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THE RELATIONSHIP BETWEEN METHOD AND LEGAL SCIENCE

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ABSTRACT

Law is a social practice and the contributions of its participants are complementary. Under these conditions, legal reasoning is first and foremost an interpretation of these practices and presupposes an internal point of view on the part of the person who wishes to give an account of them. Legal reasoning is thus conceived as practical argumentation, subordinated to the demands of rationality, because those who participate in legal practice are obliged to give reasons for their actions, and these reasons weave a web of constraints. In legal theory, legal reasoning is implicitly presented as a universal activity. Of course, the data used in this reasoning may differ, and even considerably, but the considerably, but, according to the prevailing view, a rational person should, in principle reason in the same way in all countries and cultures. Even if the field and subject matter of the jurist do not conform to the criteria of classical science, his method of work conforms one hundred per cent to the criteria of scientificity. The jurist performs purely scientific work with his scientific research method, analytical, synthetic, systematic and dialectical reasoning, and logical techniques of analogy, abstraction, generalisation, parsing, deduction and induction. Indeed, to the extent that the jurist interprets and applies the rules of law in a rational manner in accordance with the logical rules of methodology, he/she engages in a purely scientific activity. The jurist works with logical concepts and propositions; by reasoning analytically, synthetically, systematically and dialectically, and by employing the logic of abstraction and comparison, he makes consistent inferences; he produces reasoned judgements; he compiles and gathers legal rules and concepts in the context of a certain system.

Keywords: Legal reasoning, social practice, argumentation.

INTRODUCTION

Very fashionable since the 1980s, the expression "legal reasoning" (*juristische* or *juridische Argumentation, legal reasoning, razonamiento juridico,*) was very rarely used until the 1960s. It does not appear as such in the work of major authors such as Hart, Kelsen or Ross, to name but a few. The expression did not really begin to spread in the scientific literature until the 1960s. It should also be noted that while, in French, the term « raisonnement juridique » is often used to designate both the reasoning of lawyers and that of judges (or even mainly that of judges), other languages readily distinguish between legal reasoning and judicial reasoning (although it is true that works entitled "raisonnement juridique" deal mainly with judicial reasoning). However, it is well known that common law jurists have been arguing for a very long time - in the philosophical sense of the term - about the specificity of legal reasoning. The "ultimate" reference here is Coke's famous phrase on the "artificial reason" of law: "reason is the life of the law, nay the common law itself is nothing else but reason, which is to be understood of an artificial perfection of reason, gotten by long study, observation, and experience, and not of every man's natural reason"(Coke, 1628)

The argument was severely criticised by Hobbes, who, in his *Dialogue between a Philosopher and a Lawyer of the English Common-Laws*, had the philosopher say: "This does not clear the place, as being partly obscure, and partly untrue. That the reason which is the life of the law, should be not natural, but artificial, I cannot conceive. I understand well enough, that the knowledge of the law is gotten by much study, as all other sciences are, which when they are studied and obtained, it is still done by natural, and not by artificial reason. I grant you, that the knowledge of the law is an art; but not that any art of one man, or of many, how wise soever they be, or the work of one or more artificers, how perfect soever it be, is law. It is not wisdom, but authority that makes a law. Obscure also are the words legal reason. There is no reason in earthly creatures, but human reason. But I suppose that he means, that the reason of a judge, or of all the judges together without the King, is that summa ratio, and the very law: which I deny, because none can make a law but he that hath the legislative power"(Hobbes, 1681).

Conversely, in countries with a civil law tradition, it was rationalism (to which Hobbes was no stranger) that prevailed, and with it the idea that law should be the result of a geometrical - logical - demonstration, as in all other sciences (particularly mathematics). The name that should be mentioned here is that of Jean Domat, for whom the method known as "mos geometricus" appeared to be "infallible and capable of being applied to all branches of law".

The fact remains that, even today, efforts are made to show that legal reasoning in the context of the common law (or common law) has nothing to do with the reasoning of civil law jurists (or with the reasoning called for by the application of statute law): whereas the latter would be dominated by subsumption and the deductive approach, the former would be a matter of analogy and precedent and, to put it bluntly, of casuistry which compare lawyers to other craftsmen (carpenter, potter, etc.). And, as one might expect, this thesis always

elicits fierce criticism, including from common law jurists (although they do not necessarily seek to show that there is great proximity between the two legal systems).

