as a consequence of the first, is it permissible to recognise that there is no logical connection between law (in the sense of a normative rule) and morality? [6, p.7]

The question of whether a legal norm exists objectively can be answered in the affirmative if a legal norm is understood as a certain state of affairs as it actually is, regardless of our opinions about it (metaphysical objectivity), in other words, when the concept in question is used in the sense of a normative statement. On the other hand, it cannot be accepted that a legal norm in the sense of a normative rule and rule of conduct represents a logical connection between a statement expressed in a descriptive sentence and a certain object existing in the world, and therefore that a legal norm establishes an objective connection between the behaviour of a participant in legal communication and its effects.

The function of a legal norm is prescriptive ("the law prescribes, permits, authorises," but "does not express an opinion on the subject of knowledge" [30, p. 95]), therefore normative rules, unlike statements about their existence (normative propositions), can be neither true nor false. Thus, normative statements about rules of behaviour (normative propositions) cannot be characterised as valid or effective; they cannot be either observed or violated, but they can be true or false. On the contrary, normative rules can be valid or invalid, effective or ineffective, they can be observed or violated, but they cannot be true or false [*see* 6, p. 8]. A normative statement is therefore considered in terms of social fact and established practice. Thus, a normative statement about the assessment of the good faith of a participant in legal communication may be true or false, whereas the effects of the corresponding norm, in the sense of a normative rule determining the consequences of good faith or bad faith, cannot be validated and, therefore, cannot be true or false.

It is necessary to point out that truth is always contextual; it is constructed in dialogue with *others*. Indeed, "...it is only at the level of social interaction through linguistic communication that we create foundations that do not depend on desire" [38, p.215] – foundations of obligation. Obligation exists in a normative form, as a rule of behaviour addressed to the subject, which must be fulfilled; it is perceived as an appeal to others, and therefore obligation has a communicative nature [*see* 21].

Nevertheless, it should be borne in mind that, in order to initiate legal communication, it is necessary to develop a uniform code of communicative interaction. Effective communication is only possible when the participants in the legal communication process agree in advance on a formalised method of communication that is understandable to them. Developing such a method during the communication process is, in principle, impossible, as this would preclude the possibility of initiating *iuris communicatio.* In other words, a legally significant outcome of communication is only generally possible when the parties have developed and agreed upon the method of message transmission in advance; if the prescribed protocol is not followed, the communication may be ineffective or invalid in law, so legal doctrine requires both the form and mode of communication to be settled beforehand to ensure determination of legal effect [*see, e.g.*33].

Thus, only the result of reception, as presented by legal tradition (that which is transmitted), provides a unified code of legal communication that allows for effective communication between different legal cultures. Therefore, it is incorrect to assert that the actual acts of communication (orders, promises, obligations) themselves create the basis for normative judgements.

Hence, it is reasonable to assume that the assessment of a person's behaviour prescribed by a legal norm (regulatory rule) may be correct or incorrect: the correct answer is not true, but it allows one to determine effectiveness through the prism of awareness of rights and obligations, the observance or violation of which entails certain legal consequences. However, the normative rule itself depends on established social experience and is ambiguous.

In any case, the certainty of the norm is achieved not in the norm itself, but in the practice of its application: "only after the judge's decision can we know which norm corresponds to the specified normative formulation" [6, p. 11]. In this sense, a judicial act performs the function of a determinant, allowing the final normative meaning of a rule to be determined. With regard to the question of the relationship between legal norms and moral imperatives, this point of view allows us to assert that the court will resort to the application of moral categories – the basis of judicial discretion – whenever a normative statement is incorrect from the point of view of social experience.

Worth mentioning that legal norms, like signs, are not entities, and therefore the definition of their status as 'objectively existing' is applicable to them, as noted above, only when defining them as normative statements. A sign does not refer to the meaning of a thing outside itself, but to the meaning within its own boundaries. In this sense, the basic concept of law is identical to itself: law is law, its definition does not require a predicate. Nevertheless, legal norms are "related either directly or symbolically to matters and acts occurring in the world" [36, p.28-29]: as normative statements, they are associated with practices of legitimation and adoption; as normative rules, they are linked to practices of application; and as rules of conduct, they connect to practical implementation. Therefore, law cannot be reduced–like chess–to a mere set of rules defined only in relation to one another, rather than to their real-world substrate.

