Review of dissertation "Legal Norms as Linguistic Conventions"

For awarding scientific-educational degree "Doctor in Philosophy" to Boyan Bahanov,

PhD candidate from the Philosophy Department in the University of Sofia "St. Kliment Ohridsky"

Associate Prof. Dimitar Georgiev Elchinov

Mr. Bahanov's dissertation is 195 pages long (excluding the used literature section). The bibliography includes 23 sources dedicated to describing the status of normative documents, laws, and codices, and 127 sources representing scientific publications and monographies. Of these, 68 sources are in Bulgarian and 59 – in English.

The objective of the author is to analyse the linguistic characteristics of normative actions. The text clearly demonstrates that the candidate has comprehensive knowledge in the domain of law that facilitates his expertise in approaching the problem. Bahanov's approach can be dubbed constructivist, and his central thesis claims that legal norms are linguistic conventions. A central premise is that rules exist only as long as they are linguistically expressed (p. 6). I sympathize with this claim; indeed, initially I thought it to be trivial. However, Bahanov's analysis additionally elaborates on specific characteristics of the constructivist approach to normativity in law. Among these is the supervenience of the problems of justice and free will on normative requirements, as well the truth value of normative statements.

The dissertation is structured in the standard manner, consisting of an introduction, three chapters, conclusion, and bibliography. Chapter sections are logically well connected. The first chapter offers an introduction to the essentials of law and normativity, the second chapter analyses more abstract problems related to the conventional nature of legal norms, focusing on the problem of how to translate legal norms. Chapter 3 culminates the investigation by pitting the underdetermination of translation against the idea of an international law. I believe the idea behind this chapter is especially innovative and can be considered as an important contribution.

The first problem I would like to address to the candidate takes the premise that normative statements, regulative or evaluative, do not hold truth value. Mr. Bahanov, however, advocates a

consensus theory of truth in regards to legal norms, his argument stating that legal norms belong to a certain prefix that can be analysed via possible worlds semantics (p. 65). The conclusion is that a legal norm is "always true within the prefix" and the "truth" of said norm cannot be "realized" in a non-defined context (pp. 66-67). Thus, within the prefix a legal norm can only have one type of truth value and "outside" of the prefix – only the other type of truth value. This, however, renders "legal norm truth value" talk void of meaning. In order to analyse the truth value of a contingent statement the latter should be construed as either true or false. The very introduction of contextual restrictions shows that legal norms are contingent statements.

My question then is: can we solve the truth value problem for legal norms if we observe a consensus theory of truth, and if we can, how would such solution look like?

One of the most significant topics investigated in the dissertation is the idea of a unified EU legislation that possesses real normative power (p. 170). Here Mr. Bahanov applies Quine's underdetermination of translation between languages to the languages of law. A significant challenge to a constructivist theory is avoiding the extreme of relativism. Bestowing legal and regulatory power to documents such as the European Convention on Human Rights raises a serious philosophical problem that Bahanov clearly recognizes. Is a uniform interpretation of a conventional document, signed by different cultural and linguistic communities, possible at all? The author devotes special focus on the procedures that guarantee uniformity within European law (pp. 171-176). In this section of the text the value of Bahanov's interdisciplinary approach is most clearly pronounced. Philosophy is in the position to solve a problem of a great practical significance.

Along these lines, I would like to address a question related to one of the problems outlined by Bahanov. On p. 182 he discusses the peculiarities of translation in the legal domain: translators cannot remain "neutral" while they are expounding their own interpretation. This deficiency brings us back to the problem of underdetermination and unfortunately gives us reasons to think that underdetermination is not satisfactorily solved. If legal norms are to be "interpreted" (ibid.), then is it not the case that the local understanding of the procedure of interpretation is relativistic, no matter how "specialized" the interpretation procedure is?

I assess that the contributions of the text are stated correctly, 6 and 7 being of special significance both for contemporary law theory and contemporary philosophy of language. The

only disagreement I have is related to the first contribution: perhaps it is too ambitious to claim that the thesis of "the conventional character of social rules that used to regulate interpersonal relations within the pre-law social organization" (p. 39, Autoreferat) is first articulated in the present dissertation. The truth of this claim seems to me almost as self-evident and implicitly accepted by many authors. However, I might be wrong, and thus my third question: what is the alternative of pre-law social rules being conventions? I.e., what else could they be?

To conclude, I assess the academic contributions of the dissertation to be more than sufficient. The candidate's publications additionally demonstrate the results of his research. Thus I wholeheartedly vote „for" awarding Mr. Boyan Bahanov the educational and academic degree "Doctor in Philosophy".

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