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PRACTICAL CONCEPTS OF LAW AS AN ARTIFACT KIND

Summary: It is often said that, in contrast to natural kinds, artifacts are mind-dependent, meaning that they somehow depend on either human beliefs or activities. In addition, some specifically claim that this mind-dependency of artifacts means that they are concept-dependent, i.e., that they are constituted by the concepts and intentions of humans (artifact authors or creators) and that the latter, in turn, determine what features are relevant for an artifact to be a member of a certain artifact kind. The paper therefore inquires into what these constitutive concepts are and what role they play. It also tries to explain the relationship between these concepts and the 'theoretical' ones. Since the paper's main thesis is that law as such is an artifact or, more precisely, that legal systems are artifacts, it considers the said issue specifically in relation to the jurisprudential views on the ontological character of law.

Keywords: legal systems, artifact kinds, institutional artifacts, concept-dependency, practical concepts, theoretical concepts

1. INTRODUCTION

According to the classical theory of concepts, concepts have a definitional structure. The concept of a given entity is a definition of that entity, expressing its necessary and sufficient conditions which serve as criteria for determining whether something is or is not that kind of entity and whether it falls under that concept.¹ By providing for the necessary and sufficient conditions, which in fact amount to the entity's necessary or essential features or properties, the concept is usually taken to describe the nature of the entity which it is the concept of. Since concepts are the building blocks of scientific theories, it seems that the same idea about concepts describing the nature of the theorised entity applies to any ontologically existing

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¹ See Margolis, E., Laurence, S., *Concepts*, The Stanford Encyclopedia of Philosophy (Spring 2014 Edition), Zalta, E. N. (ed.), <http://plato.stanford.edu/archives/spr2014/entries/concepts/>. Accessed 15 August 2015.

kind. The concept of either natural or artifact kind entity should be such as to express the necessary or essential properties of the entity whose concept it is. We find a concept adequate if it accurately describes the essence of the entity in question. I will therefore call such concepts 'theoretical' concepts. Of course, whether, in the case of artifacts, such 'theoretical' concepts describe the artifacts' necessary or essential properties or only the contingent but important ones and whether the "classical" theory of concepts rather than some other (e.g. a prototype theory) is more adequate depends on our view of the ontological character of artifacts. This is an issue I will not pursue here in detail.

Instead, I will attempt at a different line of inquiry. It is often said that, in contrast to natural kinds, artifacts are mind-dependent, meaning that they somehow depend on either human beliefs or activities. In addition, some specifically claim that this mind-dependency of artifacts means that they are concept-dependent, i.e., that they are *constituted* by the concepts and intentions of humans (artifact authors or creators) and that the latter, in turn, determine what features are relevant for an artifact to be a member of a certain artifact kind.² I will therefore inquire into what these *constitutive* concepts are and what role they play. I will also try to explain the relationship between these concepts and the above described 'theoretical' ones. Since the paper's main thesis is that law as such is an artifact or, more precisely, that legal systems are artifacts, in what follows I will consider the said issue specifically in relation to the jurisprudential views on the ontological character of law.

2. LAW AS A CONCEPT-INDEPENDENT ARTIFACT?

If one were to take law to be a natural kind, as law perhaps is seen from some natural law perspective,³ then presumably it would have a (descriptive) 'theoretical' concept, but not the one identified above as a "constitutive" concept. This would be so since natural kinds are not concept-dependent in their existence, but it is still valuable for us to have some 'theoretical' concept of them. The concept of law would be a description of law's necessary natural properties, i.e., the properties law cannot fail to have by its nature.

Some, however, claim that even if law were seen as an artifact kind, it would be possible for law to have a concept-independent nature,⁴ which would seemingly result in our attempts to elucidate a descriptive 'theoretical' concept of law. According to Schauer, "some of the socially constructed part of the world is both social and fluid, and so our understanding of abstrac-

² See Thomasson, A. L., *Artifacts and Human Concepts*, in Margolis E., Laurence, S. (eds.), *Creations of the Minds*, Oxford University Press, New York, 2007, pp. 52–73.

