

# NOTAS HISTÓRICAS Y GEOGRÁFICAS

## **Artículos**

## **HISTORIA DEL CAMPO REGULATORIO EN CONTEXTO FILOSÓFICO Y LEGAL**

HISTORY OF THE REGULATORY FIELD IN PHILOSOPHICAL AND LEGAL CONTEXT

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### Resumen

El concepto de “campo regulatorio” se introduce en las humanidades: psicología, sociología, estudios culturales y derecho. El propósito de este estudio es trazar el camino histórico de desarrollo del término “campo regulatorio” y determinar el contenido de este concepto. El concepto de “campo regulatorio” permite determinar la situación sociocultural en la que una persona se convierte en sujeto de derecho. Cada ley se puede considerar desde el punto de vista del campo regulatorio. Hace que la interpretación de las normas legales sea más significativa. El campo regulatorio no está claramente definido. Actúa como un sistema en constante cambio, y estos cambios dependen de la reestructuración de las relaciones jerárquicas entre las normas sociales, de la prioridad del valor de las normas morales absolutas sobre las racionales, o viceversa; o en una completa negación de las normas absolutas. El campo regulatorio incluye un conjunto de diversas normas: morales, religiosas, legales, psicológicas, sociales, políticas, culturales y otras.

**Palabras Clave:** Ámbito Regulatorio, Ámbito Jurídico, Ámbito Sociocultural, Sistema Regulatorio

### Abstract

The concept of *regulatory field* is introduced into the humanities: psychology, sociology, cultural studies, and law. The purpose of this study is to trace the historical path of development of the term “regulatory field” and determine the content of this concept. The concept of *regulatory field* allows determining the socio-cultural situation in which a person becomes a subject of law. Each law can be considered from the point of view of the regulatory field. It makes the interpretation of legal norms more meaningful. The regulatory field is not clearly defined. It acts as a system that is constantly changing, and these changes depend on the restructuring of hierarchical relations between social norms, on the priority of the value of absolute moral norms over rational ones, or vice versa; or on a complete denial of absolute norms. The regulatory field includes a set of various norms: moral, religious, legal, psychological, social, political, cultural, and others.

**Keywords:** Regulatory Field, Legal Field, Sociocultural Field, Regulatory System.

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## 1. INTRODUCCIÓN

Science is developing gradually, but the last two centuries have seen a sharp acceleration of its development. Doubts about the significance of science, its usefulness for civilization as a whole, and for each individual person, have gone into the distant past. Even closed religious communities living in their own subculture accept and use technical innovations and advanced scientific developments.<sup>1</sup>

The current stage of history is associated with the processes of globalization. It introduces significant changes in all components of society's life: economic, political, cultural and spiritual spheres, which affects both the changes in the legal system and changes in the psychology and lifestyle of individual, one's self-identification.<sup>2</sup>

The development of science is accompanied by the process of changing scientific terminology. The content of some concepts changes, names are replaced, new concepts are introduced. Not only scientific concepts change, but also everyday ones; the influence of changes in concepts is mutual – a change in the latter has an impact on the modification of scientific categories, and the use of new scientific concepts affects the change in everyday life. For example, the word “curd” was not used in the Slavic languages until the 17th century, but the term “cheese” was used in a broad sense. The concept of *curd* came into use during the heyday of manufactory production, when the traditions of cheese making were born, the first production of rennet cheeses appeared. Raw substance, which was the basis for a new product, was called “curd”, the word itself comes from the same basis as to create (in dialects it is also possible to mean “dissolve, knead”), literally – “make solid milk.” In the 18th century, the term spread in everyday life, in provincial life it was

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<sup>1</sup> Vitaly Pavelkiv, *Psychogenesis of Aggressive and Destructive Behavior in Adolescent Subcultures*, (Kyiv: National Academy of Pedagogical Sciences of Ukraine, 2019).

<sup>2</sup> Oleg Danilyan (editors), Olexander Dzioban, *Modern Society, Man, Law in the Conditions of Global Transformations*, (Kharkiv: Pravo, 2020): 13-14.

used rather as a “mannered” metropolitan dialect (this is evidenced by the works of art of the corresponding period, for example, the novel by G. F. Kvitka-Osnovyanenko “Pan Khalyavsky” published in the magazine ‘Otechestvennye zapiski’ in 1839). Gradually, the term “curd” spreads in everyday use. In Old Russian, Ukrainian, Serbian and some other Slavic languages, the word “curd” means both cheese itself and cottage cheese, therefore, cottage cheese products are still often called “curd”. In the English-speaking culture, curd is considered a type of young soft cheese, while in the modern Ukrainian environment, curd is usually not considered a type of cheese. Thus, technical advances have influenced production, and the specifics of production have led to a change in the existing terminology and the emergence of new concepts, both scientific and generally accepted.

The philosophy of law as a science has an ordered system of interrelated and interacting concepts, the content of which provides the logical organization of philosophical and legal knowledge. Philosophical and legal concepts form a conceptual field of this science<sup>3</sup>.

