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Global challenge of digitalization as a condition for the development of casuistry

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Abstract. The work of Roman jurists laid foundation for the theory of legal casuistry. Certain elements of rhetoric, such as metaphors that evolved in Roman law, were reflected in the language of legal science. A contemporary evaluation of legal casuistry involves considering new trends in the development of society. “Artificial intelligence” serves as a metaphor in law; therefore, a more detailed examination of information legal relations in modern contexts is essential. Legal casuistry acts as a supplementary tool in legal processes; its components enable logical, legal, psychological and philosophical assessments and interpretations of legal relations. This tool allows for tracing the anthropological essence of social relations, evaluating the exhaustiveness and certainty of legislative activities, and serves as a criterion for defining the boundaries of legal institutions’ existence. Leveraging legal casuistry is essential for analyzing and evaluating both established and emerging dynamic information legal relations.

Key words: legal casuistry, rule making, law enforcement, legal regulation framework, interpretation, information legal relations, digitalization

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Глобальный вызов цифровизации как условие развития казуистики

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Аннотация. Деятельность римских юристов заложила основы теории юридической казуистики. Отдельные элементы риторики, как метафоры, получившие развитие в римском праве, нашли свое выражение в языке юридической науки. Современная оценка юридической казуистики предполагает учет новых тенденций в развитии общества. «Искусственный интеллект» – проявление метафоры в праве, поэтому необходимо детальнее рассматривать информационные правоотношения в современных реалиях. Юридическая казуистика является вспомогательным инструментом в процессе юридической деятельности, благодаря своим элементам позволяет провести логическую, юридическую, психологическую, философскую оценку квалификации и толкования правоотношений, а также проследить антропологическую природу общественных отношений, оценить полноту и определенность нормотворческой деятельности, выступает критерием определения пределов существования юридических институтов. На основе юридической казуистики необходимо проводить анализ и оценку как существующих, так и новых динамично развивающихся информационных правоотношений.

Ключевые слова: юридическая казуистика, нормотворчество, правоприменение, рамочное правовое регулирование, толкование, информационные правоотношения

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Introduction

The significance and quality of legal norms are manifested in the process of their enforcement and implementation. Legal norms are most clearly demonstrated in action, as they determine how legal rules are incorporated into practice. By looking at real-world legal interactions, we can grasp the essence of legal concepts and comprehend the tenets of law. Casuistry can be a helpful tool to provide a detailed evaluation of relevant legal procedures, phenomena, occurrences, and choices. Nevertheless, the inclusion of blanket references and ambiguous wording within legal rules contribute to legal uncertainties that are not easily dispelled. Thus, language issues surrounding law are still pertinent.

Recently the attention has turned to the field of information-based legal studies examining corresponding philosophical, legal, logical, and psychological dimensions. This line of research encompasses assessments of legislature's political principles and jurisprudential dynamics, reviewing managerial practices and

analyzing legal mechanisms for their implementation at the level of the Russian Federation, its federal districts and constituent entities. It hence stands imperative to address the legal approaches to scrutinize the technical and legal aspects of informational legal relationships and suggest efficient legal implications to manage such structures.

The concept and historical origins of the term “legal casuistry”

The terms “casuistry” and “legal casuistry” have long been known in legal doctrine and are used in the process of assessing legal qualifications. In the process of the dynamics of socio-humanitarian knowledge, globalization, and informatization, the classical content of casuistry is filled with new content.

Historically, the foundations of the concept of “casuistry” were laid in Roman law. I.B. Novitsky noted the importance of creativity of Roman lawyers in their “inseparable connection between science and practice” (Novitsky, 2011: 36-37). During the Principate period (1st-3rd centuries AD), the rule-making doctrine of Roman law consisted of analyzing specific life situations, incidents (“cases”), which originated from appeals from citizens and the government (Novitsky, 2011: 36-37). The activities of Roman lawyers were casuistic in nature, based on the peculiarities of practice and the existing societal needs.

