

# Current Meanings of the Legal Culture Concept and the Question of Truth Regarding its Elements

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## Abstract

The article introduces and approach of the philosophical concept of legal culture from the perspective of a global vision on the structure and evolution of society as a whole, of the legal life as part of it. In this context, the underlined idea is that the sphere of legal culture contains, in addition to the knowledge of law - the information from the field of legal sciences, elements of common knowledge, beliefs, attitudes, mentalities, legal norms, traditions, the active customs in the operation and enforcement of laws, the functioning mechanisms of state institutions in connection with the behaviour of social action agents: natural persons and legal persons. The anatomy of the legal culture is analyzed, highlighting the idea that its core is the legal knowledge, the scientific information in the field of law, which contains truthful and verified assertions. The article questions the truth of the components of legal culture, starting from the premise that judicial systems that violate the truth are incapable of producing justice. The act of justice is guided entirely by the truth, by truthful information.

The achievement of justice and equity in society, the efficient functioning of the judiciary depends, not as much on the level of development of legal knowledge, the law sciences, but on the unity and functional coherence of the legal culture subsystem in its entirety.

**Keywords:** culture; legal values; system of law; judicial truth; justice.

## The concept of legal culture

The content analysis of the concept of culture, as it has been used in various contexts of communication, highlights its polysemous dimensions; there is a great diversity of connotations and denotations attributed to this term in the speciality literature. In 1967, sociologist Abraham A. Moles signalized the existence of over 250 definitions of the notion of culture. If we are referring to the legal culture, obviously the general meanings proposed by the definitions of global culture will be extended into corresponding particularities. The outlining of the concept of legal culture can't be fulfilled without taking into account a multitude of concepts belonging to the same family of meaning: cultivated jurist; medium legal culture; elite legal culture; university (universal) legal culture; classical, modern and postmodern legal culture; the legal culture of democracy or totalitarianism, European community legal culture, of the Arab world, of the Hebrew, Asian world, etc.; values, non-values and pseudo-values

of legal culture; general or human community legal culture, group legal culture (of an organized crime group, elite group, professional group, etc.); legal subculture and legal counter-culture; legal socialization; legal acculturation; legal multiculturalism, etc.

Certainly, legal culture is a component part of the culture of a post-primitive human community, whatever that may be; it is a constitutive element, with a specific identity, of the overall system of culture, alongside economic culture, political culture, religious culture, artistic culture, medical culture, ecological culture, etc., with an impressive diversity of connections, of mutual dependencies.

We can fully agree with Edward B. Tylor - the first to adopt a connotation in the modern sense of the concept of culture, in his work entitled *Primitive culture*, London, 1871:

Culture or Civilization, taken in its wide ethnographic sense, is that complex whole which includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by man as a member of society.<sup>1</sup>

We deduce that in this definition legal culture represents a “species” notion, a logically subordinate notion. Thus understood, legal culture is naturally a result of the mental, spiritual, organizational and institutional development of society. In the same century (19th century), the term culture was used nearly identical to that of civilization. A. Comte, for instance, considered that civilization is the result of the development of the human spirit that consists in the perfecting of human action over nature, which is essentially a result of the spiritual progress of humanity. Subsequently, O. Spengler would argue that civilization is the objectification, exteriorization of culture in and through all the artificial, material creations of humans. Starting from this kind of generic connotations, in recent decades, the expressions persistently used were “material legal culture” and “spiritual legal culture”, “explicit legal culture” and “implicit legal culture” (spiritual legal values and beliefs, the purpose of the law, civic attitudes, etc.), “real legal culture” and “ideal legal culture”, “legal subculture” and “counter-culture”, “legal socialization and acculturation” etc.

Legal and civic culture represents an acquisition of the citizen, of the mature man (which does not exclude the fact that persons belonging to previous stages of age would have some knowledge, aptitudes, legal and civic skills), a result of the legal learning and socialization of his personality, which comes to provide an outline and precise content to the *status* of the individual as a social being, of a person institutionally endowed with rights and obligations, susceptible of legal responsibility.