³ "Some people believe that norms of morality or law do not have to be posited by any act in order to be valid. For, they believe, there are norms which are immediately valid or claim to be immediately valid since they are given in reality or 'nature', that is, they are *immanent* in nature. Hence their validity is no more 'arbitrary' than that of the causal laws of nature. Their validity is not conditional upon the will of the subjects whose behaviour they regulate, nor upon the will of any norm-positing subject. Their validity is – in this sense – as objective as that of the law that metals expand when heated. The nature in which these norms are immanent is either Nature in general, i.e. the totality of reality, or a particular nature, i.e. that of man. Such is the assumption of so-called *Natural Law theory*, which is opposed to ethical and legal positivism." Kelsen, H., *General Theory of Norms*, Oxford University Press, New York, 1991, pp. 4–5.

⁴ Schauer, F., *Is There a Concept of Law?*, in Gizbert-Studnicki T., Stelmach J. (eds.), *Law and Legal Cultures in the 21st Century – Diversity and Unity*, 23rd IVR World Congress – Plenary Lectures, Wolter Kluwer Polska, Warsaw, 2007, p. 21.

tions like ‘culture’ and institutions like ‘government’ are dependent on ever-shifting collective human notions of what culture and government just are. But other parts of the constructed world are artifacts like clocks and hammers and chairs, and although these and all other artifacts too are the products of human efforts, they appear to be different from culture and government. And this difference derives from the way in which such artifacts are considerably less dependent upon a social or collective process for their creation – the person who made the first hammer may well have done so all alone – and, in part, because once created the actual artifacts are rarely fluid”.⁵ Therefore, if one would take law to be a type of artifact which resembles ‘ordinary’ artifacts like clocks, hammers and chairs, law would have a sort of concept-independent nature (even if perhaps its initial creation depended on the existence of some concept of it) and there would only be room for a descriptive and ‘theoretical’ concept of law, as is the case with concepts of natural kinds. Viewing law as this type of artifact would also, as Schauer suggests, encourage us “to focus our attention on the empirical existence of law, and on the question of the relationship of the thing we happen to call ‘law’ and the concept of law we are trying to locate”.⁶

On the basis of this ‘finding’ that law might be seen as a type of concept-independent artifact, Schauer goes on to make the following distinction – one between those who see law’s empirical existence and may therefore be regarded as those who view law as an artifact and those who claim that the concept of law is “a necessary precondition for the very existence of the category of law” and who may therefore be regarded as those who reject that law is an artifact.⁷ On this view, it seems that, if law is an artifact (of the type Schauer identifies as concept-independent), the concept of law plays no more than a descriptive, ‘theoretical’ role, and if law is not an artifact (or, of course, a natural kind), then there exists an additional, “non-theoretical” (or “practical”), concept of law which plays a constitutive role. As B. Bix puts it, “if the boundaries of ‘law’ are not set by ‘the way the world is’ (...), then what does establish those boundaries? The obvious answer appears to be the concept itself. (Of course, by speaking of the concept, we mean indirectly the population(s) as a whole who developed the concept in question.) It is the concepts that set the boundaries”.⁸

3. LEGAL SYSTEMS AS ABSTRACT INSTITUTIONAL ARTIFACTS

I think, however, that Schauer’s view of the relationship between ‘law’s’ nature (i.e., whether ‘law’ is an artifact kind or not) and the consequences this has for the role of the concept of law is based on the misleading assumption that law is an artifact similar to ‘ordinary’ artifacts in that it is concept-independent. Here I will leave aside the fact that on the influential view on artifacts in general philosophy, one advocated by Risto Hilpinen and Amie Thomasson,

5 *Ibid.*, p. 20.

6 *Ibid.*, p. 21.

7 *Ibid.*, pp. 21–22.

8 Bix, B., *Joseph Raz and Conceptual Analysis*, APA Newsletter on Philosophy and Law, Spring 2007, Vol. 6, No. 2, p. 2.

'ordinary' artifacts are also concept-dependent entities.⁹ As I have argued elsewhere,¹⁰ while it is true that the theories of artifacts developed in general philosophy over the last thirty years seem applicable to 'ordinary' artifacts (such as chairs, clocks or hammers), they do not seem to give an appropriate account of all the objects intentionally created for a certain purpose, i.e., of those artifacts that do not fall into the category of 'ordinary' artifacts. Specifically, there are entities, institutional objects (e.g., money, boundaries, private property, legislatures, governments, laws, corporations or nation-states), for some of which it may indeed be claimed that they are objects intentionally created for a certain purpose under a certain description, and thus artifacts, according to their standard definition. I call such entities institutional artifacts. However, as opposed to 'ordinary' artifacts, to which, as has been claimed, only the individual intentions of their authors are relevant,¹¹ institutional artifacts require for their existence (both their creation and their continued existence) collective intentionality.¹² Additionally, they require constitutive rules on the basis of which humans either impose status functions on existing persons or material objects (concrete institutional objects), or bring into existence new entities by making it the case that certain entities with certain status functions exist (abstract institutional objects).¹³