From the point of view of the general theory of law, it is easy to reject the idea that there are two ways of reasoning depending on the legal system in which one finds oneself. On the other hand, we need to distinguish two questions behind the apparently simple and uniform one: "how do lawyers reason?

One is in fact normative in that it seeks to identify "good" legal reasoning by presupposing a certain conception of the latter and, very often, that legal reasoning is precisely an art - *a craft* - the mastery of which requires time and experience(Scharffs, 2004).

The other, descriptive, question is how lawyers actually reason, and rather than looking for the 'right' legal reasoning or even what would be the essence of legal reasoning (reasoning that is 'really' legal), the aim is to highlight the various ways in which lawyers reason.

Legal reasoning is a practice that calls on several actors, all of whom are complementary: it cannot therefore be said that judges create the law, any more than it could be asserted that the law is entirely contained in texts. In reality, the law is the product of interaction and collaboration between several players. We would thus have moved beyond the classic opposition between authority and reason and put the debate between Coke and Hobbes through the mill of history.

This view is shared by a very large number of legal scholars today, to the point of appearing dominant. And as is often the case with dominant or consensual theses, it does not fail to arouse the curiosity of the sceptic.

HART AND THE REALISTS

Hart puts up some very serious arguments against the mainly American realists who have sought to show - in an extension of Holmes - that the law is not a matter of logic but of experience and that, despite appearances, logic plays only a small role or at least is largely supplemented by other elements of rationality or, in the extreme version, that there is no logic at all and that judges' decisions are purely arbitrary(Hart, 1983).

But, Hart explains, despite its apparent simplicity, the claim that logic plays no role in judgement is "obscure and ambiguous". His argument is therefore twofold. With regard to logic, he distinguishes three objects that fall under three different activities:

On the one hand, assertions about what judges usually do, which come under the heading of psychology; recommendations about what they should do, which come under the heading of the art of judging; standards for assessing judges' decisions, which come under the heading of the justification of decisions. Once these levels have been distinguished, we can discard the idea that deduction (or logic) plays no role in judging, because it is clear that it is not a matter of what judges usually do, nor of recommendations on the art of

judging, but of standards of assessment: "the presence or absence of logic at the moment of assessing the decision can be a reality whether the decision was the result of a deductive calculation or of pure intuition.

Hart then turns to the question of "clear cases" and indeterminate rules. On the one hand, while he defines a case as clear when it falls within the scope of a norm, Hart acknowledges at the same time that rules do not apply on their own, any more than factual situations wait for the appropriate rule to be applied to them. So there is always a human act (Hart, 1983).

On the other hand, he rejects as simplistic the - *a priori* attractive - thesis that clear cases are clear by virtue of conventions of language, because there is no guarantee that these linguistic conventions can also be valid for law. The question of interpretation must therefore be addressed. On this point, Hart explains that the alternative between arbitrariness (realism) and deduction (formalism) is misleading: in reality, he explains, when a rule fails to determine a single result, judges do not rely on their personal preferences but provide reasons that will be formulated in terms of principles, jurisprudential policy objectives or standards, and these reasons include "a wide variety of individual and collective interests, political and social aims, and standards of morality and justice".

Does it come under the heading of forensic psychology, recommendations on how to judge, or the justification of decisions? In other words, is it descriptive of a practice or prescriptive of a behaviour, or descriptive of a discourse or prescriptive of this discourse? In reality, it is very difficult to say. *On the face of it,* Hart seems to want to describe practices here. But these practices are purely discursive. Hart certainly describes them, but from the same point of view as those whose practices he is describing. In other words, he doesn't say what they actually do, but he repeats what they say they do. Is this still descriptive? Or simply iterative?

Another question: does Hart, for his part, succeed in showing that judges can escape arbitrariness? We need to look at the nature of the 'principles, standards and objectives' that Hart refers to. To what register of discourse do they belong? Hart says nothing on this point, but it is quite clear from what he says that these "principles..." belong to politics and morality, or more broadly to what has been called the ideology of judges. There is no doubt that the deduction/arbitrariness alternative may seem excessive if it leads one to say that without deduction judges are tyrants, that they decide the fate of others according to their whims. But by saying that judges refer to an ideology or ideologies and, better still, that they can then formulate these ideologies in terms of principles, objectives and standards, what is Hart telling us that is so different from what the realists themselves were saying? The difficulty here is that the term as is always the case with this type of term, "realism" covers a reality that is more heterogeneous than one might think, a fact that Hart readily acknowledges (Hart, 1983).

