

# Epistemological Analysis of Experience and Legal Experience: Non-classical Stage

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## Abstract

The article presents an attempt to carry out the epistemological analysis of such notions, as experience and legal experience, central for philosophy and law. The classical philosophy interprets the experience in epistemological context - as the sense knowledge, providing the direct givenness of this object, i.e. as a result of human passive perception of the world. To reveal the integrity of experience, it is necessary to refer to the works of researchers of the non-classical stage in the philosophy and law, as the orientation at reflection, recovering subjectivity, takes place at this stage, as well as at indivisible integral inner experiences. As a result, we get the integrative understanding of experience, involving both subjective and objective elements.

**Keywords:** experience, legal experience, phenomenology of law, legal hermeneutics, philosophical hermeneutics, phenomenology, positivism, non-classical stage, epistemological analysis

## 1. Introduction

"Experience" presents a notion, foundational for different philosophical sects (Myasnikova, 2004). Raising such questions, as "what is knowledge?", "how do we cognize?" the researcher faces the problem to define the experience, the empirical knowledge, the experiment etc. Despite such frequent appeal to experience, many thinkers refer it to the most difficult notions, with which they have to work. For instance, H. G. Gadamer, analyzing the experience relatively the sciences of spirit, wrote: "In my opinion, the notion of experience, no matter how paradoxically it would sound, is referred to the number of the least clear notions, which we have" (Gadamer, 1988).

The development of notion "legal experience" has an important philosophical-methodological significance due to several reasons. Firstly, when introducing this notion in to modern humanitarian investigation, it is possible to consider the world of law (or legal reality) from a new perspective. The legal experience can be the instrument to consider the whole number of legal and historical events. For instance, the phenomenon of genocide can be presented in new light, if to consider it through the prism of specific legal right. Secondly, having the detailed notion, it is possible to analyze complex historical events with subsequent distinguishing of not only legal facts and practices, but also legal experiences, emotions and ideals. If we take the genocide again as an example, or if we take any historical event, which is reckoned in this phenomenon, it is possible to note, that subjective experiences of participants are frequently not taken into consideration. As a result, at the output, we get a "constructed fact", different from the reality and not put into practice.

Under this article, we will refer to the works of researchers of non-classical stage in the philosophy and law, as the orientation at reflection, recovering subjectivity, takes place at this stage, as well as at indivisible integral inner experiences. It is the non-classical investigations, where the experience is considered in its integrity. It is typical both of philosophical and legal investigations.

## 2. Procedure

The consideration of notion "experience" in philosophical investigations takes a significant place. It is rooted to the antique philosophy (sophists, Platon, Aristotle). It becomes a stumbling rock in the dispute of rationalists and empiricists. The inner experience is a subject of understanding and comprehension in the philosophy of romanticism (F. Schlegel, Novalis and others). The experience and its manifestations take the central place in "philosophy of life" (V. Dilthey), in Marxism (Marx & Lenin, etc., n. d.), in different schools of positivism,

neopositivism and post positivism, in hermeneutics (Betty & Gadamer, n. d.), in American pragmatism (J. Dewey). The experience is interpreted in a new light in phenomenological studies (F. Brentano, E. Husserl, I. Binswanger), in different theories of practices and frames (Latour, Foucault, Goffman, Garfinkel, & Schütz, et al., n. d.).

The situation with the perception of experience in the law seems to be different. Thus, the phenomena of legal experience in the theory and philosophy of law were considered by the representatives of Historical Law School (Friedrich Carl von Savigny, G. V. Puht) and juridical positivism (J. Austin, G. B. Shershenevich, I. Bentam and otehrs). The interest to this problem is also brightly presented in the theory of law by L. I. Petrażycki, in juridical hermeneutics, presented by A. Kauffman, as well as in phenomenology of law (E. Ehrlich, E. Fechner, N. N. Alekseev and others). In modern literature on different problems of philosophy of law, the consideration of phenomena of legal experience in Russian space can be found in S. S. Alekseev, Yu. V. Tikhonravov. Despite the presence of investigations on this item, at present, the notion "legal experience" is not developed to the fullest extent.