According to the artifact theory of law I sketched in my paper *Can There Be an Artifact Theory of Law?*, legal systems, for instance, are precisely this type of artifact, i.e., (abstract) institutional artifacts.¹⁴ Thus, in order to see why Schauer's claim that on the artifact conception of law's nature there is only room for a theoretical concept of law, playing a descriptive role, does not fully capture the entire story about law as an artifact and the roles concepts play with regard to the artifact kind 'legal system', it is first necessary to explain what it means to say that legal systems are abstract institutional artifacts. Legal systems are artifacts because they are created by authors (as a rule collective ones) having a particular intention to create the institutional artifact 'legal system', based on the authors' substantive and substantively correct concept of what the legal system is, under the condition that this intention be largely successfully realised. The intention required here is, of course, not an individual intention or a sum of individual intentions but the result of collective intentionality. By being institutional by nature, institutional artifacts differ from 'ordinary' artifacts (such as chairs, hammers or clocks) in that they are rule-based and require collective recognition (acceptance). This means that they can initially be created only if there is collective recognition of the relevant constitutive rules and can continue to exist only for as long as this recognition is maintained. Finally,

9 See e.g. Hilpinen, R., *Artifact*, The Stanford Encyclopedia of Philosophy (Winter 2011 Edition). Zalta, E. N. (ed.), <http://plato.stanford.edu/archives/win2011/entries/artifact/>, accessed 15 August 2015 and Thomasson, *op. cit.* note 2.

10 See Burazin, L., *Can There Be an Artifact Theory of Law?*, *Ratio Juris – An International Journal of Jurisprudence and Philosophy of Law*, forthcoming 2016, pp. 15–16. Available at: <https://www.academia.edu/9987523/CanThereBeArtifactTheoryofLaw>.

11 Pace Searle, who claims that even such artifacts as hammers or screwdrivers are created by imposing on them a certain function by collective intentionality. See Searle, J. R., *The Construction of Social Reality*, The Free Press, New York, 1995, p. 126. See also Thomasson, A. L., *Public Artifacts, Intentions, and Norms*, in Franssen, M.; Kroes, P.; Reydon, T. A. C.; Vermaas, P. E. (eds.), *Artifact Kinds*, Springer, 2014, pp. 54–55, who now thinks "that there is an important and revealing sense in which members of public artifact kinds *do* depend on intentional states beyond those of their makers".

12 For a short overview of the different views about when some mental state may be regarded as *collective*, see Thomasson, A. L., *Social Entities*, in Le Poidevin, R. et al. (eds.), *Routledge Companion to Metaphysics*, Routledge, London, 2009, p. 547.

13 Searle, *op. cit.* note 11, pp. 41–51; Searle, J. R., *Making the Social World: The Structure of Human Civilization*, Oxford University Press, New York, 2010, pp. 22 and 97–102, and Thomasson, A. L., *Realism and Human Kinds*, *Philosophy and Phenomenological Research* 67(3), 2003, pp. 587–588.

14 See Burazin, *op. cit.* note 10, pp. 23–28.

they are abstract in the sense that they are not created by imposing the status function 'legal system' to any existing physical object or person but by making it the case that they exist provided certain conditions are fulfilled. Making it the case that a legal system exists is realised through the collective recognition of the existential constitutive rule laying out a set of conditions for there to be a legal system.

The rule through the collective recognition of which the relevant community makes it the case that there is a legal system creates the context in which an instance of the legal system can emerge. This rule may be formulated as follows:

We (collectively) recognise that, if conditions *C* obtain, then there is a legal system.