Legal categories reflect a certain level of knowledge in the field of state and legal phenomena. It is permissible to divide legal concepts into two groups: concepts included in laws or by-laws, and concepts not included in positive law. The latter, being the result of scientific knowledge, precede their normative consolidation in the process of lawmaking.

There are two points of view on the recognition of concepts as legal: 1) only those concepts that are established by legislation are recognized as legal; 2) legal concepts are considered both included in legislative documents and the categorical apparatus of juridical and philosophical theory.

Global transformations affect all aspects of social life. The public view of morality, which has been stable for many centuries, is rapidly changing under the influence of scientific advances.

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<sup>3</sup> Mikola Panov, “Problems of Methodology of Formation of Categorical-Conceptual Apparatus of Legal Science”, Law of Ukraine, num 1, (January 2014): 50–60.

Personality has free will, which manifests in freedom of thought, freedom of ideology, freedom of desire, freedom of creativity. At the same time a free individual exists in a social environment, and living in a society is regulated by a system of norms, rules, behavioral models that must be guided by. In the Middle Ages, scholars formulated a paradox called the “Paradox of omnipotence.” The essence of the paradox is: “Could God create a stone so heavy that even He could not lift it?”

This paradox ceases to be a paradox if a person is understood as a stone, because a person is endowed with free will, and the personal freedom cannot be limited. Therefore, God created a stone that he cannot lift. The modern society of the 21st century, as never before, opens up for each person the opportunity to choose not only in the domestic or professional spheres, but also in the moral principles, which were quite conservative in the past. Until the twentieth century, belonging to a class, estate, religion, state played a huge role in the fate of a person. The existential freedom of a person in the conditions of alienation of absolute morality and the real presentation of excessive possibilities of unlimited choice creates a socio-cultural situation outside of prohibiting barriers.

The concept of *freedom* includes freedom of expression as a natural human right, which implies the ability of a person to express in any form an attitude of a probabilistic nature to any phenomena, processes, events, facts of reality, present, past and future, as well as to assess them. Freedom of self-expression of a person can be classified into the following types: 1) depending on the forms of consciousness – freedom of expression of a person's religious, legal, political and other views; 2) depending on the content of views – freedom of expression of views and assumptions and freedom of expression of opinions and assessments; 3) depending on the forms of external expression - freedom of expression of views in different forms: verbal (oral, written, printed), non-verbal, combined (combination of verbal and non-verbal forms); 4) depending on how adequately a person's views reflect objective reality – freedom of expression of true views and freedom of expression of false views; freedom of expression of objective views and freedom of expression of

subjective opinion. The structural elements of freedom of expression as a natural right are highlighted: to adhere to one's opinion; freely express views (this right covers freedom to seek, receive, distribute, impart information and ideas); change your views; not express your views; the ability to give up your views<sup>4</sup>.

To modern transnational global challenges, including the world division of labor, the migration crisis, international terrorism, environmental disaster, technological innovation, information technology, standardization of legislation, the convergence and fusion of cultures of different countries<sup>5</sup>, are added world epidemics that affect all of the above. This is an objective systemic process which covers all spheres of social life. It cannot be stopped and it is difficult to correct it. All these processes give rise to new problems of personality self-determination in the normative field.

The purpose of the study is to trace the historical development of the normative field and determine the content of this concept.

## 2. METHODOLOGY FOR HISTORICAL ANALYSIS

The methodological basis of the research is a system of conceptual approaches, general scientific and special legal methods, as well as methods of scientific cognition. At the same time, the choice of conceptual approaches is primarily due to the interdisciplinary, complex nature of the study and the peculiarities of the selected problematic.

The methodology for studying the normative field in the context of the dynamics of the

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<sup>4</sup> Lily Yarmol, Freedom of Expression and Problems of Legal Safeguards for Its Implementation in Ukraine (General Theoretical Research), (Lviv: Polytechnic National University of Ministry of Education and Science of Ukraine, 2019): 31-32.

<sup>5</sup> Yuriy Bytiak, Oleg Danilyan, Aleksander Dzeban, Yury Kalynovskyi, Heorhii Finin, "Cyberspace and Virtual Reality as Characteristics of the Information Society", Revista Inclusiones, num 1, (January, 2021): 332-49.

development of a technogenic and information society involves the consistent application of general scientific, philosophical, legal, logical and special methods of scientific analysis. Scientific research is carried out simultaneously at two levels of methodological analysis: 1) the history of the development of the term “normative field” and 2) the study of the influence of the development of social, cultural and civilizational processes on the content and structure of the normative field. The complementarity of methods: logical, systemic-structural, comparative-legal, allows a multifaceted study of socio-cultural and technological innovations that can influence the regulatory field.