Legal culture is not only an attribute of the citizen, of any member of civil society, but also has as its objective holders all legal practitioners, i.e. all institutions involved in

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<sup>1</sup> Tylor, Edward B., *Primitive Culture: Researches Into the Development of Mythology, Philosophy, Religion, Art, and Custom*, in two volumes, London: John Muray, Albemarle Street, 1871.

the production or amendment of legal norms, the application of laws, the overseeing of the legality of the behaviour of social action agents, the identification, judging and sanctioning of those who violate the laws, all agents involved in prevention, legal education, probation, legal counselling, scientific research belonging to the sphere of law sciences and their interdisciplinary connections, etc.

Thus, legal culture does not identify with the total legal knowledge, with the volume of information, of acquisitions that law sciences have reached in their history; it does not identify with the legal encyclopaedia even if we refer to the whole diversity of the types of theoretical - explanatory approaches in the world of law. In order to systematize, to order the elements of legal culture, and motivated by the desire not to omit any of them, I find as suitable the praxeological perspective of approach. The legal culture in a human community encompasses the totality of facts, of the manifestations of social action agents through which the law is created, applied, respected, valorised, and through which direct and indirect reporting is made to the existing legal system. The functional legal culture of a human community (*e.g.*: national or local) is the result of accumulations recorded by historical stages, by successive generations having as the generator and propulsive factor a subdivision of intellectual work - that of legal professionals, especially of the creative intellectual elite in the field of law sciences and jurisprudence.

Of course, we can adopt the principle (which is evidence-based and of notoriety) of plurality of legal cultures in both synchronous and diachronic order. The history of legal institutions, of law sciences, the history of the philosophy of law, the comparative researches (comparative constitutional law, comparative administrative law, comparative approaches to civil and criminal proceedings, etc.) highlight the existence of a variety of legal schools of thought, of legal doctrines, of value hierarchies, with regulatory functions in national legal systems, of traditions and specific normative codes etc. Moreover, probing through the specific means of the sociology of law, the legal consciousness of important agents of legal practice could reveal the functioning of a legal counter-culture (existent, for instance, in parties opposed to the political power; that promise to the electorate that as soon as they reach the government, they will carry into effect their ideas or projects to change laws, to restructure state institutions, to create a new rule of law, etc.). However by going beyond the pluralism of legal cultures, leaving aside the elements that confer identity to the legal culture of any individual agent of social action, we can deduce the components, the essential and general manifestations of the legal culture, which are functionally correlated within the series of actions and statements of social practice agents; but also at the theoretical level there are features and elements that define a model.

## The anatomy of legal culture

The components of legal culture can be clustered as:

a) *Cognitive*, i.e. ideas, knowledge, theories, projects, hypotheses, explanations, arguments, justifications, etc. concerning legal norms and values and the legal universe. These are contained not only in legal treatises or circulated in universities, but also comprised in knowledge, cognitive products used by citizens, law specialists, judicial bodies, mass media institutions, that intend to contribute to legal education, etc. The fruition of the cognitive acquisitions of legal culture and their transmission imply the mastery of specialised language, special interpretation skills and the solving of problems arisen in society's legal field.

b) *Axiological*, i.e. attitudes, feelings, beliefs, values, ideals of law, legal standards, together with the assessments and guidelines that emerge from them, which govern the behaviours of the agents of social practice, of citizens. At the individual and small socio-group level, all these axiological elements of culture are formed through learning, socialization, legal acculturation. In essence, they express the attitude of adherence to the existing legal order or the adversity or neutrality in relation to that order, being closely dependent on the position of the social action agent in the community system, the social status and the exerted role, the prestige level, his interests and aspirations. From this point of view, legal culture can be either one of active participation, or obedience, either of opposition, or neutrality. Each of these cultures of socio-legal practitioners are governed by legal values, a certain philosophy, a certain "sense" of justice. Based on these, the legal agents develop hierarchies, set action priorities, design strategies in their specific field of activity.