3. The Constructive Nature and Normative Dimension of Legal Reality.

The fundamental impossibility of deducing the true state of affairs from a rule of normative significance allows us to assert that the components of legal material – special types of structures that make up the fabric of any legal system – have a constructive 'nature'. The connections between the elements of legal reality reflect their constructive features, which are determined by political and legal imperatives – in terms of natural law – 'legal nature', but in reality, a special legal regime, conventionally recognised and established by the legal order in relation to certain standardised legal constructs corresponding to forms of public consciousness.

Accordingly, legal phenomena can be explained at the methodological level and subsequently understood only by recording the constructive activity of human thought, carried out with specific goals and according to specific rules with strictly defined boundaries and precisely expressed in a specific language [*see* 3; 51].

Legal constructions, being forms of public consciousness, are desubstantivized: the meaning of a particular element here is determined by its place in a specific legal construction and the function it performs as a result. Recognition of legal constructs as the abode of public consciousness resolves the question of the methods (forms) of 'creating' supporting theories that serve to justify normative statements. Legal constructs in their 'natural' dimension are immanent to the dominant attitudes of a politically organised society, and in this sense, the researcher is able to "discover" and 'find' them in the deep structures of public consciousness, reflecting the result of such a discovery in the text.

Whether the judgements enshrined in the text are "intuitive notions of justice' that 'set the properties of a general theory to be constructed, just as if a sculptor had set himself the goal of sculpting a living being" [13, p. 224-225] or the result of a rational choice is irrelevant. A legal construct will only acquire its normative dimension if it is immanent in the public consciousness of a politically organised society. Accordingly, a 'constructed' social theory, even if it meets the requirements of logos and ethos, is timely and appeals to values, will remain a social utopia unless such a theory reflects the deep structures of public consciousness. This applies in full to the doctrinal level of understanding law: theoretical models in law may be logically consistent, but they will not acquire the dimension of nomos and, therefore, will not be recognised by jurisprudence unless the proposed result corresponds to the structures of social mentality (however irrational the latter may seem to representatives of a rationally organised doctrine). That is why legal doctrine, unlike philosophical concepts, does not and obviously cannot have an absolutely universal dimension: its boundaries are defined by the researcher's inclusive mode in a sovereign legal space.

It should be noted that recognition of the normative level of expression of legal constructs removes the problem of doubling the ontology of legal phenomena, eliminating the need to supplement the phenomenal dimension with the world of noumenal entities in the form of acts of will of subjects of legal communication. Thus, the methodology of legal constructivism removes the opposition between the search for the correlation between the 'factual' and the 'legal' in legal relations, allowing established forms of legal communication to be considered as legally significant connections between subjects, without assigning such connections a typification that is not inherent to them. On the other hand, the proposed methodology also removes the opposition between the norm of law and legal relations, making it meaningless to search for the factual content of the acts of subjects of legal communication in normative statements [*see* 31].

In this regard, it is reasonable to assume that a particular legal construct precedes a normative statement. However, being enshrined in normative material, it retains its autonomy, allowing for heuristic comprehension. In this sense, the subject of legal communication serves as a means of representing the corresponding construct.

Thus, the autonomous subject of legal communication ceases to exist, replaced by the aforementioned communicative community, and the corresponding theory of truth is replaced by the idea of truth as consensus. This ultimately leads to the replacement of the epistemological subject with 'intersubjectivity'. According to Jürgen Habermas, law results from communicative activity represented by 'symbolically transmitted interaction', carried out in accordance with mandatory norms that determine mutual behavioural expectations, understood and recognised by at least two acting subjects. Unlike technical rules and strategies, which depend on the validity of empirically true or analytically correct statements, the meaning of social norms is based solely on intersubjective agreement on intentions and is guaranteed by the general recognition of one's obligations [23, p.62].

However, as noted above, this understanding of legal communication creates a logical circle: communication is possible only when a single *code* of communication is developed, which must necessarily precede the very beginning of communication. In other words, communicative theory of law does not answer the question of the a priori foundations of a particular legal discourse. The assumption that, because discursive formations are historically conditioned, they therefore lack a priori foundations – and that "each society has its regime of truth, its 'general politics of truth: that is, the types of discourse which it accepts and makes function as true…" [17, p. 131] – stands in tension, it should be noted, with the very practice of intercultural legal dialogue.

This is precisely why Michel Foucault grounded his analysis in the search for a quasi-transcendental basis of discursive practices, which he, in order to avoid self-reference, equated with the discourse of totalizing power exemplified by the concept of 'panopticons' [*see* 16; 18; *for related discussion, also see* 46, note 40]. In legal discourse, the embodiment of total power is the rule of law. However, this totality (*sola politica*) has its limits, which are set by the inherently elastic constructs of public consciousness. Indeed, Umberto Eco was right when he noted that "there is a deep sphere of collective receptivity that no one is allowed to touch, no matter how convincing the arguments or demagogic tricks someone resorts to. And there is something that serves as the cement of the deep structures of society, the destruction of which will lead to a crisis of all the principles it binds together, including the existence of man on Earth..." [14, p 159-160].