### 3. RESEARCH OF THE HISTORY OF THE CONCEPT OF *FIELD*.

#### 3.1. The history of the concept of *field* in psychology.

In 1900, Lord Kelvin spoke to the British Association for the Advancement of Science. He said: “There is nothing new left in physics, and there is nothing more to discover. All that remains is to carry out more and more accurate measurements”. He turned out to be wrong. Throughout his life, A. Einstein admired field theories and described the development of the field concept in this way:

“A new concept has appeared in physics, the most important achievement since Newton's time – the field. It took a great scientific imagination to understand that it is not charges and particles, but the field in the space between charges and particles, which is essential for describing physical phenomena. The concept of *field* turned out to be very successful...”<sup>6</sup>

Impressive advances in physics at the beginning of the 20th century. led to a tendency to extrapolate the theoretical achievements of this science to other areas of knowledge. Since the beginning of the 20th century, the use of the term “field” has been spreading in the humanities.

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<sup>6</sup> Walter Isaacson. Einstein: His Life and Universe (New York: Simon & Schuster, 2007), 675.

In psychology, the term “field” appears in Gestalt psychology, which was founded by three German psychologists - Max Wertheimer, Wolfgang Köhler and Kurt Koffka. The main principle of gestalt psychology is that a person's behavior is determined by the psychophysical field in which he is. The concept of *field* in this theory is revealed as the totality of coexisting facts, which are thought of as interdependent.<sup>7</sup>

Kurt Lewin describes the phenomenon of external manipulation of human behavior and introduces the concept of *fields of tension* into psychology. Man, wrote K. Levin, lives and develops in the “psychological field” of the objects around him.<sup>8</sup> In his model of psychological explanation of behavior, Kurt Lewin sought to analyze the conditions of occurrence of phenomena and reduce them to the main explanatory constructs. The concepts of *general dynamics*, such as tension, force, field (by analogy with electromagnetic and gravitational fields), have become the constructs.

The most significant for the study of behavior was Levin's requirement to analyze the situation as a whole. The result of this analysis was the equation of behavior, according to which behavior (B) is a function of personality factors (P) and environmental factors (E):  $B = f(P, E)$ . Thus, behavior (B) is a function of the person (P) and the environment (E). According to the theory of K. Lewin, it is the “fields of tension” that determines the behavior of a person, forcing one to behave exactly this way and not otherwise.

Modern psychology actively uses the categories “field of interpersonal interactions” and “interpersonal field”, “personal field”, “interactional field”. If the Gestalt term “field” entered as an integral part of the concept of the dynamic system of the subject's behavior in the psychological

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<sup>7</sup> Max Wertheimer. *Productive Thinking*. (New York: Harper and Brothers, 1945), 224.

<sup>8</sup> Kurt Lewin, *Field Theory in the Social Sciences* (Moscow: Academic Project, 2016).

field, then the use of this term in Jacques Lacan's psychoanalysis occurs without defining the content of the concept and in different meanings – as a linguistic field and as a field of the subject's transindividual reality<sup>9</sup>.

Jacques Lacan, on the basis of the general philosophy of Freudianism, tries to substantiate the possibility of treating and diagnosing mental illness through speech. In his research, Jacques Lacan seeks to turn psychoanalysis into a rigorous humanities science based on linguistic and logical-mathematical concepts, however, using borrowed terms from mathematical theories, the scientist does not give clear definitions of them in his research.

The reasoning of Jacques Lacan is criticized precisely in connection with the free use of mathematical terminology. For example, in the book “Intellectual Tricks” Alain Sokal and Jean Bricmont criticize J. Lacan because he borrows terms from various areas of mathematics, accusing him of abusing scientific concepts<sup>10</sup>.

Psychology actively uses the term “field”, but does not use the concept of *space*. It seems more accessible to explore the field of speech or the field of interpersonal relations than the space of linguistic communication or the space of subjective images. The field seems to be something limited, space is too wide, it has no boundaries.

### 3.2. The History of the Field Concept in Sociology.

In sociology and social psychology, the active introduction of the term “field” is associated with the expansion of scientific research related to the field of advertising and consumption, with an increasing interest in the mass media. In modern sociology, the use of the terms “social field”,

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<sup>9</sup> Jacques Lacan, *The Function and the Field of Speech And Language in Psychoanalysis* (Moscow: Gnosis, 1995).

<sup>10</sup> Alan Sokal and Jean Bricmont, *Intellectual Tricks. Criticism of the Modern Philosophy of Postmodernity*, (Moscow: House of Intellectual Books, 2002).

“socio-cultural field”, “image of the field”, “trading field”, “contact field”, “cultural program of the field” is spreading. The sociocultural field is considered as a situation of interaction that generates a new super-individual property that requires a certain type of action. As a result, it is not individual elements such as personality characteristics or social norms, but a specific social field that determines human behavior, which blurs the line between cause and effect. Here the understanding of the essence of the sociocultural field is consonant with the psychological theory of Kurt Lewin.<sup>11</sup>

The category of the field is not synonymous with “situation”, not identical with the concept of *space*. In modern sociology, contact fields of direct interaction of people are studied, where the effect of “infection” makes them unconsciously change their behavior: a company of friends, overwhelmed by strong emotions, fans at a football match, a crowd overwhelmed by consumer panic and so on. The field effect is used in focus groups where so-called “group dynamics” occurs. The family also acts as a field.

