

Scientific Review

of Boyan Bahanov's dissertation "Legal Norms as Language Conventions" for the award of the educational and scientific degree of Doctor in Professional Field 2.3 Philosophy (Philosophy of Culture, Politics, Law and Economics (Philosophy of Language)) , Supervisor Prof. Aneta Karageorgieva, Department of Philosophy, Faculty of Philosophy, Sofia University "St. Kliment Ohridski "

I would like to say that before my participation in the preliminary discussion online, I did not know the author of the dissertation personally, but I had seen his serious publications in the journals "Philosophy" and "Philosophical Alternatives" on the topic of legal norms. At the discussion he made a very good impression on me with his conviction in the theses and the courage to maintain discussion ones. I can definitely say that the layout, formulation of goals and objectives, construction and arrangement of the conclusions in the proposed work I liked and testifies to the high philosophical and legal erudition, as well as research flair and professionalism.

The dissertation covers the scientometric requirements with one publication in WoS and three in peer-reviewed editions, which is a sufficient prerequisite for successful defense. His procedure was performed according to the legal rules at the Department of Philosophy at Sofia University "St. Kliment Ohridski".

General characteristics of the dissertation

The dissertation has a total volume of 208 standard pages and consists of an introduction, three large chapters, divided into three parts and many smaller fragments and a conclusion. The list of used literature includes 127 sources, of which 83 are in Bulgarian, 34 in English. The author is well acquainted not only with the Bulgarian achievements in philosophy and the general theory of law on the topic of legal norms, but also with the key works in the tradition of analytical philosophy, on which he relies to argue his theses. Of particular methodological importance in Bahanov's argument are L. Wittgenstein's ideas from his "late" period on language

conventions and their significance as a use, as well as D. Lewis's views on the conventional nature of language rules.

Boyan Bahanov aims to study legal norms such as language conventions, as well as to establish which factors influence them, separating the conventional from the unconventional meaning in the language of law. The object of his research are legal norms, and the subject - language conventions. He argues in detail that the law is a system of social conventions, and legal norms are a connecting element that incorporates the entire legal system.

In the review of the preliminary discussion, I made a critical comment on the treatment of the veracity of legal norms, and I am glad to find the answer in the final version of the text. In the third chapter of the first part, he tries to substantiate the thesis that "legal norms create an ideal from the point of view of law reality or prefixed context, where the norm is always true by virtue of this prefix." My comment was that given the impossibility of presenting their truth through the logical notion of a model, this is not indisputable, at least in modern research on legal logic, with the exception of some developed in the naturalistic spirit. The wording of norms themselves is not true or false, but deontic propositions that say that a norm is valid or not in a legal system. As reflecting an ideal obligation in the world of what is due, the norm cannot be true, at least in the sense of the correspondent theory, but only in a coherent context as consistent with its realization. Bahanov rightly embarks on such a path of argument, referring to Dummett's anti-realism. He convincingly argues that the legal system builds an ideal reality - the world of what should be. This is considered as a prefix and by virtue of this the content expressed by them is always realized as true in the prefix (possible world).

The thesis of the dissertation, developed in the second chapter, is interesting, that the preservation and functioning of the law as a universal normative regulator, reflecting universal rules of conduct to all addressees of the respective rule, needs a presumption of conventionality. He interprets in favor of this idea all the interpretive requirements for unambiguity and clarity in the formulation of regulations. The

concept of the conventional nature of legal norms also finds a more detailed representation in the delimitation of three types of meaning, which in methodological terms follows Austin's theory of speech acts.

As a positive of the research efforts of the dissertation, I would like to note the attempt in the third chapter to extend the concept to international law and EU law.

Scientific achievements in the dissertation

The scientific achievements of the dissertation are setting current issues of modern philosophy of law in the context of known theories, which allows to seek and argue innovative solutions of applied significance. Among the methodological tools of his analysis are Wittgenstein's concepts of his "late" period, Dummett's anti-realism, and Grice's theory.

The first of them stems from his view of the essence of law in terms of its origin and development. In the Bulgarian philosophical and legal literature Zhivko Stalev is the initiator of such an approach only that he emphasizes the biological prerequisites. Bahanov starts from the thesis of the conventional nature of social rules that regulate interpersonal relations in the pre-existing social organization. In the course of the development of society, their transformation as authoritarian institutional rules takes place.

The dissertation's approach to the problem of assessing the truthfulness of legal norms is also innovative. It is known that the validity of norms has the same properties as truthfulness. With the help of deontic logic and the semantics of possible worlds, Bahanov presents them as constructing a prefixed context or a possible world in which the norm should always be true by virtue of the prefix. Ontologically, his thesis is based on the anti-realism of M. Dummett. The idea of linking the value of truth with the process of legal realization of the norm in the real world is apt, indeed.

Innovative in the context of Bulgarian philosophical and legal literature is his view of legal norms as language conventions as the dissertation even argues that certain conventional layers can be distinguished in the language of law.

The application of P. Grice's theory to the language of normative acts is an interesting idea and therefore the correlation of his communicative maxims with selected normative requirements is also important for scientific achievement.

The high level of theoretical training of the dissertation not only in philosophy but also in legal sciences is revealed in the third part, in which he considers international public and private law and EU law as sources of new language conventions in the domestic law of their countries. . He is inclined to defend the revolutionary idea that only the shared legal discourse as a unified system of rules and interpretative means is the one through which unambiguity and conventional language use between individual states can be achieved.

Finally, I will note critically only my disagreement with the legal norm being considered as a "complex predicate" that unites many potential referents and many potential realizations. A rule can contain different predicates. Perhaps this is related to the consideration of the provisions as a linguistic expression of the norms. In my books, I have argued that this identity is far more complex - the same provision can be used to derive more than one legal norm and vice versa - elements of one norm can be found in different provisions. The conventionality of legal norms appears in the cognitive process in consciousness, and is not unambiguously represented in linguistic expression.

I would like to give an advice to the author of dissertation - to consider whether the concept of the conventional nature of legal norms in their linguistic expression does not need to be supplemented by a concept of deliberative democracy, which would justify the possibility of addressees of law to feel its creators. To achieve a real conventionality or universality, it is not enough to understand the meaning of words from everyone. I fear that the dissertation's belief in the uniform and unchanging meaning of the legal norm, regardless of interpretative differences, may prove to be a path to authoritarian restrictions. A legal order can be understandable, but it can encourage illegal behavior if it is imposed in authoritarian way and violates human rights. This was the case, for example, with the restrictions and suspension of constitutional rights around the pandemic, and

people in democracies understood and reacted through protests. And according to Wittgenstein, whose ideas about the conventionality of linguistic acts Bahanov refers to, the linguistic community maintains the normative nature of linguistic rules as generally accepted dispositions of linguistic behavior. By making sense of the birth of law in democratic procedures of collective discussion and rational discussion, a path to real agreement could be sought. In this way, the justification of collective agreement with certain legal acts and reforms could be sought.

Conclusion

Regardless of the remarks and recommendations, I would like to congratulate the PhD student on his successful work and innovative research. In conclusion, I would like to express my extremely positive attitude towards the dissertation of Boyan Bahanov and to state that I will confidently vote positively for his award of the educational and scientific degree "Doctor".

REVIEWER:

(Prof. Vihren Buzov,
Faculty of Philosophy,
St. Cyril and St. Methodius University of VT)