Legal constructs acquire their normative dimension (the character of 'substance' in the sense of *existentia*) when a participant in legal communication expresses their will, thereby giving them an explicit dimension. From the moment of expressing a legally significant will, a legal construct acquires a certain 'centre': the possibility inherent in the normative statement becomes a legal reality.

Thus, the 'centre' serves as a deep foundation that does not belong to the structure itself, but holds its very construction together. Unlike the reasons that make us unfree, the foundations depend on the free will of the subjects of legal communication. For a normative statement about a rule of conduct, this centre is *potestas*; for a legal norm in the sense of a rule of conduct, it is the will, or more precisely, the purposeful behaviour of the subject of legal communication. The gap between a normative statement as an abstract directive and a specific rule of conduct that guides the subject is filled, in the event of a dispute, with the meaning derived from the practice of applying the normative rule.

An effective way to solve the problem of the endless search for the basis of episteme was proposed by Günther Teubner, who developed his ideas on constructivism in law based on the *theory of autopoiesis*, introduced into the sphere of cognition of social reality by Niklas Luhmann [*see* 37; 46]. This concept, borrowed from biology, refers to a system that reproduces its elementary parts with the help of an active network of similar elements and, thanks to this, is separated from the external environment. Indeed, in an autopoietic understanding, law sustains and renews its own structures through its internal operations. While it interacts with other social spheres such as politics or economics, it translates outside events into its own conceptual language rather than directly absorbing them. In a social and, presumably, legal system, reproduction takes place in the form of communication. Thus, autopoiesis is a way of reproducing a specific system that is identical to itself.

Autopoietic discourse allows us to assert that the main element of the legal system is not the rule of law or power as a form of perception of legitimate violence by a subject of legal communication, but rather a legal construct. Günther Teubner asserts: 'The law autonomously processes information, creates worlds of meaning, sets goals and objectives, creates constructions of reality, and determines normative expectations – all quite independently of the worldviews in the minds of lawyers' [46, ibid]. Being autopoietic, the legal system subordinates to itself the provisions that have developed in other socially related systems, such as politics, economics, ecology, etc.

In other words, legal constructs absorb and recode any external meanings. Obviously, any empirical fact, in order to be recognised as legally significant, must be interpreted in the context of constructs accepted by the legal community. At the same time, it should be borne in mind that the normative component of the rule performs an ascriptive function [*see* 25], prescribing legally significant status to a particular state of affairs. From the point of view of speech act theory, this function is realised in a certain 'constitutive rule' [*see* 45], which determines the possibilities of new behaviour from a legal point of view, thus creating a so-called 'institutional' fact. An institutional fact arises at the moment when collective intentionality endows empirically comprehensible objects with a certain status and a function corresponding to that status.

In turn, the assessment of factual circumstances in resolving specific cases is carried out exclusively in the context of a specific legal construct. In the absence of a connection with a specific legal construct, the fact remains legally irrelevant.

It is known that facts and their related legal consequences are not causally related to each other. Thus, the logical connection of an implicative type established between the hypothesis and the disposition (sanction) of a legal norm should not be equated with the connection that participants in legal communication recognise between the fact that has occurred and the legal consequences recognised by the legal order. The connection between the factual circumstances and the legal consequences is recognised by virtue of the essence of the construction itself and exclusively in the context of its components, regardless of the form of its expression. The hypothesis of a legal norm (normative rule) establishes the model (structure) of a legal fact. If the relevant model characteristics established in the hypothesis are present, the specific fact is recognised as a condition for the occurrence of the relevant legal consequences.

However, the 'fact-hypothesis' (logical antecedent) cannot be explained without referring to the basis of the explanation – the set of real-life phenomena that precede or accompany the 'fact-basis' for the occurrence of certain legal consequences. From a logical point of view, a legal fact as the basis for certain legal consequences covers a broader area of reality than the 'sub-area to which causal explanations are assigned' [*see* 49]. If a causal explanation points to the past and assumes a nomic connection between the causal factor and the consequential factor (because, quia), on the existence of which the validity of the causal explanation depends, then a teleological explanation points to the future (in order to, ut), in which case the nomological connection is not a decisive factor in determining the validity of the teleological explanation [49, p.116]. Consequently, a functional (invariant) approach to explaining legal phenomena cannot be considered sufficient; the practical syllogism applicable to this involves clarifying the specific purpose of the accomplished fact (from the Latin factum – a deed, act, or thing done): the object of teleological explanation (explanandum) describes a certain result of behaviour that the subject intentionally achieved.