Aphorisms concerning the significance of a concrete law or “living law” over the common offer valuable insights. In Justinian's Digest, title XVII D. 50.17.1. Paul wrote: “non ex regula ius sumatur, sed ex iure quod est regula fiat (the law is not derived from the rule, but the rule is established by the law)”; Title D. 1.3.24 also highlights the importance of considering specific circumstances: “incivile est nisi tota lege perspecta una aliqua particula eius proposita iudicare vel respondere (it is barbaric to judge or answer with only a specific provision of the law without passing through the entire law)” (Novitsky, 2011:36–37).

In Praetorian law, the term *legitimus* (legal) was not used, since, as Celsus argued, “Jus est ars boni et aequi” (“Law is the art of what is good and just”) (Novitsky, 2011:36–37). This statement emphasizes viewing law as an art that considers not only the good but analyzes incidents from a standpoint of justice. This reflects the casuistic style of legal thinking (Ioffe, 2020:28), which involves specific means and methods for deriving general principles from individual cases.

Rulemaking was considered as an art, involving a set of methods and means, through the evaluation of cases, from the perspectives of philosophy, ethics, and religion. It is important to start by examining the philosophical foundations for interpreting these terms.

Casuistry (derived from the Latin, *casus* meaning “case”) involves “the examination of individual cases in relation to general principles (law, morality, etc.)¹. In ethics, casuistry refers to the analysis of “cases of conscience”, moral dilemmas (such as conflicts of duty)². Casuistry is also defined as “the theory of applying abstract

¹ Catholic Encyclopedia. Available at: <https://gufo.me/dict/catholic/%D0%9A%D0%B0%D0%B7%D1%83%D0%B8%D1%81%D1%82%D0%B8%D0%BA%D0%B0> [Accessed 20th May 2024].

² Great Russian Encyclopedia. Available at: <https://bigenc.ru/c/kazuistika-752412>. [Accessed 20th May 2024].

logical principles to specific individual cases in Catholic theology and medieval jurisprudence”³.

The study of casuistry is also characteristic of theology. Casuistry involves evaluating specific social relations from the perspective of general religious principles, “subsuming particular cases under general dogma as a technique of medieval scholasticism and theology”⁴. It serves as a method for assessing specific life situations using general principles of morality and ethics. The process of casuistry involves finding a logical answer to a question, sometimes addressing a moral or ethical dilemma. Why is a certain behavior necessary in this situation? What is the correct course of action in this scenario? Recognizing practical casuistry as a body of knowledge about the ethical issues of society allows for the integration of religious ideals into social relations, particularly within family life⁵. It appears that theology also laid the groundwork for the development of the concept of legal casuistry.

The norms of ethics and morality are established in language through judgments. Language serves as a means of communication and a tool for conveying information (Antushin & Mikhalkin, 2013:16). In the context of legal language, the term “casuistry” is employed to evaluate actual social relations or case circumstances, select legal rules and techniques, analyze the relationships between the committed act and the rule of law, examine the content of other rules of law, and assess the legality of the legal provisions.

N.V. Malinovskaya notes that the casuistic nature of legal sources necessitated “interpretative mental activity” (Malinovskaya, 2021:63), involving interpretation to “clarify the true meaning” (Malinovskaya, 2021:66). Subsequently, casuistry either as a complex phenomenon or in its individual components, developed in the cultures of various states and different academic traditions (Averintsev, 2006).

However, D. V. Dozhdev argues that “the dichotomy between casuistry and a systematic approach in jurisprudence is unproductive. Pure subsumption in casuistry is impossible; the analysis of a specific case always includes an inductive element.” It serves as “the primary method for defining the boundaries of an institution or contractual type.” “The casuistic method leads to a rational grouping of material and the development of special norms” (Dozhdev, 2020).

V.V. Lazarev suggests categorizing the evolution of interpretation theories into three periods: classical, modern, and postmodern. This classification was based on the criteria of completeness, clarity, and certainty of the legal acts’ content. The classical approach rejected interpretation due to the perceived “conditional completeness of laws.” The modern era acknowledged that laws could be somewhat incomplete and ambiguous. In contrast, the postmodern era emphasized the discretion of law enforcement officers over the law itself. “In essence, classical thought focused on seeking objective truth, modernity viewed all truth as relative, and postmodernity

³ Large dictionary of foreign words. Available at: https://gufo.me/dict/foreign_words/%D0%BA%D0%B0%D0%B7%D1%83%D0%B8%D1%81%D1%82%D0%B8%D0%BA%D0%B0 [Accessed 20th May 2024].