c) *Normative*, in the sense that all laws, all legal normative acts are cultural creations, implicitly the procedures of law enforcement and resolution of disputes. The quality and completeness of the legal codes, the coherence of the laws and the efficiency of justice depend mainly on the depth of knowledge in the field of the science of law, but also on the axiological component of the legal culture of agents involved in the exercise of state power, respectively of any of the powers designed to cooperate in order to serve at their best the citizens, starting with the legislative, judicial and administrative powers, continuing with the sacerdotal, economic, military, ecological powers, etc.

d) *Praxeological*, which refers to the civic behaviour of the people, the management of state institutions, especially the judiciary, the efficiency of judicial institutions, the prosecutor's office, the notaries, the legal offices, etc., up to the Ministry of Justice and the Public Ministry. The actions of legal agents represent the objective legal culture; this implies scheduling, decisions, acts of control, regulation, promulgation and publication of laws, communication within each legal institution,

and transmission of legal information throughout the entire network of institutions of the human community, both horizontally and vertically.

The praxeological component of legal culture is approachable in terms of efficiency, similar to the actions of economic agents. Being more easily quantifiable, the components of legal practice provide indicators on which we can determine the level of development of the legal system of the human community, the efficiency of lawmaking bodies, of the judiciary, the efficiency obtained in the realization of justice and, last but not least, of the level of discipline and order existing in a society governed by active legal norms. Legal practice is the basis for detecting the dysfunctions of the legal system, it is the one that allows a precise diagnosis regarding the resonance or the dissonance between formal legal order and real legal order, on the one hand, and on the amplitude of the contradictions between different laws and provisions within the legal system, on the other.

*e) Communication*, objectified in the transmission of information and legal culture from the adult generation to the young; from government agencies to citizens, to civil society institutions and vice versa; from the media to public opinion segments; from law professors to students and vice versa; from legal research institutions, from universities to other institutions interested in legal knowledge and innovation, etc.

The communication of cultural information and values is multidirectional, co-participatory, intercultural, it is the main way of homogenizing the general level of legal culture of the human community, of achieving the education and legal socialization of human beings; at the same time, it is a system of asymmetric relations, in that the decisive contribution to the development of the legal culture is brought by those specialized intellectuals, professionals of the domain, endowed with creative virtues, the legal elite of society and, to a lesser extent, the beneficiaries of the values of legal culture.

*f) Creative*, which is the core of legal culture, the factor that determines its enrichment, renewal, development, that increases the efficiency of the legal behaviour of the specialized personnel and improves the performance of the functions of legal institutions, etc. Thus, the legal culture of a community is the one anchored in reality, the living and the functional one; it is a constituent part of the actions and series of actions carried out by the agents of legal practice, it is the regulatory, directional component of the legal activities within the human communities.

In the legal practice, there are ceaseless problems, some of them novel, which require, first of all from the jurists, legal solutions, namely the filling of gaps, overcoming of contradictions, the completion of a procedural flow, covering a legislative vacuum, the acquiring of multicultural analysis skills in order to find optimal solutions in complex cases, etc. However, all this calls for creative efforts in the field, adaptive and inventive

capacity at the level of any institution that produces or applies the law or that is directly related to legal standards (and not a mechanical application of laws, not a routine settlement of cases, of the various issues raised in the legal life of society).

All these components of legal culture are in functional connections, *making up a dynamic system*, oriented by a set of values that has as its pivot a certain understanding of the laws, a generalized creed in the human community, in an ideal of justice. All elements of legal culture (knowledge, theories, standards, motivations and attitudes of legal practitioners, the dissemination of legal values through communication, legal education, criminal and civil proceedings, behaviours, legal institutions, acts of legal creation etc.) appear to us in a dynamic connection, functionally involved in the direction imposed by the grid of legal values, by the idea of justice prevailing in the human community. Justice as the ideal of legal practice, as a guiding value in the legal universe, lives in the consciousness of the collective along with the other values: legal truth, freedom and legal responsibility, the security of the citizen and of community, gradual prosperity, solidarity with fellow human beings, etc.