But the fact is that one of the things that (American) realists have in common - apart from their criticism of "mechanical jurisprudence" - is the idea that judges have the power to decide on the basis of what seems "right" to them in a given case, and not on the basis of the rules themselves. Hence Llewellyn's idea of

uncovering the "real rules" that judges use, rather than just the rules they invoke, behind which they hide their personal conceptions of justice(Llewellyn, 1960).

In other words, rules are *ex post* rationalisations of personal preferences in the broad sense, and the term does not just cover. Thus, Hart's description is itself highly ambiguous: either it amounts to defending a realist thesis - but then we have to go all the way and say that there is arbitrariness; or it consists of a reiteration of the justification discourse of judges - but then it is not so much false as useless.

The term "arbitrary" undoubtedly frightens Hart because he spontaneously sees in it the danger that judges will behave like tyrants. But it is a moral assessment that fails to distinguish between two forms of tyranny - that of good feelings and that of bad feelings - and two forms of tyrants: those who wish us ill for their own sake and those who wish us well for theirs. We are very familiar with the latter, since we live in a world that is constantly thinking about our safety, our comfort, our health... This in no way guarantees us against accidents, pollution or inconvenience. It is simply not true that every individual who has power over others seeks to turn them into slaves and reduce them to nothing. To say that judges decide arbitrarily is to say that they have the power to use the argumentative resources of the law to ensure that a personal conception of politics, society, individual relationships, etc. prevails, and nothing more.

Nevertheless, Hart's analysis has profoundly influenced general legal theory on the question of interpretation and, more broadly, legal reasoning.

THE HERMENEUTIC POINT OF VIEW OR LAW AS SOCIAL PRACTICE

The thesis of law as social practice was widely developed under the influence of Dworkin, but the idea is not unique to him. Better still, there is a jusnaturalist version of this thesis and another positivist one - at least prima facie.

By "law as social practice", we mean that law is not just a set of norms, or at least not just a set of norms, but also and above all a set of social practices. The concept of "social practice" itself is not always clearly defined. The best explanation can be found in Dworkin for whom saying that law is a "social practice" thesis is tantamount to admitting that the object of law is not a given object once and for all, but that it is a web of procedures, institutions and rules, all of which have their own purpose and which are themselves the subject of interpretations that are the only ones capable of understanding them. We can see how much this thesis owes to the distinction that Dworkin helped to disseminate between the"Semantic theories" and "interpretative theories"(Dworkin, 1986).

Semantic theories are concerned with identifying the criteria for the validity of law, i.e. the definition of law and the conditions for the truth of legal propositions; they are infected by the semantic sting which leads them to imagine that there is a single meaning of the word law that everyone would use and that disagreements between jurists on the foundations of law are illusions. For semantic theories, the object of law exists without

the need to interpret anything in order to find it. Interpretive theories, on the other hand, are based on the idea that knowledge of the object of law presupposes an interpretation of these practices. An interpretative theory is therefore an interpretation of the uses of interpretative concepts in legal practice.

Disagreements between the participants in this practice are not dialogues of the deaf due to the fact that people use the same word in two different senses, but they are provoked by the fact that the word itself denotes an interpretative concept: the disagreements correspond to different interpretations of the same phenomenon, the same practice, which has a meaning for those who practise it and to which each person tries to give the best meaning by seeing it in the best light(Dvorkin, 1986).

By "interpretation" we mean the activity of giving meaning to a complex set of phenomena (in the same way as we would interpret a work of art). To describe a social practice, we need to identify the values on which it is based. Rules are constituent elements of this social practice. The idea was inspired by the thesis of the second Wittgenstein, who rejected the empiricist conception of knowledge as a reflection of reality defended in particular by the Vienna Circle, itself under the influence of the first Wittgenstein. Knowledge no longer consists in describing physical reality in a neutral way, but in describing it on the assumption that this description is the result of specific choices, in particular value choices, and that knowledge is therefore also evaluative and not just descriptive. In short, there is no such thing as absolute or neutral knowledge, but there is always partial knowledge and choices of reading grids.