The cultural program of the field is a set of values, prescribing and prohibiting norms, and sustainable practice. At the level of society, the field program acts as culture; at the level of a social group, it acts as a subculture; at the level of the firm, it acts as local norms and values; at the family level or a company of friends it acts as a set of group norms and values. The cultural program describes the logic of meanings and the system of values.

The socio-communicative system is viewed as the language of the field. Each field has a cultural program that has its own specificity, due to different cultures or subcultures. “Within the field, social interaction is much more intense than between fields.

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<sup>11</sup> Kurt Lewin, *Resolving Social Conflicts & Field Theory in Social Science*, (Washington, D.C: American Psychological Association, 1997).

This is what makes it a field, i.e. a special section of social space.”<sup>12</sup> Sociologists who study consumer interests argue that in the conditions of the group field, individuals behave relatively uniformly (in comparison with other groups), accepting goals imposed by the field. Groups are characterized by a local cultural program and communication system (jargon, language stereotypes).

The concept of *field* in sociology is not identical to the term “external environment”. A person is opposed to the environment, while the field draws the individual into its inner existence, subordinating him to itself. The introduction of the concept of *field* makes it possible to remove the opposition between man and the social environment, where the personality is not opposed to the field, but is its element. In any field, behavior deviating from the declared norm is manifested, performing either a destructive role or catalyzing, ensuring the cohesion of the reference group.

Discourse is verbal social interaction. The discursive field determines the topics of communication, values, a set of keywords, symbols and terms used, the rules for expressing emotions. A person who has entered the boundaries of the discursive field (for example, postmodernism or Freudianism, Islam or Christianity, the Goth subculture or the emo subculture) is forced to follow the corresponding rules and requirements. The concept of a *discursive field* is used both in science and in the practice of mass media.

In modern sociology, the concept of *individual-personal field of the consumer* (the term was proposed by Vladimir Yadov<sup>13</sup>) is distinguished, which allows one to study how the norms of the sociocultural field are implemented at the individual level. A strong field is able to draw individuals by suggestion, example, socio-psychological infection, coercion.

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<sup>12</sup> Vladimir Ilyin, *Sociology of Consumption: Textbook for Academic Bachelor's Degree*, (Moscow: Yurayt Publishing House, 2019).

<sup>13</sup> Vladimir Yadov, *Sociological Research Strategy. Description, Explanation, Understanding of Social Reality*, (Moscow: Omega-L, 2007).

A person with a strong field is said to have an “aura” or “charisma.” A weak field is a field that has an almost imperceptible effect on the environment. People with a weak individual-personal field are not able to assess the situation, easily fall under the influence of suggestion or infection, are overly trusting, cannot resist the opinions of others.

The personal field has two vectors: 1) the ability to withstand the pressure of the socio-cultural field, and 2) the ability to influence other people. For example, all the students in the classroom listen to the teacher, but everyone assimilates the information to the best of his ability, motives, and the attention involved. Another example: in the same restaurant, customers with equal income choose different dishes. For sociology, the main function of the personal field is to explain the differences in the behavior of individuals who are in the same external conditions at the same time. The category of “personal field” allows us to study consumer behavior, which is of interest, first of all, to firms promoting advertising, advertisers and manufacturers.

### 3.3. The history of the concept of *field* in cultural studies.

The first examples of theoretical understanding of mass phenomena appeared at the turn of the 19th and 20th centuries. In the second half of the twentieth century, the interest of cultural researchers is shifting from fixing cultural regression to studying the influence of the phenomena of consumption and mass media on the socio-cultural sphere<sup>14</sup>. It is from this period that the concept of *field* has been actively used in culturological theory: the cultural field, the field of elite culture, the field of mass culture, the field of post-industrial culture. Today, the concepts of “information field of culture”, “mental field of culture”, “journalistic field”, “political field” are actively used. The special role of the mass media, which has increasingly manifested itself since the end of the 20th century, allows to introduce a whole range of new concepts, including “the field of journalism”, “the field of politics”, the “social field”.

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<sup>14</sup> Daria Smolkina, Transformations of Mass Culture in a Post-Industrial Society, (Ekaterinburg: Ural Federal University, 2012).

Pierre Bourdieu examines the relationship between the field of politics, the field of social sciences and the field of journalism. The journalistic field has an influence on other fields of cultural production, the effectiveness of which is determined by the structure of the first field, that is, with the distribution of various media and journalists according to the degree of their independence in relation to external types of pressure: the pressure of the readers' market, on the one hand, and the advertisers' market, on the other<sup>15</sup> The cultural field is a reflection of the main characteristics of the social field. Sustainable forms of social practices give rise to relatively stable norms and values, enshrined in the means of symbolic communication. The hierarchical organization of the social field imposes a similar organization and culture. Dominant and oppressed cultures, elite and mass cultures, subcultures of various classes, strata of society stand out.