⁴ Small academic dictionary. Available at: <https://gufo.me/dict/mas/%D0%BA%D0%B0%D0%B7%D1%83%D0%B8%D1%81%D1%82%D0%B8%D0%BA%D0%B0> [Accessed 20th May 2024].

⁵ Marey A. Casuistry. Catholic Encyclopedia. Available at: <https://gufo.me/dict/catholic/%D0%9A%D0%B0%D0%B7%D1%83%D0%B8%D1%81%D1%82%D0%B8%D0%BA%D0%B0> [Accessed 20th May 2024].

generally rejected the notion of attaining truth” (Khabrieva, Kovler & Kurbanov, 2024; Lazarev, 2016:23). “The danger of the postmodern approach to interpreting laws lies in the fact that goal-setting can take two paths: the first may reduce interpretation to casuistry, applying individual life situations to legal norms, while the second may even discard the court’s task of seeking truth.” (Khabrieva, 2024; Lazarev, 2016:23).

It seems that with the publication of the book “Technique, Interpretation and Casuistry of the Criminal Code” by P.I. Lyublinsky (Lyublinsky, 2014) at the beginning of the 20th century, the concept of legal casuistry began to be defined as a legal qualification.

P.S. Yani considered the issues of law interpretation in the process of criminal law qualification. He wrote that this involves “translating from legal language to everyday language for the purpose of subsequent comparison in the mind of the law enforcer of the match (or lack thereof) between the description of the case and the result of the text translation, containing the legal norm content” (Yani, 2012:63).

A.V. Naumov pointed out that “the legislator incorporates the entire practice of applying legal norms that regulate specific groups of social relations into the content of legal concepts, taking into account connections with other norms, requirements for the systematic nature of law, etc.” (Naumov, 1978).

It is worth agreeing with I.A. Tarkhanov that “legal qualification always includes a legal assessment of the facts” (Tarkhanov, 2012:132). However, A.V. Kornev highlights the issues when a law enforcement officer is compelled to “move beyond the literal interpretation of the law. This is due to the presence of “open lists, evaluative concepts”, gaps (Kornev, 2014:14).

Even today, courts resort to historical interpretation. N.V. Genrikh views it as a supplementary tool that allows determining the meaning of lexical constructions and the objectives of legislative regulation in new legal provisions (Genrikh, 2023).

Consequently, over time, understanding of legal casuistry has come to be regarded as a form of legal qualification. This category encompasses the cognitive process of assessing the actual circumstances of legal relations. The analytical foundations established in Roman law for the analysis of legal cases began to be applied within the interpretation framework.

Linguistic aspects of legal casuistry

Certain elements of rhetoric, developed in Roman law, have manifested in the language of legal science. In linguistics, a metaphor is viewed as a “complex linguistic unit” or a trope (Vlasenko, 2023:111), involving the combination of words based on their shared characteristics.

The Philosophical Encyclopedic Dictionary defines metaphor as “the substitution of a literal expression with a figurative one”⁶. Conceptually, “metaphor” is seen as a figurative “interpretation of words”⁷.

Significant research into the essence and traits of metaphors is concentrated in linguistics. Scholars such as V.I. Korolkov, S.V. Maslechkina, N.G. Sklyarevskaya and others have contributed to the study of linguistic metaphor.

V.I. Korolkov identifies the following approaches to the study of linguistic metaphor: 1) objective, 2) formal-logical, 3) psychological, 4) linguistic (Korolkov, 1983).

G.N. Sklyarevskaya delineate: 1) the semasiological approach, focusing on the structure and conditions of metaphor formation; 2) the onomasiological approach, emphasizing the subject component; 3) the epistemological approach, dedicated to exploring the lexical meaning of a word; 4) the logical approach, involving a reinterpretation of the linguistic form of a concept and infusing it with new content; 5) the linguistic approach, analyzing the linguistic features of metaphor; 6) the linguistic-stylistic approach; 7) the psycholinguistic approach and others (Sklyarevskaya, 1993:7–8).