To solve the set task, namely to investigate and develop the integral understanding of experience and legal experience in non-classical period, the following approaches and investigation methods were used: the analysis of philosophical and legal literature on the problem, epistemological analysis, system analysis of different aspects of legal experience (as the legal experience is presented as a special type of systems), such approaches, as onto-gnoseological (as the legal experience presents a special reality and source of legal knowledge and gnoseological notion in the context of experience understanding as knowledge), comparative (as the legal experience is considered in comparison with the experience in philosophical literature), historical and logical (in connection with consideration of changes of essences of the notion "legal experience", starting from the new time).

### 3. Discussion

#### 3.1 Main Interpretations of Experience in Non-classical Epistemology

An interesting situation is observed in modern epistemology. The experience, alongside with such notion, as the fact, is used as an instrument to consider the theoretical and empirical knowledge, to which much attention is paid in philosophical investigations. Usually, the experience, the fact, the empirical knowledge are considered as synonymic ones, that is why, speaking about the fact, we also speak about the experience. For instance, in formulation "the facts, burdened with theory", the facts are understood as the empirical knowledge. It is possible to give another similar example: I. Cant defines the experience as the empirical knowledge. Essentially, when considering different philosophical works, starting from the new time, it is possible to see, that the scientists brought the experience together with the sensuous knowledge, thus, the difference between the experience, the fact, the sensuous and empirical knowledge became diffused. Starting from the XVI century, it is possible to speak about the fact, that the notions "experience" and "experiment", and from the XIX century - "experience" and "practice" become the synonyms. Such understanding of experience is also typical of the modern philosophy. For instance, G.D. Levin, when considering the experience and its boundaries of its use, writes: "The terms "experience" and "experiment" shall be considered synonyms and shall denote *only* the probation of hypothesis in practice" (Levin, 2012).

The notion "experience" takes an important place in new time, due to the development of natural sciences, focused on practice. That is why, as Gadamer mentions in the right way, practically all theories of experience of the Modern times are focused on science in whole (Gadamer, 1988). The purpose of the science is to objectivate the experience, to delete all historical layers, all feelings. In this connection, it is important to consider the understanding of experiment of the modern European science.

What is a modern European experiment? Here we would like to refer to M. Heidegger, who thinks that the experiment of the new time consists in the fact, that it is based on the definite law. "To set up an experiment means to provide such condition, in accordance with which it will be possible to trace the definite dynamic interconnection in all regularity of its course, and, consequently, to acquire this motion in advance, adapting it for calculations" (Heidegger, 1993). The experiment is a method, which, in all its intension and in all its behavior, is based on the foundational law, it is guided by it, and uses only this way to bring the facts, justifying the law or denying the law in defense.

In non-classical epistemology, the situation varies sideways new accents of experience understanding. It is well seen in such philosophical sects, as phenomenology and hermeneutics.

For hermeneutics, it is typical to understand the experience as the feeling, as the experience of understanding and

interpretation. The founder of hermeneutics is F. Schleiermacher. He names hermeneutics *Kunstlerhe* ("a teaching about art"), that is why its object is a piece of art, possessing extremely rich content, which can be interpreted endlessly (Schleiermacher, 2004). Hermeneutics is the art of understanding.

He distinguished two types of interpretation - grammatical and psychological. The psychological type of interpretation reveals one of interpretations of experience, typical of the whole hermeneutics - the experience as understanding. Psychological interpretation is the higher type of understanding of text or speech. It is especially valuable when comprehending the art objects. When studying the objective texts, its presence is minimal, the grammatical interpretation prevails here. We start to perceive the text as a unity, subsequently switching to text parts. For instance, we shall study the Book of Job (part) in the context of the whole Old Testament, historical realias (whole). We shall put ourselves in the author's place, to understand his psychology, to gain his experience and only after it we will perceive his piece as a part of himself. As a result, with each new circle, we will perceive more and more, finally, understanding the piece better than the author does.

Another German sophist H. G. Gadamer added the philosophical status to the hermeneutics. For him, "text understanding and interpretation is not only a scientific task, but obviously refers to the whole combination of human experience in whole" (Gadamer, 1988). Hermeneutic experience in his understanding does not have close connection to the perception experience. The experience expresses the position of spiritual human existence in the world that is why it presents the form of spiritual givenness of the world. The spiritual human world is presented the most brightly in the experience of art, philosophy and history. Another important moment in perception of experience for Gadamer is the principal openness of the experience. Thanks to this openness, the experience renewal is possible.