A cultural field is a collection of numerous cultural texts created within the field of numerous trends and styles of art, as well as its various forms - literature, sculpture, painting, architecture. The complex structure of the cultural field combines the interests and tastes of various social groups associated with "high" and "low" cultures<sup>16</sup>. The cultural field has its own unique language – a certain system of signs, its own symbolism, which, according to Alexey Losev, is the result of thinking.<sup>17</sup>

Social heterogeneity does not allow us to perceive the cultural field as something once and for all predetermined and predictable.

### 3.4. The history of the concept of *field* in the philosophy of law.

To other branches of the humanities (as mentioned above), the growth of the introduction of

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<sup>15</sup> Pierre Bourdieu, *Outline of a Theory of Practice*. (Cambridge: Cambridge university press, 1977), 249.

<sup>16</sup> Svetlana Ikonnikova, *History of Culturology: Textbook for Academic Bachelor's Degree* (Moscow: Yurayt Publishing House, 2018).

<sup>17</sup> Liudmyla Harmash, Natalia Khalanska, Olena Nevelska-Hordieieva, Lyudmila Sidak and Zhannetta Yuryeva, "A. Losev and Russian Symbolists", *Amazonia Investiga*, num 24, (December 2019):493-499.

physical terms into legal sciences was facilitated by the huge advances in physics, mathematics, cybernetics, which influenced attempts to implement the achievements of the fundamental theory of scientific research into the humanitarian sphere. Exact sciences always strive to identify fundamental concepts that describe and explain reality through the construction of scientific theories and testability of results. This situation was adequately described by Ronald Dworkin:

“Legal positivism has many different forms, but they all have the general idea that law exists only in the form of certain human actions or decisions... Thus, we can establish the approach of positivism as a legal theory of a certain type: if P represents a legal judgment, and L(P) expresses the fact that a person or group acts in such a way that (G) becomes true, then (G) cannot be true until L(P) becomes true.”<sup>18</sup>

In jurisprudence, the concept of *field of law* was first introduced into circulation by Felix S. Cohen in his work “Field Theory and Judicial Logic” in 1950.<sup>19</sup> This concept of “field of law” is intuitively clear, however, there was no clear definition of it. Observation of the persistence with which the parties in court often defend the truth of directly opposite judgments on the basis of the same facts, leads Felix Coen to the idea of the paradoxicality of judicial logic, since in this situation a contradiction appears.

The second basic principle of logic, the principle of consistency, states that two conflicting judgments cannot be true at the same time: one judgment must be false. The question of whether a lie is permissible in society remains open. From one point of view, lying is considered absolutely unacceptable in society. From another point of view, there are exceptions to the absolute norm “do not lie”, or “lie” is permissible, and perhaps even acts as a system-forming factor introduced into the absolute. Some people argue the necessity and justification of “virtuous lies”: deception is a

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<sup>18</sup> Ronald Dworkin, “No right answer?”, *New York University Law Review*, Vol. 53, Issue 1, (April 1978): 1-32.

<sup>19</sup> Felix Cohen, “Field Theory and Judicial Logic”, *Yale Law Journal*, Vol. 59, Issue 2, (January 1950): 238-272.

necessary condition for a person's life in society, others rely on the opinion of Immanuel Kant: deception is associated with lack of freedom. And he believed that honesty and freedom, which represent the most important moral and practical ideas of reason, are interdependent.

However, Felix Cohen introduces subjective interpretations into the scheme of judicial debate. It allows the philosopher to approach this problem from a completely different side: depending on the angle of view and context, an opinion, judgment, event can be considered true or false: each of us operates in a value-charged field which gives shape and color to whatever we see. The proposition that no man should be a judge of his own cause embodies the ancient wisdom that only a many-perspective view of the world can relieve us of the endless anarchy of one-eyed vision.<sup>20</sup> This is similar to the position of an object in the field of physical forces: the place that words occupy in the context significantly affects their meaning. This opinion is built by analogy with the principle of relativity, considered by Einstein in physics.

An event, a point of view, value fields - all of this predetermines the subjective assessment of truth or falsity. Content passes through value fields and this influences a person's perception of messages and facts.

In modern scientific literature, in journalism, the terms “legal reality”, “legal space”, “normative field”, “legal field”, “normative legal field”, “legislative field”, “normative legislative field”, “constitutional field”, “constitutional-normative field”, “constitutional-legal field”. Also, in some articles you can find the concepts of “individual normative field”, “primary legal field”, “secondary legal field”, “social normative field”, “elementary field”.

In some works, “normative field” and “legal field” are used as synonyms, in other works, on the contrary, their difference is emphasized.

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<sup>20</sup> Ibid., p 242.

Thus, the term “field” in the context of legal reality has certainly gained popularity. However, the problem of its use is related to the fact that, despite its prevalence, there is practically no definition of this concept.