S.V. Maslechkina highlights the inherent quality of expressiveness in metaphor (Maslechkina, 2009). Moreover, this expressive quality of metaphor can remain intact when translating texts into Russian (Maslechkina, 2009).

According to N.A. Davydova “metaphor serves as the author’s model for understanding cognition. It encapsulates a manner of grasping the semantic content. Metaphor represents cognitive processes, and, consequently, contributes to shaping a compressed cognitive model within the lawyer’s conceptual system, taking into account objective reality and experience” (Davydova, 2010:51).

In legal science, the study of metaphors is presented in the works of V.M. Baranov, N.A. Vlasenko, A.F. Cherdantsev and others. M.M. Isupova and I.E. Koptelova note that “legal discourse pertains to legal texts in dynamics, in the process of interpretation and clarification. It is extremely difficult to establish specific boundaries of the legal discursive community due to its “vagueness” (Isupova & Koptelova, 2018:63).

V.M. Baranov and N.A. Vlasenko argue that “legal metaphors generally exist in the form of expressive images that enhance their regulatory power. At the same time, they simplify, schematize, and ‘compress’ legal information, replacing lengthy legal conclusions and judgments” (Baranov & Vlasenko, 2019).

Legal doctrine distinguishes several approaches to legal metaphors.

⁶ New Philosophical Encyclopedia: In four vols. M.: Thought. Edited by V. S. Stepin. 2001. Available at: https://dic.academic.ru/dic.nsf/enc_philosophy/2712/%D0%9C%D0%95%D0%A2%D0%90%D0%A4%D0%9E%D0%A0%D0%90?ysclid=lj2ouwnzxn723535071 [Accessed 20th May 2024].;

Philosophical encyclopedic dictionary. 2010. Available at: https://dic.academic.ru/dic.nsf/enc_philosophy/2712/%D0%9C%D0%95%D0%A2%D0%90%D0%A4%D0%9E%D0%A0%D0%90?ysclid=lj2ouwnzxn723535071 [Accessed 20th May 2024].

⁷ New Philosophical Encyclopedia: In four vols. M.: Thought. Edited by V. S. Stepin. 2001. Available at: https://dic.academic.ru/dic.nsf/enc_philosophy/2712/%D0%9C%D0%95%D0%A2%D0%90%D0%A4%D0%9E%D0%A0%D0%90?ysclid=lj2ouwnzxn723535071 [Accessed 20th May 2024].;

Philosophical encyclopedic dictionary. 2010. Available at: https://dic.academic.ru/dic.nsf/enc_philosophy/2712/%D0%9C%D0%95%D0%A2%D0%90%D0%A4%D0%9E%D0%A0%D0%90?ysclid=lj2ouwnzxn723535071 [Accessed 20th May 2024].

Representatives of the first approach associate metaphors with the ability to create new knowledge and define words in a figurative sense.

In the realm of metaphor analysis, there is a notable focus on its role as a tool for accentuating additional qualities of objects and processes. This perspective finds resonance with Aristotle, who conceptualizes metaphor as “a strange term either transferred from the genus and applied to the species or from the species and applied to the genus, or from one species to another or else by analogy” (Aristotle, 1927:66; Aristotle, 2013). The foundational tenets of metaphor theory were expounded in the Antiquity period.

Metaphoricality is regarded as a unique cognitive process, and metaphor itself is recognized as a linguistic unit (Vlasenko, 2023:111). A nuanced observation provided by V.A. Kurdyumov and L.A. Semenova is that not every metaphor can seamlessly integrate into language (Kurdyumov, et al., 2022).

Representatives of the second approach associate metaphors with the ability to “create imagery,” thereby leading to a proliferation of terminological doublings.

The evolution of “metaphorical linguistic units” over time whether as enduring expressions or as novel metaphors and their derivatives introduced under specific contextual conditions. G.N. Sklyarevskaya describes to metaphors the unique ability to denote an object through the elements of similarity (Sklyarevskaya, 1993:5).

Representatives of the third approach connect metaphors with legislative concepts. Metaphors often lack a specific attachment to a particular domain or sphere of social life. The property of a metaphor lies in its ability to “exist” in various social relations, legal fields, normative legal acts, and to be formulated using different legal drafting techniques, and so forth. A.F. Cherdantsev defines metaphors as a “logical-linguistic phenomenon” (Cherdantsev, 2012:290), possessing unique properties and rules of application.

