

Abstract for the general public

Towards a Modelling-Based Account of Legal Institutions

We deal with legal institutions on a daily basis. Usually, we do not even wonder to what extent they affect our social life, not only in the family or at work, but also wherever we are bound by specific legal regulations. Property ownership, universities or companies – these are all institutions. It can be said that the institutions generally support and coordinate our activities in some way. However, they form a very diverse category. So what are they, where do they come from, and how exactly do they function? The nature of institutions, including legal ones, is one of the subjects studied by social ontology, which has been developing for several decades, especially in the field of analytical philosophy. Social ontologists usually argue that legal institutions are a kind of complexes of rules that play special roles in our social life. They determine the legal importance of certain groups of people or objects, allow assigning responsibilities and facilitate implementing various types of plans. They are also constituted by certain roles that we ourselves assume to be able to function in the world of legal relations. But, is this way of understanding of the institution sufficient to effectively use the concept in specialized contexts, such as the application of law?

It seems that the philosophy of science, whose representatives have been studying models since at least the middle of the 20th century, may shed new light on the issue of legal institutions. We also encounter models in our everyday life. They reflect certain fragments of reality, allow us to better describe and understand them, and therefore also to deal with them more efficiently. Like legal institutions, models are counterparts of some natural or social phenomena, thanks to which we can determine relationships between these phenomena or take more effective actions when we want to interact with them. However, models have the advantage of being a practical concept. They are tools that scientists in various fields use to make inferences or predictions, and also to share the results of their analyses.

A more detailed comparison of these two categories, institutions and models, may allow us to better understand the nature and operation of legal institutions, and at the same time describe them in such a way that they will cease to be something only intuitively understandable and interesting only to philosophers, and will begin to fulfil a practical function in our dealing with legal problems. Thanks to this, it will also be possible to propose more general guidelines for constructing models in legal sciences, which are still less popular than in other social sciences, such as economics or management.

The main research objective of the project will therefore be to reformulate the general, ontological approach to legal institutions in more precise categories of representational models. Furthermore, the role of modelling in the methodology of legal sciences will be examined. In the first place, an analysis of the literature on models in the philosophy of science will be used for this purpose, especially in those areas related to legal sciences where such models are already common. Basic methodological frameworks will also be developed and adapted. Next, it will be necessary to identify the actual and potential role of modelling in legal sciences: what do legal theorists mean when they talk about modelling? How do they formulate idealizations? Do they use the notion of a model in a manner similar to that observable in other social sciences? And if not, could a more adequate concept of modelling solve problems pertaining to legal theory? Subsequently, issues in the field of social ontology, in particular the concept of institutions, will be analysed in terms of representational models. This should allow to formulate a modelling-based account of legal institutions in more precise and operative categories.