The set of conditions *C* laid out in a legal system's constitutive rule represents sufficient existence-conditions for there to be a legal system. Since a legal system is an artifact kind, this set of existence-conditions seems to include at least the set of conditions for being an artifact. It thus includes the conditions of both authorship and intention. The authorship condition requires that there be an author (as a rule a collective one), collectively recognised as such by the relevant community, who creates a legal system. The intention condition requires that this author have a particular intention (resulting from the collective intentionality of people constituting the collective author) to create the institutional artifact kind 'legal system', that this intention be based on the author's substantive concept of the legal system, and that eventually this intention be at least largely successfully realised. Since these conditions define the artifactual character of the legal system, one can say that they, in fact, amount to the initial concept of the legal system. Moreover, the set of conditions laid out in a legal system's constitutive rule usually also includes further conditions. These additional conditions may vary from the simple requirement that whatever a group of people whom the community (collectively) recognises as the authors of the legal system counts as a legal system is a legal system to more detailed and informed existence conditions of a legal system (e.g., that the totality of rules authors count as belonging to a legal system is a legal system or that a legal system is whatever authors count as a legal system as long as they themselves are also legally limited by it or provided that the legal system upholds human rights, expresses the rule of law principle, etc.). The concept of law is, after all, the concept of an artifact and since artifacts are susceptible to change (depending on human interests), their concepts can also change. This further means that through collective recognition of a legal system's constitutive rule the relevant community's concept of the legal system plays a stipulative role in establishing the 'nature' of the legal system.

This, however, is a first-level stipulation only. The relevant community thus sets out the initial general idea of its legal system but does not as yet create an instantiation of it. For an instantiation of a legal system to emerge, someone has to concretise or implement the general idea (i.e., someone has to bring about that conditions *C* from the legal system's constitutive rule obtain). Since, if we take Hart's theory of legal systems as explanatorily adequate, a legal system acquires its main feature (i.e., that of being a system of rules) through the rule of recognition, which rule is constituted by the practices of legal officials, one may say that legal officials are the true (collective) author of a particular instantiation or token of the legal system. And if legal officials are indeed the authors of a legal system, collectively recognised by the relevant community as having the status function 'legal officials' (a function which implies the corresponding deontic powers of identifying, creating, modifying and applying law), it should not be false to assume that their practices are collectively intended by them as practices

exercised in view of fulfilling their official role. The manifestation of their collective intention to act in such a way is most discernable in their regarding their patterns of behaviour as a rule – a rule (of recognition) which, according to Hart, forms the foundations of a legal system.¹⁵ It may thus be said that their collective intention is the intention to create a legal system. According to the artifact theory of law, legal officials' intention to create an instantiation of the legal system is based on their substantive concept of the legal system. If one remains within the framework of Hart's theory, it is reasonable to assume that the concept of the legal system officials have includes at least the following two features: that the legal system is a system of valid legal rules, i.e., rules that are members of one and the same system of rules, and that the legal system is structured as a union of primary and secondary legal rules. So what the relevant community's constitutive rule of a legal system does is create the context in which the practice of legal officials as authors of a legal system, resulting in the rule of recognition and other secondary rules, can be understood as concretising or implementing the community's general concept of a legal system and stipulating the 'nature' of the legal system at the second level. For, as Finnis says, "the (making of the) artefact is controlled but not fully determined by the basic idea (say, the client's order), and until it is fully determinate the artefact is non-existent or incomplete".¹⁶

Of course, apart from being relevant to the making of a legal system, the relevant community's (collective) concept is relevant to its continued existence. A legal system exists only in so far as the relevant community collectively recognises it as being a legal system or only in so far as the author's intentions at least largely match the relevant community's (collective) concept of the legal system. This is in tune with Hart's claim that where there is a general disregard of the rules of a system, one should say that "in the case of a new system, that it had never established itself as the legal system of a given group, or, in the case of a once-established system, that it had ceased to be the legal system of the group".¹⁷ It follows therefrom that some person or group of persons could create a new system of rules which would have its rule of recognition but which would not amount to a particular community's legal system since there would be a general disregard of its rules. According to the artifact theory of law, the authors and their intentions would no doubt exist but since collective recognition by the relevant community lacks, there would be no institutional artifact.