Metaphors in Roman law facilitated the cognitive process, the evaluation of legal cases through imagery and consideration of different aspects, allowing for comprehension of the objects of legal relations.

The evaluation of metaphors has evolved in contemporary times, yet in specific legal branches, they retain established significance. For instance, in constitutional law, the notion of framework legal regulation is commonly referenced concerning issues pertaining to the delineation of the jurisdiction and powers between the Russian Federation and its constituent entities.

V.M. Baranov and N.A. Vlasenko observe that “metaphor is a unique linguistic property, that enables the expression of the unknown, abstract, or the complex through the known, abstract, thus simplifying it to its simplest and sometimes primitive form” (Baranov & Vlasenko, 2019:17). Metaphors can take various forms of expression. Legal provisions containing metaphors may introduce ambiguity in their content. Nevertheless, they also contribute to the creation of “imagery and visibility” (Cherdantsev, 2012:290), aiding in defining the subject matter and delineating the boundaries of legal relations.

E.A. Zaitseva highlights that metaphors are inherent in “soft” law, asserting that “the most significant works in this context revolve around modern investigations into the soft law concept, focusing on the adherence to agreements concluded by subjects of international law” (Zaitseva, 2012:38).

However, the use of ambiguous terms poses risks by causing confusion during qualification process (Safonov, 2023), a phenomenon evident in the sphere of information regulation and information law. M.A. Rozhkova advocates for the advancement of a comprehensive domain, such as digital law, where the Digital Code could serve as a fundamental source of intersectoral codification (Rozhkova, 2020). If polysemic forms are present, they will also be aimed at fostering the creation of new knowledge, imagery, and clarity.

Metaphors, serving as rhetorical elements, manifest in legislation in diverse forms with “artificial intelligence” serving as an example of a metaphor in the realm of law. Enhancing the quality and comprehensiveness of assessing information legal relations is essential for elevating the level of precision and detail in legal frameworks.

Technical and legal features of consolidating information legal relations

In the 21st century, the problem of applied ethics in information legal relations has become evident. A modern assessment of social reality shows a significant rise in the number of communicative methods, digitalization of society and economy. According to statistics, in 2023, the funding for the purchase of cameras with artificial intelligence increased by 2.5 times, amounting to 1.5 billion rubles⁸. The introduction of artificial intelligence and neural networks by prosecutors for analysis, forecasting crime dynamics in specific regions, as well as document analysis, including bills has also been noted⁹. These measures are driven by several reasons, including the enhancement of life standards, labor, employment, and urban safety.

On the other hand, the natural and artificial latency of digital crimes remains unabated. Victims do not always report when a digital crime has been committed against them. Unsolved crimes in the unauthorized access to computer information, distribution of malware, fraud, drug trafficking and others are prevalent within these categories.

According to the White Internet, a non-profit organization, the main categories of digital crimes include theft, primarily fraud. The issue lies in the fact that the number of prosecuted individuals is several times lower than the number of committed crimes.

Digital offenders often exploit the trust of minors. While fraudulent actions were previously committed against them, today it involves bullying and involvement in

⁸ In Russia, the number of “penalty” cells will increase sharply. Available at: <https://iz.ru/1692801/2024-05-07/v-rossii-rezko-vyrastet-kolichestvo-shtrafnykh-kamer>. [Accessed 12th May 2024].

⁹ The General Prosecutor's Office of the Russian Federation began to introduce artificial intelligence and neural networks into its activities. Available at: <https://ai.gov.ru/mediacenter/generalnaya-prokuratura-rf-nachalavnedryat-v-svoyu-deyatelnost-iskusstvenny-intellekt-i-neyroseti/?ysclid=lw09s610vx652220078>. [Accessed 12th May 2024].

criminal schemes through psychological pressure via social network contacts and electronic messenger applications.

Certainly, these are just some of the challenges law enforcement faces. They should be approached differently, considering the content and quality of rule-making and law enforcement. It is evident that relatively specific norms are not always effective in regulating social relations where casuistry is necessary.