As previously noted, a 'practical syllogism' can be employed to explain a fact as a phenomenon or process with certain consequences. The logical structure connecting the three aspects of a legal norm's regulatory effect may be set out as follows: the major premise is a normative statement, establishing social intentionality (expressed in a perceptible sign); the minor premise is a normative rule, linking a particular action (fact) to its purpose (the achievement of a legal result), thus considering the act as a means to an end (the semantic content of the sign); and the conclusion is that, in the given legal context, the action is deployed to realize a goal that both reflects social intentionality and fulfils the legal result sought by the communicative agent.

It should be noted that a constructivist approach to law also resolves the issue of the relationship between moral categories and normative rules: moral imperatives can only be assessed in the context of the relevant legal constructs. The view expressed by Hans Kelsen that "morality should be considered part of law in cases where the law contains norms that make moral norms a condition for the application of coercion" [30, p.374], can be accepted if we are talking not about normative statements, but about specific normative rules, the ensemble of which, taking into account the practice of their application, forms the corresponding normative construct. Thus, the idea of the inadmissibility of private law acts that contradict the law or morality, the prohibition of the application of customs that violate morality, the inadmissibility of including conditions that contradict morality in a transaction – these and other prohibitions in practical application can only be explained and understood in the context of the corresponding legal constructs. This allows us to conclude that moral imperatives, being included in the legal context at the level of the relevant legal constructs, do not determine their essence, but are subordinate to them.

Conclusions. This study has conducted a comprehensive and critical examination of legal norms through the dual perspectives of deconstruction and legal constructivism, presenting an original theoretical framework that challenges conventional positivist conceptions of law as a fixed system of rules enforced by sovereign authority. By rigorously deconstructing legal norms into their constituent elements – normative statements, normative rules, and rules of conduct – the research reveals the multi-layered and context-dependent nature of law as a dynamic social construct rather than a rigid, deterministic structure.

The application of the deconstruction method exposes the inherent instability and ideological embeddedness of legal meanings, demonstrating how traditional legal binaries and categories are fluid, mutable, and contingent on their socio-political and interpretative contexts. This destabilisation of legal meanings enables a more nuanced understanding of law's ideological functions and its capacity to reflect varying power relations within society.

At the same time, the constructivist framework positions law as an autopoietic system of normative constructions, whose legitimacy arises not from external imposition but from collective recognition and acceptance within politically organised social contexts. This perspective dissolves the reductive equation of law with sovereign command and places legal norms within ongoing communicative processes shaped by social intentionality and purposive behaviour.

Furthermore, the integration of teleological interpretive methods and the examination of normative statements alongside moral imperatives clarifies the ethical foundation that legitimises and constrains legal authority, defining the scope of subjective rights and duties. This dimension highlights the indispensable role of morality within the legal order, even as legal norms retain their distinctive prescriptive functions.

Ultimately, this work offers a multifaceted and critically original framework to the field of legal scholarship – one that views law as an evolving, intersubjective phenomenon deeply embedded in social consciousness and political realities. It advances the understanding of legal norms as primary elements of flexible legal constructs, capable of adaptation and reinterpretation in response to the shifting needs and values of society.

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UDC 338.001.36

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3.10. Theoretical foundations of substantiating the choice of priority strategies for financial and investment support of economic business development

Theoretical principles for substantiating priority strategies for financial and investment support of economic development of business have been developed. In particular, the types of these strategies have been grouped. The main factors that influence their choice have been identified. A methodological approach to forming a portfolio of priority strategies for financial and investment support of economic development of business has been substantiated. The influence of selected strategies for financial and investment support of economic development of business on the investment activity of business entities has been identified. Keywords: priority strategy, financial and investment support, economic development, portfolio of strategies, business.

Introduction. An important condition for ensuring high efficiency of economic activity is the presence of an appropriate level of competitiveness among its subjects. The fulfillment of this condition, in turn, significantly depends on the pace of economic development of these subjects. At the same time, at present, these paces are low for many Ukrainian enterprises.

Among the reasons that determine the insufficient level of economic development of companies, an important place is occupied by the lack of the necessary amounts of financial resources. Also, a number of enterprises are characterized by an insufficiently substantiated choice of objects of investment of these resources. Therefore, one of the