The legal culture of human communities is far from being unitary, coherent; it is dependent on the general development of the culture of society, being subject to transformation, modernization, progress. In this flow of intrinsic changes, some elements of legal culture become obsolete, are marginalized; other remain outside the system, passing into history, into the "memory" of the evolution of legal theory and practice; others dormant elements of legal culture become active, lucrative factors; some elements propel the development of the legal culture system and others exert inhibitory or detaining influences.

Generally, legal culture has an ambivalent role in relation to the citizen's status: on the one hand it favours the increase of the degree of freedom in the exercise of its roles, its rights and obligations; on the other hand, it limits the freedom of the citizen so that his behaviours are compatible with the behaviours of others, with the legal order as a whole. By offering the citizen the legal standards, he will be able to precisely establish his margin of freedom, the range of possible alternatives between which he can make those choices that are more convenient to him, will be aware of the boundaries of the decisions and actions of others that he will not violate for as long as will want not to enter in conflict with the law, with the institutions that watch for its observance. The same importance is played by the development of legal culture for legal practitioners (tribunals, judges, prosecutors, police, lawyers and mediators, notaries, legal offices, state administration, etc.). Their functions and behaviours are governed by the same legal standards; the efficiency, the promptness of actions, the proficiency and the expediency with which they provide the legal services for the citizen, for the other clients, are decisively dependent on the living, functional legal culture that is possessed, its "transparency", implicitly by the degree to which it incorporates legal truth.

The previous remarks on the concept of legal culture were necessary because legal truth is headquartered within it, that is to say, in the totality of the creations and legal inventions of all sorts that humanity has made throughout its history. More specifically, there are issues such as: Which legal culture products are susceptible to truth? What types of truth exist in the area of legal culture? How can the truth be established in this area, implicitly in terms of the “duel” of law cases? In what way does the general theory of truth apply in the realization of the act of justice, in the designing and carrying out of the specific evidence in civil or criminal trials?

### **Characteristics of legal creation products likely to have value of truth**

First of all, the question arises: Which of the components of legal culture are suitable of evaluation from the point of view of truth? The answer to this question depends on the answers for two other questions: “What is meant by legal culture?” and “What is meant by truth?” If we find a certain definition of the truth as satisfactory, for instance the one of classical logic, we will be able to retain, by elimination, those components of legal culture that are capable of possessing the true or false attribute. In essence these are the products of legal knowledge existing in writings or in oral communication (in speech). Therefore, the subjective, dynamic components of legal culture (such as the sense of justice, the motivation of legal agents, customs, traditions, legal mentalities, etc.), legal techniques, behavioural components of legal culture (even when they faithfully objectify ideas and legal values) have no value of truth. They simply exist as facts, as data. Neither the mechanisms, nor the psychological operations of memory, thought and imagination, of knowledge and creation in the field of law, legal sciences, and judicial practice can be verifiable from the point of view of truth. They simply exist, function and can be evaluated by other criteria than those of logic.

Through elimination, it remains to search for the existence of legal truths in the sphere of rational products of knowledge and legal creation, which are expressed through acts of speech and writing. Of chief importance for man and society are firstly the scientific products of legal knowledge, *i.e.* the cognitive acquisitions within the science of law (such as the specific cognitive propositions, the definitions, the premises of demonstrations, the conclusions, the assertions, the observation statements, the theoretical statements etc.). In other words, encompassed here is the entirety of legal literature with implicit pretence of being scientific (for example, law treaties, articles, legal studies, domain-specific scientific projects, etc.); Also, essential products of knowledge and legal creation are the texts of laws (normative codes), starting with the constitutions of states. But do such products of knowledge have the value of truth? Does the imperative component incorporated in the text of the law eliminate the capability of these sentences to be true or false? What criteria, what reference

points are needed to clarify this issue? A response to such queries is waiting in the next pages.

We can't marginalize the importance of the truths characteristic of claims made by parties involved in judicial proceedings or investigations, and neither can we omit the truths contained in the common sense opinions formulated by citizens regarding daily legal facts, the efficiency of justice, the law and the activities of specialized state institutions, or the opinions (versed legal knowledge) and hypotheses of specialists regarding the legal system or its various concrete manifestations.