Legal casuistry of information legal relations should include a set of measures, evaluating them from the perspective of historical, philosophical, logical, psychological, and legal issues. Special attention should be given to the latter two aspects concerning the assessment of the moral “element” in law and the challenges of rule-making in information legal relations. For example, how to protect minors from digital crimes?

Logical forms of thought play a crucial role in legal casuistry. Judgment as a form of thought allows for determining the characteristics of a concept in an affirmative or negative manner. Therefore, defining the terms like “digitalization of law”, “information legal relations” or “digital transformation of state and law” involves complex judgments. These judgments are shaped through assessing the factual aspects of cases concerning 1) existence as an independent phenomenon; 2) available properties; 3) systemic connections; 4) as elements of social relations. Another form of logical thinking is inference, aiding in evaluating public attitudes. When interpreting and enforcing information legal relations, adhering to logical rules for deductive and inductive reasoning is essential.

Nicolas Petit has addressed the legal regulation issues surrounding artificial intelligence and robots. He highlights the absence of a unified methodology for the study of information legal relations and the uncertainty regarding the legal area to classify these relations¹⁰.

The legal doctrine raises the issue of reassessing classical general legal norms towards increasing the casuistry of their content. For example, P.S. Yani suggests developing an electronic system for searching judicial precedents by describing the full spectrum of factual circumstances subject to qualification (Yani, 2019). V.V. Polyakov and S. M. Slobodyan emphasize the need for a comprehensive analysis of high-tech methods of unauthorized remote access to computer information (Polyakov & Slobodyan, 2007:216). It appears that through legal casuistry, new types of information legal relations are to be analyzed and evaluated.

The effectiveness of rule-making stands as a fundamental principle and requirement in legal regulation. Legal statutes should align with reality; hence, creating legal norms based on social needs and anticipating future cases is a necessary and timely measure. Nevertheless, scholars hold differing views. A.G. Repyev argues that “an overly casuistic legal norm, burdened with a meticulous examination of the conditions for rule application encompassing both standard and non-standard events, could impede and complicate law enforcement processes” (Repyev, 2021:42).

¹⁰ Petit Nicolas. Law and Regulation of Artificial Intelligence and Robots – Conceptual Framework and Normative Implications (March 14, 2017). Available at: <https://ssrn.com/abstract=2931339> [Accessed 04th May 2024].

A.V. Minbaleyev (2023) highlights that “the consequences of AI use are becoming increasingly unpredictable, necessitating preventive legislative measures to safeguard and uphold the rights and freedoms of citizens, as well as ensure the security of society and the state.” This underscores the need for the development of “flexible legal regulation”, whereby emerging risks “within the experimental legal frameworks” could be monitored by the state (Minbaleyev, 2023). T.A. Polyakova, A.V. Minbaleyev, and N.V. Krotkova believe that control can be exercised through experiments involving discrete functions of governmental bodies (Polyakova, Minbaleyev & Krotkova, 2023). The concept of flexible legal regulation is addressed in Presidential Decree No. 204 of May 7, 2018, On the National Goals and Strategic Objectives of the Development of the Russian Federation for the period up to 2024¹¹, suggesting that framework legal regulation allows for adaptability in governing information legal relations.

Furthermore, the administration of information legal relations involves the use of framework legal regulation, including abstract methods of articulating facts and connections. Formal legal components encompass framework legal acts, incorporating relatively specific norms that permit legal uncertainty, like program documents, acts of strategic significance, and others.

T.V. Shatkovskaya, T.V. Epifanova, and N.G. Vovchenko analyzed the processes of legal regulation within the digital economy, observing “blurring of boundaries between interethnic and state legal regulations” (Shatkovskaya, et al., 2018). They also discussed “the emergence of a new type of generally permissible legal regulation method – framework regulation – under which participants in legal relations, voluntarily curtail their rights within defined limits in the collective interest, reallocating the regulation of the individuals’ activities in specified agreement areas to collective management bodies” (Shatkovskaya, Epifanova & Vovchenko, 2018:146).

The review of judicial practice and legal doctrine underscores the imperative to adhere to the rules of linguistic interpretation of information legal relations. Consequently, legal terms and expressions must be ascribed a clear meaning, precluding alternative interpretations. Legislative definitions should serve as guiding principles in legal operations. This principle concerns the sphere of information legal relations, which have clearly demonstrated their potential to create an “alternative reality” with distinct opportunities, risks, and consequences.