For hermeneutics, it is important to connect the experience and the language, historicity and understanding, personality and structure. The experience is born in specific-effectual relation of the man to the world, being personified in language structures. The language is the first form of givenness of any spiritual experience. It is given to us in two ways - as a sign and a meaning. The indissoluble connection of the sign and the meaning provides us with the possibility to get the linguistic experience. The experience is not just "settles down" in the language, but it becomes structures thanks to linguistic forms. Thanks to the connection with the language, the experience becomes spiritualized and universal.

It is also possible to meet such understanding of experience in modern philosophy. V. I. Molchanov writes: "The experience is not the abstraction, covering all types of experience. The experience is always the understanding of fashion standard, logical connections inside the scientific theory, connections of objects, described by this theory, philosophical systems; the experience is the understanding of situation, object features, it is the understanding of another person etc. It is pointless to prove the presence of human experience, as the experience-understanding is the initial reality of human existence. Any understanding proves the presence of experience (Molchanov, 2004).

A representative of modern hermeneutics, the American philosopher John McDowell, also follows this sect. The cognition of nature is a kind of interpretation. The experience acts as "a tribunal of cognition", i.e. as a basis to judge about the world. He suggests interpreting the "experience" as something that can be included to the connection of substantiation and justification of cognitive statements. The implementation of this program presupposes predetermination of the notion "experience" in order that it, staying the element of "natural space", functioning based on causality, would not be excluded from rational "space of bases". Any sensual contemplation always has a notional character. "Empirical" notion is being formed under the impact of external world, i.e. it is the result of experience. The experience, on the one hand, shall stay receptive, for the person to perceive the things as they are, and on the other hand, it shall have the notional character.

According to McDowell, in the experience the things appear as they are, affecting our sense organs, and, at the same time, experienced judgments can become the elements of inferential logical reasoning, aimed at justification of our convictions or actions. M. E. Soboleva writes about McDowell, that the experience, where the notional activity is presented as passive one, limits the human constructive freedom and meets the requirement of conformity of reality of the "myth about givenness". (Soboleva, 2014). The fact, that the experience has the passive character and presents a case of active sensuality, shall guarantee the control on the side of the external world, but, at the same time, this control takes place not on the side of the instance, external in relation to thinking, but on the side of something thinkable. McDowell states that in the experience, we perceive by means of the world, affecting our feelings - the elements of the reality that does not stay outside the sphere of notional content any more.

He considers, on the one hand, that getting the experience, a person is open to obvious facts, which exist independently and affect his sensuality, and, on the other hand, it is the content of experience, i.e. thinkable

contents, which stay in line of justification of judgments on the outmost edge. It is possible to combine these two points, if to suppose, that the notional events, playing the passive role in the experience, refer to the net of active abilities (McDowell, 2001).

We can see another view on the experience in phenomenology, and, undoubtedly, it refers to its brightest representative, E. Husserl.

The main topic of phenomenology is intentionality. Consciousness is always the knowledge about something. It is something, that I am thinking, recollecting about, what I feel. The subject is me, able to feel, recollect, judge, imagine. The object is the manifestation of these acts - images, thoughts, recollections, colors, volumes etc.

E. Husserl proceeded from the fact that the acts of consciousness are intentional: "Intentionality is something that characterizes the *consciousness* in clear meaning, something, that justifies the characteristics of the whole flow of feelings, as a flow of consciousness and as a unity of *one* consciousness" (Husserl, 2009). The intention itself and the intentional object constitute the one, that Husserl named the phenomenon.

Husserl connects the intension of the authentic science with the idea of obviousness, substantiated by the appeal to the content of experience. "Obviousness in the widest meaning is the experience of the existing and, at that, existing in that way, as it is, - so-existing, - i.e. the appealing of mental sight to the existing itself. The point, contradicting the one, that is shown by the obviousness, experience, constitutes the negative image of obviousness (or the negative obviousness) with obvious falseness, as its content" (Zangirov, 2011). Husserl reduces all human experience to transcendental subjectivity, i.e. to a special kind of phenomenological obviousness. Natural life experience is not eliminated by phenomenology - it is modified into the phenomena of consciousness, thus, acquiring the instance of its ascertainment for the first time. Then, my pure subjectivity becomes able to differentiate, for instance, if the man stands in the yard or it seemed to me. The sensuous experience of perception says nothing about its veracity, it is unable to verify itself.

Husserl closes the whole experience of phenomenological consciousness of the world within the frames of the subject, but he does not explain how the link between the subjective and objective is established. The experience serves the over-personal instance for verification, providing an opportunity to check, repeat and prove this experience (Ballnat, 2012).