Analyzing and comparing the elements of legal culture that can be subjected to alethic evaluations, we can easily conclude that these are propositional statements concerning past, present, presumptive and predictable facts, situations, objective manifestations, always approached, delimited through legal standards. In other words, they are legal knowledge. The seat of legal truth belongs to them.

### **Legal knowledge - the core of legal culture**

A profound analysis of the nature and specifics of legal knowledge was made by the Romanian thinker Mircea Djuvara.<sup>2</sup> Taking as a premise the typology and hierarchical ordering of sciences, elaborated by A. Comte, namely: mathematics, physics, chemistry, biology, psychology, sociology, ethics, law, aesthetics, Djuvara considered that the specifics of knowledge within each science results from the studied object and from the ideational content reached by the scientists. Thus, legal knowledge is related to moral knowledge and it is distinguished from the knowledge of natural sciences, which refers to natural phenomena and objects, characterizing them as such by highlighting their properties. Or, on the contrary, morality and law

show us through objective observation of obligations and rights assigned to individuals, whether these persons as "subjects" of their activity have done moral or immoral, righteous or unfair acts; it is no longer a matter of characterizing "objects", but of "subjects". Although morality and the law are socially based, they therefore completely transform the social, reducing it to knowledge of another essential structure. That is why the knowledge of the just as well as of the moral appear with a totally different nature than the social one, which is a simple fact which the law and the moral surpass: they are related by facts to the rights and obligations of the subject, that is to say, of the persons.<sup>3</sup>

So, in order to obtain legal knowledge, there must first be social facts that we can qualify as being fair or not. We can say that someone is guilty of a robbery only after we ascertain that that person has committed a robbery. Legal knowledge is thus

<sup>2</sup> M.Djuvara, *Coordonate ale unei filosofii a dreptului* (Coordinates of a Philosophy of Law), în vol. *Eseuri de filosofie a dreptului* (Essays on Philosophy of Law), București, Ed. Trei, 1997, pp. 141-319.

<sup>3</sup> *Ibidem*, p. 298.

necessarily composed of two levels: an ascertaining of the social (legal) fact and an assessment of this in terms of legal standards; the latter is the essence of legal knowledge, it processes the nature of the social fact and raises it to the legal rank.

In law sciences, a methodological mistake sometimes made is that of giving explanations of a different nature than legal one. Or legal realities are quite differently structured than the studied object of any other science. That is why legal explanations have a specific content. After all, any legal knowledge necessarily implies rights and obligations belonging to legal persons; between legal persons exists a great complexity of mutual relations that culminates in the national legal community,<sup>4</sup> and through this in even more complex international relations. Although they have specific content and nature, moral and legal judgments also express truths similar to the knowledge of nature. The law can exist as science as we manage to genuinely turn to the truth; our knowledge of legal facts, of justice, have the same objectivity as those about nature. In this respect, Mircea Djuvara wrote:

This means that the moral and the law can in principle constitute science, however backward they still are, in fact, to the ideal perfection to which they must tend.<sup>5</sup>

From another perspective, one of the greatest law theorists of the twentieth century - Hans Kelsen, limited the law to norms, to the normative order, and the science of law to the knowledge and description of the norms of law and to the relations established by them between the determined realities they generated. Thus, the law differs from nature just as law science, as a normative science, differs from all the other sciences that aim at the causal knowledge of real phenomena. In essence, law science's *exclusive purpose is to know and to describe its object*,<sup>6</sup> so from the point of view of law it will understand human behaviour only to the extent that it is contained in the norms of law, hence determined by the norms of law, it is a normative interpretation of the state of things. The definitions and descriptions contained in law sciences on norms and legal reality are to be distinguished, as legal propositions, from legal norms, the norms that are produced by competent bodies that will enforce them and followed by legal subjects.<sup>7</sup> Withal, legal norms are not judgments, that is, assertions relating to an object of knowledge. Their connotation refers to commandments, imperatives, permissions and empowerments, not "teachings", even though they are expressed through language, grammatical sentences, and may take the form of statements that ascertain real facts (for example, "Theft is punished with imprisonment," "Parliament is bicameral" etc.).