Under these conditions, describing the law as a social practice means giving an account of the way in which the law is perceived and practised, just as one would give an account of the practice of a game. Legal reasoning is locked up, hemmed in by an institutional dimension and a practice that makes it much less free and irrational than the realists seemed to say. Its analysis is first and foremost an analysis of the arguments and/or justifications that support the decisions of judges or even the conclusions of lawyers. From then on, legal reasoning is specific because it covers specific practices and obeys a specific "logic"(MacCormick & Weinberger 1986).

This thesis explains the spread of what has been called the "hermeneutic point of view", which can be summed up in several points: a) law is a social practice; b) there are difficult cases in which judges have discretionary but not arbitrary power; c) legal interpretation does not therefore consist in an act of will but in an act of knowledge or will, as the case may be; or better still, in an activity, a practice, which d) even in difficult cases, discretion is limited by the obligation to give reasons, which leads to a form of rational and argumentative discussion that deprives judges of the quasi-legislative power they are wrongly accused of having; e) the description of legal reasoning must adopt an internal point of view or at least give an account of it. The proponents of the law-as-social-practice thesis therefore all insist on the importance of legal reasoning as a factor in limiting the discretionary power of interpreters and legal irrationalism. The constituent elements of this practice are first and foremost the need to justify a decision, to give reasons and also to argue in difficult cases.

LEGAL REASONING AS PRACTICAL ARGUMENTATION

Is giving reasons always a guarantee against arbitrariness? Everything suggests so: if I give reasons, I construct a line of reasoning that forces me to make the link between my decision and the reasons I give for that decision. As Schauer says: "When the voice of authority fails, the voice of reason emerges"(Schauer, 1995).

The Concept Of Reason

We still need to agree on the concept of "reason" and distinguish between: i) subjective or explanatory reasons, which are identified with motives; they are combinations of beliefs and desires (e.g. "the reason he killed his wife was because she cheated on him"); ii) objective or justificatory reasons: they are used not to carry out an action but to judge it, to evaluate it in order to determine whether it is right or wrong, good or bad, from some moral, legal or strategic point of view, in short with a view to an end (e.g. "the fact that a wife cheats on her husband is not a reason to kill her").

In law or in any justification for a practical activity, the reasons given are generalisations. They are "good" if they are likely to appear as "good" reasons. A reason is therefore logically a proposition that can include a greater number of cases than the solution for which it is given; it is more general than the particular solution for which it is the reason.

Why The Reasons Are Compelling

We like to point out the multiple constraints that justification by reasons seems to imply. On the one hand, giving reasons means committing oneself to one solution rather than another. And here again, everything seems to militate in favour of a psychological cognitivism which would have us believe that an individual's action is consistent with the justification that this same individual gives for his action. If, on the other hand, they do not make a commitment, they run the risk of not being honest, of being perceived as insincere or of contradicting themselves.(Shauer, 1995)

On the other hand, justification imposes a constraint on the person who justifies his decision and exposes it to criticism. Thus, justification has a "retroactive effect" which may lead to the modification of a decision taken under the effect or power of an intuition. The judge who justifies his decision must ensure that he is not only understandable but also consistent and, more importantly, that his justification is appropriate to the case before him so that it limits the arbitrariness of his decision. If even a judge acting in good faith must give reasons for his or her decision, then the constraints of justification will be exerted in all their force and will lead the decision-maker to revise his intuitions.

This argument is undoubtedly a stone in the garden of those who (like the American realists) tend to present the judicial decision as radically irrational: a "hunch" that could then be freely justified (and for which pragmatic justifications are sought). Attempts have been made to use the distinction between decision context and justification context to account for this way of proceeding. But if the justification has a retroactive effect on

the decision, this distinction no longer holds. That said, it has also been shown that giving too many reasons can lead to a form of obstruction and create confusion(Cohen, 2008).

Justification can therefore act as a test: once subjected to the test of justification and rationality, the decision taken irrationally can appear to be rational and correct. And insofar as a decision can be publicly commented on, criticised and challenged (on appeal, for example), it is the context of the justification that is decisive, and therefore the arguments presented in that context, rather than the factual context of the decision, the psychology, etc.