In the literature, the term “normative field” can be used as a “sign” word that defines the “recognition” of the content, as a metaphor, as a journalistic claim, as a well-known and widely used scientific category. Meanwhile, the very concept of “legal field” (as well as “normative field”), despite their popularity, is not unambiguously defined both in other fields of science and in jurisprudence. The very fact of the presence of not one, but a plurality of concepts (regulatory field, legislative and regulatory field, legislative and legal field, international legal field, domestic legal field, general regulatory field, legal regulation field, legislative field, regulatory space, legal space, etc.) should indicate not in favor of the terminological exhaustion. In some texts, the legislative and regulatory fields are interpreted as different (“weak legislative and regulatory field in the sphere of an active organizational structure of public debt management”), in others, on the contrary, they are combined into a single legislative and regulatory field; in some texts the volumes of concepts are considered as different: the international legal field and the normative field of the state, in others as equal concepts: the normative legal field.

Mass media use the term “legal field” in the meaning of “legitimacy”, “legality” (for example: “everything should be decided in the legal field” or “this dubious normative act was launched into the legal field”, etc.). In juridical literature, the categories “legislative”, “normative” and “legal” fields can be used as synonyms in some texts, and in others they can be presented as identical concepts. However, they all use these terms as categories known to everyone, not raising questions, and therefore do not disclose or specify their content.

We see the current situation as quite objective, which is associated with the choice of an adequate criterion for scientific analysis in various studies. Let us explain this with the following example. Human thinking is not only non-linear, but also multifaceted.

Mathematics constantly convinces us that the problem can be solved in different ways: it is permissible to put a stack of 3 books with another same stack of 3 books, but you can multiply 3 books in a stack by 2, since there are 2 stacks of 3 books on the table. The result will be the same. So, in everyday life, a person is able to solve the task facing it in different ways: you can jump over the hole, you can go around it, or you can put the board down and cross the hole along the board. When solving a scientific problem, the researcher must get one answer to the question posed, and this answer will be true. However, if there are different selection criteria, it is possible to get several true answers. The names of scientists are listed: Wilhelm Roentgen, Pierre Curie, Heinrich Rudolf Hertz, Max Planck, Emil Heinrich Fischer. The question is who is superfluous in this row, who needs to be removed? You can remove Fischer, since he is a chemist, and all other scientists are physicists. But this is only one possible criterion. It is permissible to remove Pierre Curie because he is French, while the other four scientists are German. Heinrich Rudolf Hertz can also be excluded from the above list, since he did not manage to become a Nobel Prize laureate.

Another example. The question is suggested: remove the extra city from the five listed cities: Madrid, Hamburg, Tokyo, London, Tunisia. Hamburg might be the correct answer. This city is the only one of the five which is not the capital. However, you can see other criteria for answering the question: four cities are seaports, and one city – Madrid – has no access to the sea. It is also acceptable to delete Tunisia, because this is a city located in Africa, the rest of the cities are in Eurasia, moreover, this is the only city from the proposed list, the name of which is identical to the name of the country.

Thinking activity to find an answer to a question is similar to scientific research, where, depending on the goals, objectives, direction of research, it is permissible to use different criteria that determine the choice of the concept: legislative field, regulatory field, legal field.

Mikola Panov argues that the formulation of a definition is a universal procedure for the

development of scientific knowledge; the essence of this logical operation in relation to legal terms consists in the formulation of knowledge in the field of state and legal phenomena. Panov divides all legal categories depending on their status, that is, their real place and role in legal science and practice, into two groups – “doctrinal” and “legal” juridical concepts, which together constitute the categorical apparatus of legal science.<sup>21</sup>

Doctrinal concepts are those legal concepts that appear as a result of cognitive activity and belong directly to science, thanks to which certain concepts, theories, teachings of jurisprudence are expressed. It is they that constitute the content of juridical science as a result of cognitive activity, carry the primary legal information. Legal concepts have received normative consolidation in the relevant regulatory legal acts, laws and regulations, belong not only to juridical science, but also to positive law.

So, in normative legal acts it is permissible to use categories that do not have a legal definition (i.e., are not defined as a categorical apparatus of jurisprudence), if such terms are uniquely defined in a general cultural context. The category “normative field” is classified by Panov as doctrinal concepts<sup>22</sup>. This is what makes it possible in some cases to widely apply it without a clear fixation of the content, although the inseparability of the normative field has already been fixed both from the socio-cultural field and from the philosophical and legal context.

Normality exists not only in law, but also in public life, in family life; it sets the parameters of social interaction. A formalized attitude to norms, which leads to a rupture of law and morality, is unacceptable, since the latter acts as a serious regulator of public and private life.

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<sup>21</sup> Mikola Panov, “Problems of methodology of formation of categorical-conceptual apparatus of legal science”, Law of Ukraine, num 1, (January, 2014) : 50–60.

<sup>22</sup> Ibid.

#### 4. RESULTS AND DISCUSSION

Modern science not only operates with the terms “moral” and “legal” fields, but also logically subordinates (the logical relation of coordination or subordination) “normative field” to their categories. In other words, the generic concept “normative field” is subdivided into two subordinate species concepts: “moral” and “legal” fields. The logical relationship between the categories “normative field” and “legal field” is considered as subordination (coordination), where the first concept is subordinate (large in volume, generic), and the second – subordinate (with less volume, specific). The legal field is a system of permissions and restrictions in social reality, which follows from the existence of legal norms.