4. PRACTICAL CONCEPTS OF LAW

So coming back to our initial question concerning the way the roles of concepts bear on the ontological character of law, it is first important to note that what is at issue here is not just one concept of law, but at least two (in primitive legal systems) or three concepts of law (in more developed legal systems). Secondly, it is important to distinguish between 'non-theoretical' or 'practical' concepts of law (which are constitutive of a legal system) and 'theoretical' concepts of law (which amount to a theoretical account of the practical concepts). Two such

¹⁵ Hart, H. L. A., *The Concept of Law*, Oxford University Press, New York, 1994, p. 100.

¹⁶ Finnis, J., *Natural Law and Natural Rights*, Clarendon Press, Oxford, 1984, p. 284.

¹⁷ Hart, *op. cit.* note 15, p. 103.

'non-theoretical' or 'practical' concepts have just been described in the very brief outline of the artifactual character of legal systems. One of the two 'practical' concepts of law is that held by the relevant community. It is the concept embedded in the community's social practices consisting primarily of following rules as rules of the community. Since it lives in the practice of the relevant community and is the conceptual understanding of a given legal system's participants, linking their doings and sayings regarding the following of the rules of their community, one can say that it amounts to the relevant community's nonpropositional conceptual understanding of the legal system.¹⁸ This concept serves as the basis for the community's collective recognition of the constitutive rule which lays out the existence conditions for there to be a legal system. The relevant community's concept thus includes a conceptual understanding of a legal system's existence conditions. This understanding necessarily has as its object at least a conceptual understanding of what it is for something to be an artifact. It thus includes at least an understanding of the authorship of a legal system and an understanding of the author's intention to create a legal system. However, it often includes an understanding of, for example, some additional existence conditions for a legal system. This may be an understanding of the simple requirement that whatever a group of people whom the community (collectively) recognises as the authors of a particular legal system counts as a legal system is a legal system to more detailed and informed existence conditions of a legal system. Since these conditions vary over time and places, depending on shifting human interests and purposes, the relevant community's concept of law, which includes an understanding of the legal system's existence conditions, also changes. Furthermore, since the relevant community collectively recognises the constitutive rule of its legal system on the basis of the concept of law it has developed, it is safe to acknowledge that the community's concept plays a stipulative and thus constitutive role in establishing the 'nature' of the legal system.

As was noted above, however, this is a first-level stipulation only. The relevant community's social practices create the context in which instances of the legal system can emerge. Social practices, according to Tuomela, "are conceptually the basis of thinking and acting on the basis of all thinking and all other conceptual activities, viz., thinking and acting on the basis of concepts".¹⁹ In the case of legal systems, the relevant social practices are conceptually the basis of creating instances of legal systems on the basis of the relevant community's concept of law. The relevant community thus sets out the initial general idea of its legal system but does not create an instantiation of it. In fact, whether the relevant community also creates an instantiation of it or not depends on whose practices establish the rule of recognition. For a primitive legal system to emerge it is sufficient that the relevant community acknowledge the reference to some list or text of rules as authoritative with regard to the question of whether some rule is a rule of their community.²⁰ Where this is the case, there exists only one 'non-theoretical' or 'practical' concept of law, i.e., that of the relevant community, which includes not only an understanding of the basic existence conditions for there to be a legal system, but also an understanding and recognition of their legal system's rule of recognition. However, in the case of a developed legal system with a more complex rule of recognition (which identifies rules as

¹⁸ For the distinction between nonpropositional and propositional understanding see Schatzki, T. R., *Social Practices – A Wittgensteinian Approach to Human Activity and the Social*, Cambridge University Press, Cambridge, 1996, pp. 92–93.

¹⁹ Tuomela, R., *The Philosophy of Social Practices – A Collective Acceptance View*, Cambridge University Press, Cambridge, 2002, p. 43.

²⁰ See Hart, *op. cit.* note 15, pp. 94–95.