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<sup>4</sup> *Ibidem*, p. 304.

<sup>5</sup> *Ibidem*, p. 310.

<sup>6</sup> Hans Kelsen, *Pure Theory of Law*, New Jersey, Clark, 2005, p. 1.

<sup>7</sup> *Idem*, p. 70.

In close correlation with the distinction between the legal proposition and the legal norm is the distinction between the function of legal knowledge and that of legal authority. Legal science recognizes, describes, explain the law, while the judiciary, as legal authorities, are to enforce the law. The legal propositions describe the imperative norms, the real state of things regulated by them without expressing the observer's subjective attitude, his approval or disapproval. The jurist or scientist describing the law will not identify himself with the legal authority that produces or applies the legal norm. The legal sentence represents on a cognitive level, with objectivity, legal facts; it does not become a prescription, but it ascertains. Legal propositions, as well as those used in the natural sciences, describe the norms and legal values constituted without making evaluations, without linking them to meta-legal values and without any emotional approval or disapproval. Thus,

if a jurist, describing, from the point of view of legal science, a positive legal order, asserts that under a condition determined by the legal order a sanction ought to be executed determined by this order, he asserts this even if he regards the imputation of the sanction to the condition as unjust, and therefore disapproves it. The norms that constitute the legal value must be differentiated from the norms according to which the formation of the law is evaluated. If the science of law is called upon at all to answer the question of whether a concrete behaviour does or does not conform to the law, the answer can only be an assertion to the effect that this behaviour, in the legal order described by the science of law, is commanded or prohibited, authorized or not authorized, permitted or not permitted - regardless of whether this behaviour is judged by the one who makes the assertion to be morally good or bad, and whether he approves or disapproves of it.<sup>8</sup>

The one producing legal knowledge, a jurist for instance, swings in his investigations between two poles: social (legal) acts committed by legal/physical persons (individuals, institutions, organizations, etc.) that are to be interpreted, assessed, rated in relation to laws, to legal norms (standards). Legal knowledge will be dependent on the psychic component of the researcher, on the customs, collective mentalities, currents of opinion, on precedents, personal beliefs, on the values to which he adheres, on a certain philosophy. In this way there will result legal knowledge disposed on a diversified palette: common knowledge, simple observations, descriptive, ascertainment, prescriptive sentences, value judgments - all in various combinations.

Ascertaining statements may relate to both a legal state of fact, and to a norm; can analyze and explain legal standards (their genesis, functions, enforcement techniques, civil or criminal proceedings, etc.); can describe and explain the legal facts, going all the way to the evolving socio-legal reality, with its structure and history. While prescriptive sentences express normative propositions, they render regulations that guide the behaviours of social practice agents, establish a certain kind of social

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<sup>8</sup> *Ibidem*, p. 79.

relations, a desirable social order imposed by the intervention of political power, of state authority. Normative propositions contain obligations, prohibitions or permissions, and imperative propositions introduce orders, commandments, and decrees. They therefore contain information intended to regulate the behaviours of social action agents of all sorts.

Thus, the theoretical constructions of the science of law, the demonstrations, arguments and legal justifications, the knowledge of what is just and unjust, resort to a rational foundation which, in one way or another, has in its sight the legal norms expressed by normative and imperative propositions. The imperative character of propositions introducing obligations and interdictions is specific to the law.<sup>9</sup> The imperative nature of normative propositions in the context of law is more conspicuous in criminal law through sanctions, which are associated with the making of legal norms of this kind. Regulatory sentences in the field of law resemble orders, commandments, as they do not allow through their legal content any deviations from their obligations and prohibitions.

In writings and oral expressions with legal content, in the discourse of legal practitioners and their clients, we will encounter besides imperative or normative statements also declarative (assertive), interrogative, exclamatory, optative statements. Out of these some carry certain truths, others virtual truths, others presume the truth, and others still relate to values of truth conveyed by assertions, by cognitive propositions.

