

## **LEGAL IMAGINATION**

### **description for general public**

In the public perception, law is usually not associated with imagination. Lawyers are seen as thriving on abstraction and elaborate conceptual distinctions. Interestingly, lawyers seem to think of themselves in the same way. Methodological textbooks used in legal education are filled with complex logical schemes of reasoning, precise definitions and large catalogues of argument forms. The science of law seems to be abstract and much distanced from the real life.

Meanwhile, the recent advances in the cognitive sciences have significantly changed our understanding of how the human mind works. In particular, one of the mainstream currents in the cognitive sciences, the embodied mind paradigm, has put much emphasis on the role of the so-called mental simulation in human cognition. Mental simulation is a process of ‘playing out’ a situation (i.e., a perception or an action) in one’s mind. It uses the same neural mechanism which is active in the actual perceptions and actions. It seems only reasonable to assume that mental simulation is the process which is usually referred to as imagination.

The main goal of the project is to develop a comprehensive theory of legal imagination. The project is interdisciplinary: it combines the perspectives of law, philosophy and cognitive science. In the first step, an attempt will be made to understand legal imagination in terms of the process of mental simulation. It should enable to take advantage of the theories developed in psychology and neuroscience in order to shed new light on how lawyers use imagination in their thinking. In the second step, the functions of legal imagination will be investigated. It is assumed that there are three such functions: heuristic (imagination helps to solve legal problems by giving us access to unconscious knowledge), didactic (imagination is useful in educating one’s intuitions), and hermeneutic (imagination is indispensable in the process of understanding legal text). The third and final step will be devoted to considering the consequences, in both legal theory and practice, of putting imagination at the centre of legal cognition. In particular, some issues regarding legal decision-making, aspects of legal interpretation, as well as legal education should be given a new impulse for further developments.

The hope behind the project is that it will put imagination back where it belongs: to the central stage of legal thinking. It should help lawyers realize that imagination is not their enemy, but an ally, which can be put to good use in order to better reason about legal issues. The Harvard law professor Thomas Reid Powell is credited with saying: “If you can think about something that is related to something else without thinking about the thing to which it is related, then you have a legal mind.” The ambition of this project is to show that Powell had it wrong.