The legal casuistry of information legal relations serves as an auxiliary element in rule-making and law enforcement, essential for advancing legal technology and enhancing the quality of adopted legal acts. The absence of universally accepted constructions within the scientific community often results in disparate techniques for creating legal structures, thereby violating conventional properties of legal constructions.

Certain categories within different branches of law may not be universally applicable, making it challenging to categorize artificial intelligence within the classical sense of law or apply traditional legal personality theories to it (Kovalenko, 2023a). The

¹¹ Decree of the President of the Russian Federation No 204 of 7.05.18 On National Goals and Strategic Objectives of the Development of the Russian Federation for the Period up to 2024. Collection of legislation of the Russian Federation No 20, 14.05.2018, Article 2817.

category of “artificial intelligence” requires special research; it is obvious that its content in the branches of law will be different. Consequently, the understanding artificial intelligence by the subject or object of law remains unresolved (Kovalenko, 2023b; Kovalenko, 2023c). I.A. Filipova and V.D. Koroteev highlight “the legal inexpediency of recognizing artificial intelligence as a subject of law within the classical framework of legal theory” (Filipova & Koroteev, 2023). They advocate for a “combined approach” that involves assessing artificial intelligence from the perspective of civil rights objects, while distinguishing between its regulation as an object of law and as an “electronic agent”, which they characterize as a quasi-subject of law referring to entities such as robots and virtual intelligent systems. Importantly, they assert that “ultimately the individual must bear responsibility for their actions” (Filipova & Koroteev, 2023).

A.V. Averin emphasizes the necessity of achieving a balance between the abstract nature of rulemaking and the realities of law enforcement. He argues that “it is unacceptable to overlook the real-life contexts in which these phenomena exist... and one should not reduce scientific discourse to simplistic casuistry” (Averin, 2023:149).

A critical concern lies in the ethical implications surrounding artificial intelligence. N.V. Perova raises important questions about the capacity of artificial intelligence to regulate moral behavior, citing potential risks to security and individual freedoms (Perova, 2022). This raises concerns regarding the possibility that artificial intelligence might inadvertently promote illegal behavior through the content it generates. These and other pressing issues were discussed at the AI Ethics Forum: Generation GPT. Redlines.

Legal regulation is carried out based on the goals and objectives set out by the legislator to achieve the effectiveness of legal regulation. When evaluating the initial stage of legal regulation, it can be assumed that one of the methods to obtain information about the necessity of rule-making is interpretation, conducted on the basis of legal casuistry in social relations. Regulating information legal relations creates specific complexity due to its interdisciplinary nature.

A.A. Dyadchenko and I.I. Kartashov emphasize the shift “from adopting policy documents to developing draft regulatory legal acts in the field of artificial intelligence regulation” (Dyadchenko & Kartashov, 2023:40). It is understandable that legal acts will be expressed in abstract manner, yet this may pose challenges for the law enforcement officers in terms of their specification. Therefore, we find it essential to implement legal regulation not only using relatively specific but also absolute legal norms.

The casuistic method of expressing legislative intent will be valuable in achieving the effectiveness of legal regulation. Given the characteristics of information legal relations, a distinct approach to their legal regulation is warranted. A balanced combination is necessary, encompassing the regulation of generalized generic concepts on one hand, and specifying factual circumstances by highlighting individual characteristics on the other. Presenting legal norms casuistically will narrow the scope of judicial discretion and ensure clarity in evaluating situations that demand legal resolution.

To further support the presented viewpoint, the following points should be considered. Firstly, at the legislative level it is crucial to focus on the boundaries of legal

regulation. These boundaries are defined by the tools of legal regulation, a specific set of legal norms and their characteristics. As A.S. Shaburov explains limits through legal constraints (Shaburov, 2018), N.A. Vlasenko notes that relatively specific norms, which contain legal uncertainty, establish the confines of legal regulation (Vlasenko, 2017:11) and the conditions for their alteration. E.A. Berezina distinguishes between external and internal limits (Berezina, 2020:65). This distinction is particularly evident within the realm of legal regulation, where temporal, spatial, climatic, subjective, political, competency, and national boundaries are established.