Finally, we can mention the following. In classical philosophy, in the science of the new time, the experience was interpreted ingnoseological context - as the sense knowledge, providing the direct givenness of the object, i.e. essentially - as a result of human passive perception of the external world. In the XX century, the significant changes in perception of experience take place. It started to be considered in the context of its interpretation by the personality, the expression in language and in other meaning systems. Hermeneutics, phenomenology and other schools approved the anthropological principle in the understanding of experience, made an accent on its subjectivity.

### 3.2 Main Interpretations of the Legal Experience in Legal Science and Non-classical Philosophy

In juridical literature, there are practically no investigations about legal experience. Yu. F. Tikhonravov, for instance, when studying the juridical positivism, speaks about the fact, that the groups of this sect "differ by the orientation at special spheres of legal experience" (Tikhonravov, 1997). He understands the legal experience as the objects, studied by the legal positivism. It is also possible to observe the elements of legal experience in the structure of legal reality, presented in the works of S. I. Maksimov (Maksimov, 2012). At present, practical necessity to understand the notion "legal experience" is also present in jurisprudence, but it frequently turns into determination of the notion "juridical fact" (Chernova, 2008; Shramkova, 2012), which does not determine the first notion fully. The second variant is to understand the legal (juridical) experience through practice. For instance, A. A. Maksurov considers that the juridical experience and practice are the equivalents. At that, practice is primary, and experience is secondary. Maksurov says that it is necessary to understand the juridical experience, firstly, as a personal experience (expressed in knowledge, skills, habits), and, secondary, as the objectified experience (expressed in definite legal situations and their normative consolidation) (Maksurov, 2010). However, speaking about legal experience, it is possible to state, that in the process of formation of legal science and its interpretation, not only the abovementioned aspects were studied.

By the analogy with the previous section, it is also possible to refer to the phenomenology of law and to hermeneutics.

Juridical hermeneutics existed for a long time as the instrumental methodology. N. Lezer considers that the juridical hermeneutics is a special hermeneutics, the purpose of which is to interpret the juridical facts, laws and norms. On the one hand, it presents a rather simple instrument, but on the other hand, the number of questions

appears. For instance - who should interpret the norms - the one, who creates, uses them or the one, whom they are directed at. The norms involve the factual knowledge, and it is very important to understand it. The philosophical hermeneutics was able to absorb the principles of theological hermeneutics. It is for this reason that the lawyers had to refer to philosophical hermeneutics. Neither technological, nor morphological expert studies will help to interpret the law correctly, as well as to use it.

The brightest representative of modern juridical hermeneutics is the German investigator A. Kaufman. In juridical hermeneutics, the law is in close connection with the person. A famous German lawyer A. Kaufman draws the right from the objectively existing meaning, coming from the object, and not the subject. Despite this fact, the right exists only in the act of understanding, and it is articulated in the language. He raises the questions: how to provide the recognition and the respect of another subject, how to express this objectively existing meaning of the external world? Can we be sure that we have figured it out by means of intuition? In his opinion, pre-understanding of subject to the understanding of the social world cannot secure the misinterpretation of the surrounding reality.

Kaufman considers that the right is the correspondence of existence and oughtness. Unfortunately, the oughtness and existence in the right are not distinguished. They are joined on the analogy. Specific life circumstances and circumstances of the case are not equal. The German thinker considers that the norm is situated on the plane of abstractedly formulated oughtness. The circumstances of the case are situated on the plain of empirical veracity. Each use of the right is the interpretation, adds something new, what presents or does not present the law. The consumer of the right is a part of the process of legal finding and formation of new norms. "He is the first who introduces the law into language, he defrauds definite, specialized feelings, he is the reason of its innovative force, and he wakens it from its immobility to its historical existence. Each legal language is not only the filling of laws, but it is the creative work over the legislation" (Haft, 1984).

A. Kaufman assures that the hermeneutic approach provides the understanding of (*actual*) right, as the basis of its hermeneutic search is something (ontological) freedom as the natural state of the person. It is impossible to get the right directly from the abstract juridical norm, and the judge cannot use it at will.