Corporate Values

Finally, it is because the legal system is based on a value - legalism or formalism - which cannot be neglected by those who account for legal systems that we can explain why judges do not do just anything and why the justification of a decision does not consist in expressing personal emotions or invoking personal reasons. The *Critical Legal Studies* objection that "everything is political" therefore fails: to say that every judgment is a matter of politics tells us nothing about legal systems. On the contrary, if we want to understand them, we have to go back to the rationality that drives them, and which makes it possible to restore the most relevant meaning to the behaviour of some and of others. This also explains the importance of deduction in simple cases: deductions form a significant element of legal justification in any conception or system of law in which either the *rule of law* or the rule of law is accepted as an ideal form of government or an ideal to be achieved (*governing ideal*).

As La Torre explains, since the judge's decision must be formulated semantically, the context of the decision can be reconstructed as a set of logical relations between semantic entities, and therefore as a context of justification. Moreover, the meaning of a concept and the meaning of a statement result from the logical inferences that this set allows (La Torre, 2012).

So the problem is less one of the logical nature of the inference than of the basis of the argumentative and deductive process: the premises must be premises that are acceptable in the field of judicial deliberation. A premise consisting of a single personal aversion would not be acceptable. This is not a question of logic but of preliminary and institutional reasoning.

ARGUMENTATION IN DIFFICULT CASES

We can also show that legal reasoning obeys a specific, prudential rationality, which is neither inductive nor deductive. We therefore escape from emotivism, irrationality or arbitrariness if legal judgments are reduced to a form of intersubjective justification. But it is because we deny the force of specific practical rationality that we end up with irrationalism. In law, rules do not regulate their application, as the said Hart; they are certainly *defeasible*, but they are not irrational: we must therefore abandon the syllogism for the model of argumentation. Here we come to the fundamental problem for lawyers: in the application of the law, the latter

is likely to contain several standards for the case. The question is therefore to know why we choose a particular standard or combination of standards. The reasons for this choice are consequentialist. Legal rationality is a rationality of purpose. And when, conversely, we do not have an explicit applicable norm, we cannot find one except by moral reasoning (MacCormick, 1989).

CONCLUSION

However, there are a number of objections to this thesis of legal reasoning as practical argumentation. On the one hand, as Bulygin explains so well, internal statements are"Although they do not create law, they are always prescriptive(Bulygin, 1982).

The "internal point of view" is therefore in reality a prescriptive discourse that gives the appearance of description. It amounts to saying: "this is obligatory in such and such a society because the law can be described by saying exactly that". But the assertion is itself the result of an interpretation of a given text or practice, and conceals, or at least overlooks, the fact that other interpretations were conceivable, or even that they are actually practised.

On the other hand, the thesis under consideration seems to confuse two different things: the importance of moral choice in legal reasoning and the moral conformity of legal reasoning. In fact, the realist analysis of law, which has particularly insisted (and still insists) on the inescapable and indefeasible indeterminacy of legal language, has led to the demonstration that every legal reasoning presupposes a moral choice on the part of those who participate in it: the choice to apply positive law rather than to invoke a "natural" right, or the choice to apply positive law with a view to making it pursue "democratic" values or objectives rather than others. But it is another question whether morality limits the judge's choice. Now, to say that beyond the individual morality that might guide legal actors, there is a set of beliefs that the practice of an activity produces and that binds and determines the actions of these actors and practitioners, in other words, an institutional morality, is a very different argument, no longer based on an analysis of normative language but on a moral objectivism from which we can distance ourselves.

Moreover, we cannot ignore the argument of authority, one of the most visible forms of which, in law, is precisely the absence of justification: thus, a court that has a power under a statute - for example, the power to modulate the effect of its decisions over time - may perfectly well not use it *without justifying why it is not using it*. Alternatively, the same court may justify its decision only *minimally*, leaving in the shadows a whole series of legal reasons that legal scholars will be happy to uncover. And that's without counting the possible axiological gaps...