The normative field is understood as a hierarchical structure, a set of all different social norms - legal, moral, religious, local, corporate, existing in interaction with each other. Based on the proposed definition, it is logical to justify the separation of the legislative and regulatory fields, because the first term is subordinate to another, and the use of the category “legislative and regulatory field” in the literature emphasizes that we are talking only about a legally enshrined norm in the current legislation.

Yuri Levada speaks about the coexistence and interaction of various normative fields with their own criteria of what is permissible – unlawful, agreed – uncoordinated, which is characteristic of various social systems in which there is a distinction between everyday and festive, one's own and another's, private and official<sup>23</sup>. Scientists identify heterogeneous normative fields – societal, group, role and others, the multiplicity of which is determined by the orientation and field of human activity. However, from a methodological point of view, it is inappropriate to talk about the coexistence and interaction of various normative fields, but it is necessary to consider a single space of the normative field with a multiple network of antinomies.

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<sup>23</sup> Yuri Levada, “Homo Post-Soveticus”. Social sciences and modernity, num 6, (2000): 5-24.

The normative field is built as a system, and exists in accordance with the laws of self-organization and self-development of the latter. Piotr Sztompka, on the contrary, insists that the normative field is not a system, because the system is a clearly organized space, but the field is a “soft” (in his expression) term that does not have a rigidly defined organization<sup>24</sup>. The system is a unity of identity and difference, reflects the unity of the internal and external conditions of its existence. Based on this, there is reason to consider the normative field as a system.

Carlos Eduardo Alchurron and Evgeny Bulygin proposed the concept of a normative set, a normative consequence and a normative system<sup>25</sup>. A normative set is a set of statements, among the consequences of which there are those that establish connections between cases and decisions. The normative set consists of certain sets of cases and decisions, or sets of properties and actions, for which the decision is necessarily a logically correct consequence arising from these properties and actions. Any normative set containing all its consequences will accordingly be called a normative system. When among the consequences of a set of statements there are those that connect the case and decisions, then this set has normative consequences. Bulygin insists on the distinction between the concepts of “normative system” and “law and order”. The scientist focuses on the peculiarities of understanding normative regulation and the operation of norms over time. According to Bulygin, a normative system is a set of norms fixed in the legislation of a certain state at a given time. In contrast to the normative system, the legal order of this state at a given moment in time, in addition to the explicit norms included in the normative system, are also norms that were in force earlier, but now canceled or changed. In other words, the rule of law is a time-ordered sequence of sets of norms – normative systems, the basis of which is the constitution of the state as the main authorizing norm.

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<sup>24</sup> Piotr Sztompka, *The Sociology of Social Change* (Oxford and Cambridge: Blackwell, 1993).

<sup>25</sup> Carlos Eduardo Alchourron, Evgeny Bulygin, *Normative Systems*, (Springer, 1971).

So, the normative system correlates cases with decisions, which means that at least one decision is a consequence of the normative set. If we consider the normative system as a set of norms, then all the statements that make up this system are normative statements (norms).

Alchurron and Bulygin put forward the concept of a *norm* that is neither absolute nor relative, and according to the ideas of the authors of “Normative Systems”, the idea of normative relations lies outside the bounds of logic and belongs to social regulation. Bulygin offers an interpretation of the normative system as a systemic order, which can be represented as a temporal sequence of many sets of norms. In the normative field, there are problems associated with contradictions between norms, the existence of conditional norms, as well as canceled norms, which are norms that lose their force under certain conditions.

In science, there is a division of systems into two types: there are momentary systems and dynamic systems. Momentary systems are short-term systems that cease to exist as soon as a new norm is added to a set of norms, or as soon as a norm belongs to a set of norms, or is removed from a set of norms. The dynamic system continues to be in time regardless of changes in the content of a set of norms. The normative field refers to the second type of systems.

Traditionally, science is based on the concept of truth. If norms, as prescriptions, are not considered as true or false, then the system loses hierarchical integrity.

However, the modern view of prescriptions allows us to evaluate them as adequate or inadequate to the real situation. If a journalist is filming a child's struggle for survival that has fallen into a river based on professional motives to get an unrivaled reportage or documentary, instead of helping the child get out of the water, who will call the journalist's behavior adequate to the situation? Proceeding from this, let us assume that a prescription, adequate to the situation, is considered true, and an inadequate situation, to be considered as erroneous.

Forgetting about professional ambitions and saving a child's life is an adequate norm, which can be considered true, and filming, leaving a child without help, such a prescription can be considered false.

So, the norm can be considered either true or false. Bulygin categorically denies the existence of absolute norms and insists on the absolute will of the legislator. This point of view is fully consistent with the socio-cultural trends of the 21st century.