It is possible to see the subjective understanding of the world of right in philosophical hermeneutics. The right, according to P. Rieker, is the relation to others, mediated by social institutes. A person in public sphere becomes the subject of law. However, entering this publicity, he turns from "I" into "Any", as he becomes the holder of rights and obligations. It is connected with the fact that justice is the recognition of formal equality. The joint residence is possible only in this way. However, studying the legal experience, we can distinguish the following moment from its work. The law is being created by the subject of law in the process of communication, through expressing, speaking of yourself. It is this fact that shows its subjective orientation. P. Rieker demonstrates that the legal problem emerges due to interference of another person because of the damage to another person. Thus, the inter subjective nature of primary "cell" of the law is revealed as a connection of two equal right subjects of law.

The phenomenology of law presents an independent sect. In the opinion of A. V. Polyakov, "the key moment, characterizing the essence of phenomenological approach to the law, is the view on the law, as a part of human existence, as a part of inter-subjective life world".

The phenomenological view on the law is the most fully presented in the works of N. N. Alekseev. "Phenomenology, - writes Alekseev, - opens a new world of spiritual subjects in front of us... In our opinion, phenomenology is not the philosophy, but a kind of special precise knowledge about ideas, about general relations" (Alekseev, 1998). The necessity to use the phenomenological approach in perception of law, in the opinion of Russian thinker, is connected with principally disadvantages of other methodologies, and it is substantiated due to the critics of rationalism, as a self-sufficient method of legal reality perception.

N. N. Alekseev considers that, initially, the understanding of law shall not and cannot be determined through the other notions. All other notions of scientific theory shall be determined through the notion of law, or, as N. N. Alekseev writes, "the notion of law is that unity, that center, from which the main conditions for perception of any legal content are "radiated". (Alekseev, 1998). How to get this initial meaning of the law notion? Simple logical definition, pointing at the most significant features of the phenomenon, is impossible to be used here. According to N. N. Alekseev, as the right is some intentionality, it is necessary to compare it with the other internationalities of the consciousness. He writes about initial legal facts. However, the notion "legal facts" shall be understood in phenomenological essence. Legal facts stay within the emotional sphere: "the moments, differing the law from the non-law, do not lie in the sphere of mind and in the sphere of theoretical truth; these moments are perceived by some special intuition..." (Alekseev, 1998).

One of the most important elements of legal reality, in the opinion of Alekseev, is the subject - the bearer of values, found in the law. He understands the subject of law as not the subject of law of jurisprudence, but as the subject of active individuum, doer, the bearer of acts, revealing the values. The values of the right become vivid and real only when they find the living bearer, who shows the concerned attitude towards the world and "recognizes" this world. All powers and legal obligations, if to consider them as not the notions, but as the specific activity, are based on the subject of law, understood in this way.

As a result, the law is the sphere of values, perceived by the special kind of intuition. N.N. Alekseev defines the legal approach to the values through the notion "recognition". It is possible "to recognize" any piece of art, not perceiving its inner harmony and beauty, it is possible to "recognize" the value of human life in whole, not seeing the essence in life of separate people. That is why, according to Alekseev, such recognition is not the ethic, but mainly the legal act.

To describe the legal bond between values, N.N. Alekseev uses the notions "legal power" and "legal obligation". He understands the legal power as "the free possibility to take any statute-allowed positive or negative actions..." (Alekseev, 1998). Legal obligation is the inner, organic combination of rights and obligations. A competence of any governmental agency of placeholder is always the right and obligation as an indivisible unity. As an example, there is given a situation, when the public prosecutor has a right to arrest the accused person. On the other hand, the public prosecutor is obliged to arrest the criminal. Namely, "free possibility is internally connected with the debt, and the right was turned into legal obligation" (Alekseev, 1998).

One of the most powerful sects in the law is the legal (juridical) positivism. The essence of this way to study the law lies in identification of law and positive law, which is understood as a combination of established norms and institutes. Yu. V. Tikhonravov writes, that "from the viewpoint of positivism, the concept of natural right was rejected; it was perceived more as "an utopia", the ideal model, than the theory, really feasible, tried and tested" (Tikhonravov, 1997). As a result, the scientific investigations, essentially, are focused on the texts of law. A positivistic type of legal consciousness focuses attention on the source (form of expression) of the law, i.e. on external qualities, which make the norm legal, on the ways of creation of this norm. Only the norm, expressed in the definite norm, is the law. The external form adds validity to the content, to the stereotype of good behavior, recorded by the norm. The main direction of their activity is to study the laws, to comment and to analyze the norms logically, to describe and to classify them. The representatives of this stage made an assumption that the law in its nature has the empiric character, it is "a mould" of developed economic and political relations.