Finally, the hermeneutic conception makes a questionable analysis of legal interpretation by excessively attenuating the volitional part of this activity and equally excessively accentuating the cognitive part - in contrast to the realists, who are criticised for favouring the volitional part. In this respect, it should be stressed that the need to abandon the syllogistic conception of legal reasoning is very old, and was defended long

before the "hermeneutic turn". This syllogistic conception, to which formalist jurists were very attached, was itself the result of an internal point of view on law and of an undisputed presupposition according to which the norm would be inscribed in the text and not produced by the person who uses the text (and against this formalism). Putting forward another model - according to which principles should be weighed up - is not the same as demonstrating greater realism when these principles are themselves understood as a given that is imposed on the law.

On the basis of this work, we can also challenge the distinction between easy and difficult cases, which suggests that judges have creative power only when the case is difficult. Here again, this amounts to thinking that the difficulty of the case is imposed on the judges, even though they are the only ones who can assess it. In other words, there are no easy cases and difficult cases: there are cases that are said to be easy (to get rid of them by using an existing standard) and others that are said to be difficult (very often to justify the use or creation of a new standard). The fact remains, however, that there is a common element in the reasoning of jurists: their main aim is to show that they are following a rule, that a particular interpretation is either i) already in existence; ii) innovative but consistent with the whole into which it fits; iii) innovative and not very consistent but necessary in the circumstances. In other words, that the law is not the result of the will of the person making it, but that this will is an instrument in the service of an already established order which constrains it and to which it is definitively and irremediably subordinated.

Ultimately, the question that needs to be asked is: why do we need to make law a "social practice" rather than a "set of norms"? In reality, saying that law is a "practice" allows us to set aside the role of norms and the prescriptive and authoritarian dimension of the language of law, insisting instead on the practical and rational dimension of legal discussion. However, to say that law is a social practice and that it is therefore shared does not take account of the specificity of each person's position in this practice: judges do not propose interpretations but choose meanings, legal doctrine proposes but cannot choose, only influence, lawyers can influence but not choose... Under these conditions, it seems difficult to conclude that the various participants in legal practice are complementary (Müller, 1994).

The fact remains that, once it has been accepted that judges exercise power, what has been said? That democracy is in danger? That judges must be stopped? Certainly not. Judges are sometimes useless, and that's what the defenders of the hermeneutic thesis don't want to see. Judges certainly have power, but it is extremely weak and it certainly does not make them the foundations of democracy.

ETHICAL TEXT

In this article, the journal writing rules, publication principles, research and publication ethics, and journal ethical rules were followed. The responsibility belongs to the author (s) for any violations that may arise regarding the article.

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REFERENCES

Bulygin, Eugenio. (1982). Norms, Normative Propositions, and Legal Statements. In *Contemporary Philosophy. A New Survey.*

Cohen, M. (2008). Giving Reasons in Court Practice: Decision-Makers at the Crossroads. *Columbia Journal of European Law* 14 (2): 257-276)

Coke, Edward. (1628). *The First Part of the Institutes of the Law of England, (Coke upon Littleton), reprinted in II The Selected Writings of Sir Edward Coke (1639)*. Ed. 2003. Indianapolis: Liberty Fund.

Dworkin, R. (1986). *Law's Empire*. Cambridge and London: The Belknap Press.

Hart, H.L.A. (1983). *Essays in Jurisprudence and Philosophy*. Oxford: Clarendon Press.

Hobbes, T. (1681). *Thomas Hobbes, a Dialogue between a Philosopher and a Student of the Common Laws of England*.

Llewellyn, K. N. (1960). *The Common Law Tradition-Deciding Appeals*. Boston: Little, Brown and Company.

MacCormick, N., & Weinberger, O. (1986). *An Institutional Theory of Law. New Approaches to Legal Positivism*. Dordrecht: Kluwer.

MacCormick, N. (1989). The Ethics of Legalism. *Ratio Juris* 2 (2): 184-193.

Müller, F. (1994). *Strukturierende Rechtslehre*. 2nd ed. Berlin: Duncker & Humblot.

La Torre, M. (2012). *Sullo spirito mite delle leggi. Ragione, razionalità, ragionevolezza*. Napoli: Editoriale Scientifica.

Scharffs, B. G. (2004). The Character Of Legal Reasoning. *Washington and Lee University School of Law* 61: 733-786.

Schauer, F. (1995). Giving Reasons. *Stanford Law Review* 47: 633-659.