By definition Miroslav Popovich, which is consonant with the views of Alchurron and Bulygin, the normative space is a system of interconnected measurements, the normative field is the realized space, “the reality that we “measure” and into which we establish its structure”.<sup>26</sup>

From our point of view, the normative field is the space for the existence of norms. The normative field includes norms – legal, religious (confessional and inter-confessional), moral (secularized morality, as opposed to religious), psychological, social, cultural and others. The normative field is provided to a person in the process of life, in the process of education, acquaintance with regulatory legal acts, interpersonal communication, in the implementation of religion, and so on. If legal norms fully coincided with religious one, and religious morality – with secularized morality, then a person would self-define in the dichotomous field “norm” – “not norm” (or “norm” – “pathology”). In the presence of a number of norms that do not coincide in the normative field, the person is forced to carry out the process of self-determination. So, a legal norm can recommend action, and a religious one - abstaining from action (for example, a legal norm - allows you to dissolve a marriage, and a religious one suggests refraining from divorce, in a number of countries same-sex marriages are legitimate, but in some cases, they are not recognized according to religious norms).

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<sup>26</sup> Myroslav Popovych, *Rationality and dimensions of human existence*, (Kiev: Sphere. 1997).

The modern cultural situation is characterized by the emergence in various fields of activity (politics, economics, ecology, computer science, genetics, medicine, etc.) new, unknown by the previous generation, moral problems, the solution of which cannot be achieved by deductive derivation of new requirements from old moral postulates. A normative field is a set that includes not only a set of norms, but also hierarchical relations between norms. The normative field is assigned by the individual. This assignment forms individual regulatory fields. An individual normative field is a hierarchy of norms assigned by the subject. Obviously, the formation of personality goes precisely through the appropriation of the normative field by creating an individual hierarchical structure of norms.

The normative field is a system of restrictions in social reality that follows from the existence of both legal norms and moral principles and moral ideals.

Dmitry Lukyanov considers religious legal systems as a separate legal phenomenon that exists in the modern world along with national, subnational, quasi-national and international legal systems; draws attention to modern trends in the rationalization of religion in legal discourse, both in secular legal systems and in religious ones.<sup>27</sup>

Possible models of legal regulation, by Lukyanov<sup>28</sup>, may be: 1) recognition and consolidation of the Christian tradition as the foundation of the social and legal system of Europe by corresponding disregard of the Muslim tradition; 2) distance from all religions, consistent secularization of law and the state; 3) recognition of the rights of religious communities, including Muslim ones, to regulate certain spheres of life on the basis of their own norms. The way in which the rights of religious communities to regulate certain spheres of life on the basis of their own norms are recognized can lead to religious understanding on the continent.

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<sup>27</sup> Dmitry Lukyanov, *Religious legal systems in the modern world*, (Kharkiv: Pravo, 2015).

<sup>28</sup> *Ibid.*

So, the multiplicity of not only separate norms, but also hierarchical normative complexes, constitutes the volume of the normative field. In the normative field, the axiological ideals of society are realized, the carriers of which are individuals as representatives of the subcultural worldview.

## 5. CONCLUSIONS

The concept of a *normative field* makes it possible to determine the sociocultural situation, being in which, a person becomes a subject of law. Each law can be considered from the point of view of the analysis of the elements of the normative field, makes the interpretation of the legal norm more meaningful. The normative field is not always clearly defined. It acts as a system that is constantly changing, and these changes depend on the restructuring of hierarchical relations between social norms, on the priority of the value of absolute moral norms over rational ones, or, conversely, on the priority of the value of rational norms over absolute ones; or a complete denial of the existence of absolute norms.

In the modern normative field, there are tendencies to expand the range of permissibility of norms: previously unacceptable norms are today popularized as completely permissible, norms that could be prescribed only as an opportunity, today are an everyday reality: sex change, surrogacy, artificial fertilization, and the like.

The situation of a constant increase in the volume of moral alternatives, the erasure of universally significant authorities leads to a complication of the moral choice, with renewed vigor actualizing the question of the interpretation of norms.

The modern cultural situation is characterized by the emergence in various fields of activity (politics, economics, ecology, computer science, genetics, medicine, etc.) – new, unknown to

previous generations, moral problems, the solution of which cannot be achieved by deductive derivation of new requirements from old moral postulates. Attempts to use the terms “legal field”, “legal space”, “legal system” as synonyms for the concept of *system of legislation* are not justified, because the concept of *legal field* can be considered as a set of: systems of rules of conduct established by the state (objective law); a system of rules that a citizen is guided by (subjective law); human rights systems (natural law); a system of general legal principles (principles) for regulating the behavior of subjects of social relations; systems of legal views and ideas (legal consciousness), systems for the implementation of all these rules, principles, norms and ideas (legal practice). Here, the real possibilities for the activities of subjects within the legal field are significantly expanded (compared to the field of the law in the legislative system) due to the inclusion in this field of legal acts of interpretation of ratified international documents, regulatory treaties, legal precedents, materials of legal practice, legal doctrine.

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