From gnoseological point of view, the juridical positivism - in conditions and under the influence of successes of natural sciences - made an attempt to pass to naturally scientific, empirical methods to present the law in the way of old, traditional methods to perceive the law. Rejecting the theoretical reflections, positivists passed to the "facts" observation. They considered that strictly scientific description of real, positively given phenomena is put in place of speculative metaphysical substances.

Let us turn to the "non-standard" positivism with non-classical view on the law, namely, to L. I. Petrazhitsky. The subjective aspect of the experience is revealed in his original psychological theory of law. Rejecting the traditional provisions of dogmatic jurisprudence, he developed rather original concept of juridical-psychological realism, which is based on the methodology of experienced, empirical-positivistic revelation and perception of real legal and state phenomena in the sphere of human psychic.

"The law is a psychic factor of social life, and it acts psychically" (Petrazhitsky, 2010). It is possible to get acquainted with the nature of law directly and authentically in our soul, i.e. observing, comparing, analyzing our own state of mind in motion. The cognition of the law, as a special sphere of human psychic, is also possible in indirect way - the observation over the actions and speech of other people, involved into study of written historical monuments etc. Based on this statement, we can study the legal phenomena, without being their direct participants.

Finally, such understanding of law results in the fact, that the number of spheres of legal phenomena equals to the number of living creatures, able to experience and experiencing corresponding legal psychic acts, and the number of legal phenomena equals to the number of these experiences. In the opinion of Petrazhitsky, only the man, suffering from "absolute legal idiotism", i.e. full inability to feel the legal psychic acts, would be deprived of the possibility to cognize, what the law is.

Interpreting the law psychologically, Petrazhitsky divides the emotions into two classes: special (thirst, hunger etc) and abstract emotions. In his opinion, the ethic emotions (or feelings) are characterized by the fact, that corresponding motor restlessness and pushes have the peculiar mystical-authoritative character: they act as the principles with higher area and authority, coming as if from unknown, different from our everyday "I", mystic

source, which gets different fantastic forms and mystical personifications (Petrazhitsky, 2010). For instance, in the view of "categorical imperative" of Kant, "the objective spirit" of Hegel, "folk spirit" of lawyers of the historical school etc.

A person feels ethic emotions as a kind of impediment for following our inclinations and aptitudes, as a firm and constant pressure aside that behavior, that is in keeping with the relevant emotion. This property of ethic emotions is reflected in language and other products of human spirit.

As a result, the law as the reality presents the emotions of imperative-attributive character, and this legal reality is in the sphere of individuum psychic, making the relevant projections. "The method of self-observation, introspective method shall be recognized as the appropriate and the only possible way to observe the legal phenomena" (Petrazhitsky, 2010).

#### 4. Results and Conclusions

Modern philosophy is characterized by the variety of approaches to understanding of experience through explanation, emotions, feelings and practice. In non-classical stage, the philosophy is oriented at the subject. A man with his inner feelings gets per field of vision of philosophers (as well as science representatives). Such turn was also observed in legal studies, what was even shown in positivism.

Within the meaning of integrative legal theories (Palekha, 2010), which can involve the abovementioned sects, the accent is made on the understanding of law as a complex many-sided phenomenon, involving both objective and subjective characteristics of the law. That is why there is no general viewpoint on the law and the feeling of chaos in the theory and philosophy of law frequently appears. However, the followers of this sect mention, that it is not the disadvantage of this legal approach. On the contrary, there is a possibility not to miss all the phenomena of the law. Including the subject's activity in legal reality. For the representatives of this sect, it is important to consider "the vivid law", the way, how it is created by the legal subjects, and, mainly, how it is perceived by them. That is why, for non-mechanical unification of different theories of law, but the attempt to make the dialogue between them, the integrative theory of law is presented as the most prospective methodology in consideration of legal experience.

Under this article, it would be very difficult to consider all existing methodologies for experience, legal experience and phenomena study. However, the main thing was done - the first approximation to experience and legal experience took place. The attempt to consider them from the viewpoint of epistemology was made. That is why in prospects of further development of the topic is the elaboration of conceptual position in relation to legal experience. The appeal predominantly not to theoretical works, what was done before, but to real current law, to the history of law development, to juridical practice.

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