Secondly, there is a necessity for an authentic, original, and authorial interpretation. I.A. Minnikes and I.V. Minnikes analyze the practices of the Constitutional Court of the Russian Federation. They suggest that its decisions possess both normative and individual characteristics, “which enables discussion regarding both its law-making and law enforcement functions.” (Minnikes, et al., 2021). Furthermore, they acknowledge interpretive activities based on delegated interpretation. It is highlighted that Article 83 of the federal constitutional law On the Constitutional Court of the Russian Federation¹² formalizes the “authentic (authorial) interpretation” of its own decisions. Similarly, these scholars also reference Article 202 of the Civil Procedure Code of the Russian Federation: “if a court decision is unclear, the court that issued it, upon the request of involved parties or a bailiff, is entitled to provide clarification without changing its substance”.¹³

It is significant to extend the concept of authentic (author’s) interpretation to the realm of legal regulation regarding information legal relations. Using specific legal relations as an example, the rule-maker would enable the assessment of the logical and substantive elements of legal acts. A.F. Cherdantsev wrote that “if a particular body has rule-making competence, then it also has the competence to interpret its normative acts” (Cherdantsev, 1979:145).

In his monograph *Application of Soviet Law*, V.V. Lazarev emphasizes the significance of clarifications from executive authorities in the realm of law enforcement activities. For instance, he highlights that “directive letters and orders from the USSR Prosecutor General are crucial for prosecutorial and investigative staff, while directives and instructions from the minister hold particular importance for police officers.” V.V. Lazarev further observed that “when there is ambiguity in understanding of a normative act, and its interpretation extends beyond the authority of a specific body, the latter must refer to a more competent authority or introduce the concept of an authentic interpretation” (Lazarev, 1972:88).

The legal regulation of information relations is characterized by a complex interdisciplinary nature that requires specialized knowledge. The social perils posed by these relationships to individuals, society, and the state should not be overlooked. Therefore, we consider it essential to blend national law-making traditions reasonably during the legal regulation of information legal relations. Simultaneously, there exists an

¹² Federal Constitutional Law No. 1-FKZ of 21.07.1994 On the Constitutional Court of the Russian Federation. Collection of legislation of the Russian Federation No. 13, 25.07.1994, Article 1447.

¹³ Civil Procedure Code of the Russian Federation No. 138-FZ of 14.11.2002. Collection of legislation of the Russian Federation No. 46, 18.11.2002, art. 4532.

objective necessity for a casuistic description of individual relations, especially new types of social legal relationships requiring authentic (author's) interpretation.

Conclusion

The essence of casuistry has evolved since the days of Roman law. Nevertheless, the logical, psychological, historical, philosophical, and legal assessment of social relations has endured. A contemporary evaluation of legal casuistry integrates new trends in the development of society. Legal casuistry serves as an auxiliary tool in legal activities, facilitating the assessment of the completeness and definiteness of rule-making activities. It also serves as an auxiliary element for rule-making, law enforcement, and interpretation, enabling a logical, legal, psychological, and philosophical assessment of the qualifications of acts.

Legal casuistry plays a crucial role in assessing information legal relations, allowing for the analysis of the merits and risks of actual relations to enable reasonable, high-quality, and comprehensive rule-making and law enforcement. Furthermore, legal casuistry serves as a criterion for determining the limits of the existence of legal institutions.

However, there are also associated risks. Artificial intelligence represents a metaphor in law, thus requiring a more thorough examination of information legal relations in modern realities. Certain legal terms in information legal relations have multiple meanings. A detailed and high-quality examination of legal structures, principles, presumptions, compliance with language standards for legislation quality, and the establishment of limits for regulating actual relations are of utmost necessity.

Based on legal casuistry, it is necessary to analyze and evaluate new types of information legal relations, determining their purpose, content, semantic orientation, legal status, and measures of responsibility. It is essential to strike a reasonable balance between regulating generalized generic concepts and establishing factual circumstances by highlighting individual characteristics. A casuistic presentation of legal norms will diminish the scope of judicial discretion and create certainty in assessing cases that require legal resolution.

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