Epistemologists and logicians generally agree that declarative statements (those that convey cognitive propositions) possess a value of truth (that is, they may be true, false or indefinite). Thus, the sentences: "There is printed a history course of Romanian law", "Last night, a man was shot in front of the town hall", "A comfortable majority wants to amend two articles of the Constitution" or "The criminal trial is the activity regulated by the law, carried out in a criminal case, with the purpose of the timely and complete detection of crimes and bringing to justice those who committed them" are assertions; they have a value of truth whose identification will result by the means of verifiability. While interrogative statements (such as: How many years would you want to live? What is the etiology of criminal behaviour? What conditions should be met in order to respect human rights in the Arab world? Can there be a human community without criminals? Will the Constitution of the European Union be respected?) do not admit truth values, but they assume true sentences from which they logically result, they are based on knowledge and have the role of inciting the thought in order to discover, complete, review, certify some of our knowledge. Likewise the exclamation statements: "It's good we got rid of the Communist state and the justice it promoted!", "The poor president, it's a pity he got into jail!" are appreciated first of all in terms of

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<sup>9</sup> V. Mureșan, *Introducere în logica și argumentarea juridică* (Introduction to Logic and Legal Argumentation), Arad, Ed. Școala Vremii, 2000, pp. 154-189.

their expressive virtues: they convey a feeling, a conviction, a regret, an attitude of the person who formulates them, while the pertinence of the information circulated passes on a secondary and often dimmed level. If they do not convey truths, such propositions, being part of cognitive, discursive contexts, assume or start from truths. Often they reinforce faith in a given truth. And commonplace imperative statements such as: "Don't slam the door!", "Don't curse!", "Give me the lecture notes at... civil law!" are neither true nor false. However, the imperatives embedded in legal norms are more complex and the question of their truth value will have to be analyzed in nuance.

### **Types of legal knowledge**

The knowledge of the world of law can be divided, according to their utility, into the ones belonging to the history, the cultural "memory" of the human community, without operational, practical value, and functional "working" legal knowledge, valorised in the cognitive flow of legal practice.

From a different perspective, a distinction can be made in the total knowledge and legal acquisitions obtained through learning, between "knowing about" and "knowing how" or "how to proceed" (know-how). Through the first knowledge man explains to himself what is just and unjust, the genesis and functions of law, analyzes legal facts, etc. Here cognitive sentences are to be used obligatory. Descriptions, legal arguments, understandings can't take place without the specialized legal language, without cognitive statements, without sentences. Instead, the legal know-how aims at how to act professionally, as a jurist, to have professional skills, to know how to proceed promptly, correctly and efficiently. For instance: to master the lawyer rhetoric, to know how to lead and conduct the cross-examination, the judicial investigation, to know when and how to order a forensic expertise or an accounting expertise, to know how to interpret their results, etc. If the first type of legal knowledge is the result of knowledge that harness the memory, thought and imagination, it is a product of propositional knowledge, which can be expressed entirely by words, the second type of legal culture acquisitions obtained through learning, exercises, through practical demonstrations carried out by those who possess skills, procedures, techniques specific to the profession of lawyer, judge, prosecutor, etc., can't be expressed entirely by words, by means that are within the reach of logic. It is about skills, manners, habits, specific abilities to the profession of lawyer, dependent and associated with the degree of career development, the prominence of vocation for the profession of jurist.

The living, functional, joint legal knowledge that regulates the jurist's professional behaviour must meet three qualities: 1. To be true. 2. To be promoted with conviction or have in support a personality attitude. 3. To be grounded so as to induce a sense of

certainty. W. James Earle referred to three conditions necessary for knowledge: 1.The condition of entrustment; 2.The condition of truth; 3.The condition of establishment. In other words, we will be in possession of knowledge if we comply with the three necessary and sufficient conditions. Whoever does not fulfil one or more of these conditions can't achieve a veritable knowledge, does not possess knowledge. Being in the possession of knowledge can be expressed, in an analytical form, as follows:

X possesses a P knowledge if and only if:

1. X thinks that P;
2. It is true that P;
3. X has reason to believe that P.<sup>10</sup>

For a person to possess a knowledge (a suite of knowledge), the three conditions must be satisfied *in corpore*, which *happens only when a person believes something that is true and is also grounded in the person's belief. When a person thinks something that is false and has no basis, that person (obviously) does not have knowledge. When a person thinks something true but does not have a basis for that, that person also does not have knowledge.*<sup>11</sup> Therefore, in order to have knowledge it is necessary for it to have support in a conviction related to it, based on conclusive and sufficient evidence.

Of the total cultural and legal acquisitions of the personality, obtained through learning, the most important from the perspective of legal gnosiology are the knowledge incorporated in the science of law, from civil and criminal law to legal ecology and legal psychology, from criminal procedural law to legal sociology, from commercial law to legal medicine, from the history of Roman law to European Union law and institutions, etc. All these sciences describe, explain, reconstitute, and therefore can predict the most diverse connections and aspects related to the norms of law, to the way they regulate the behaviour of social practice agents, the manner in which the rule of law is constituted and how it can be perfected so as to better meet the needs of human collectives, etc. The cognitive propositions of the science of law, both observational and theoretical, analytical and synthetic, *a priori* and *a posteriori*, the learning in the sphere of legal knowledge and a good part of the legal know-how (the total assertions and ascertained knowledge) have the value of truth; therefore, there is a special interest in both the theory and the legal practice of addressing their alethic dimensions.

Also of importance, especially for legal practice, are the cognitive statements from the sphere of ordinary legal knowledge, such as spontaneous opinions, the legal ideas communicated in situations of dialogue or polylogue occurred in the life of socio-groups; At this level there are conceived and formulated: witness testimonies,

<sup>10</sup> Vezi W. James Earle, *Introducere în filosofie* (Introduction to Philosophy), București, Ed. ALL EDUCATIONAL, 1999, p. 23.

<sup>11</sup> *Ibidem*, p. 44.

admissions, answers to inquiries, various documents that could serve as evidence, etc. Also, this sort of knowledge is testable from the point of view of truth; they have alethic dimensions.

Establishing the truth of a cognitive sentence of any kind within the types of legal knowledge presented above is done similarly as in the case of the knowledge of history, geography, etc., *i.e.* by applying a “battery” of proper and sufficient tests of truth (in compliance with general logic laws, correspondence with the reality in question, coherence / non-contradiction within the cognitively expressed content, utility, consensus - if necessary, etc.), while respecting the principle of sufficiency and complementarity of the criteria of truth.

### **In lieu of conclusions**

The approach from a global, philosophical perspective of contemporary legal culture highlights not only the complexity and utility of the concept, but also the necessity of a comprehensive vision of the professional training of all categories of jurists, especially that of magistrates. At the same time, the legal culture of the citizen and of the various socio-professional categories should not be limited only to knowledge in the field, since the knowledge of law is only the tip of the iceberg and can be expressed in written or oral language.

The professional culture of jurists, as well as the legal culture of a human society or community, includes other equally important and irreplaceable components such as legal convictions and attitudes, skills, habits and abilities required for the practice of a jurist, civil servant or a dutiful citizen of democracy, behaviours conforming to the requirements of existing legal imperatives, the conduct of social action agents in all domains and manifested within the specific institutional framework of each one. All these components make up a unitary system, called upon in any human society to function as balanced and effective as possible to achieve the performance desired by the citizens in achieving individual, group and social justice.

The affirmation of legal values, both in the individual's life and in society, is dependent on the functioning of legal culture in its entirety and not only in the sense of legal knowledge, of the science of law or the encyclopaedia of law – even developed as far as they can be. It must be underlined in this context the importance of the overall view on the role and perspective of the law as a subsystem of social life with directional and regulatory functions toward the entire social environment to which it belongs. In the absence of such a meaning of the concept of legal culture, legal practices in society, especially the work of judiciary bodies, will remain limited, vulnerable and exposed to errors. A justice that is only partly regulated by legal culture will rather take decisions with horse blinkers, which will often lead magistrates to commit professional mistakes.

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