the rules of the system by reference to some general characteristic possessed by the primary rules),²¹ it is the practice of officials that establishes the rule of recognition. Since the rule of recognition marks the transition from a pre-legal state of affairs to a state of affairs where a legal system exists, it may be said that for an instantiation of such a developed legal system to emerge, there have to be, besides the relevant community, officials to concretise or implement the general idea of a legal system shared by the relevant community. Where this is the case, there then exist two 'non-theoretical' or 'practical' concepts of law, i.e., that of the relevant community and that of officials. The concept of law shared by legal officials is embedded in the relevant officials' social practices. Since it lives in the practice of the relevant officials and is the conceptual understanding of a given legal system's participants (i.e., those participants having an official role), one can say that it amounts to the officials' nonpropositional conceptual understanding of a legal system. This concept serves as the basis for the officials regarding their pattern of behaviour as a rule setting the validity criteria for the rules of their system. Besides an understanding of the relevant community's concept of law, the officials' concept of law thus includes a conceptual understanding of at least two features of a legal system: that the legal system is a system of valid legal rules, i.e., rules that are members of one and the same system of rules, and that the legal system is structured as a union of primary and secondary legal rules. So, as has already been noted above, the relevant community's concept of law and their recognition of their legal system's constitutive rule create the context in which the practice of legal officials as the authors of the legal system can be understood as concretisation or implementation of the community's general concept of the legal system and stipulation of the 'nature' of the legal system at the second level.

However, these 'non-theoretical' or 'practical' concepts of law, i.e., the relevant community's and the officials', are not some universal concepts of the legal system. They are 'our' concepts, or 'folk' concepts, or nonpropositional conceptual understandings of the legal system. Since the 'practical' concept of law is a 'folk' concept, and the folk can get it wrong – and if not wrong, then at least they cannot elaborate it in detail and in a coherent and intelligible manner – knowledge of this concept can be got only by engaging in conceptual analysis (intuitive or empirical) of what the folk think about the legal system. Another reason for engaging in the analysis of the 'folk' concept is that the folk have only a substantive concept of the legal system. Since legal systems develop, concepts of legal systems develop as well. It is therefore impossible to get full knowledge of the concept of the legal system only by describing its folk concept.

Consequently, it is necessary to develop a theoretical account of the folk concept of the legal system, i.e., to develop a 'theoretical' concept of law. Since the theoretical account developed can be disengaged from practice (in such a way that practice be formulated by participants in sentences furnished to nonparticipants), such theoretical account is then our propositional understanding of the legal system.²²

21 See *ibid.*, p. 95.

22 Compare Schatzki, *op. cit.* note 18, pp. 92–93.

5. CONCLUDING (METHODOLOGICAL) REMARKS

The substantive ‘non-theoretical’ or ‘practical’ concept, whether that of the relevant community or that of officials, is an *a priori* concept. It does not describe something that already exists, but constitutes (or at least creates the possibility for) a new entity. It is therefore a deeply normative concept. It is normative since it is based on the intentions of those whose concept it is, “tying” thus to the legal system a set of features which determine the legal system’s intended character. However, although the concept itself is normative, this does not mean that the methodology for discovering its content should also be normative, rather than analytic, descriptive or explanatory. This, however, has consequences for the analysis of particular instances (tokens) of the concept. In order to tell whether a particular instance is a proper instance of a concept, we have to first evaluate the instance against the background of the relevant community’s concept of the legal system. In order to know whether a particular entity *x* is a legal system, we initially have to know what this concept should be in the first place and then determine, as Hilpinen puts it, “the degree of fit or agreement” between the intended character of a legal system and its actual character.²³ Since the concept of the legal system is the concept of an artifact, and artifacts are susceptible to change (depending on human interests), the concept itself can change. It changes through the subsequent emergence of its new instances and the uses to which these new instances are put by people. Since the concept of the legal system is malleable, and indeed changes through time, it cannot have necessary and sufficient features. Its features are contingent – they depend on how the concept develops. Consequently it seems that there is no room for the essentialist approach to the giving of an adequate account of the concept of the legal system. Rather, we as legal theorists should continually engage in the conceptual analysis of the ever changing and developing practical (‘folk’) concept of the legal system in order to describe its, as Schauer correctly emphasizes, important but contingent features and thus acquire knowledge of what the legal system really is.

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²³ Hilpinen, *op. cit.* note 9, ch. 5.

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PRAKTIČNI POJMOVI PRAVA KAO ARTEFAKTNE VRSTE

Sažetak

Često se kaže da su, za razliku od prirodnih vrsta, artefakti umno ovisni, podrazumijevajući pod tim da artefakti na neki način ovise o ljudskim vjerovanjima ili djelovanjima. Osim toga, neki još određenije tvrde da ta umna ovisnost artefakata znači da su oni pojmovno ovisni, tj. da su konstituirani pojmovima i intencijama ljudi (autora ili stvaratelja artefakata) te da ovi, pak, određuju koja su to važna obilježja nekog artefakta koja ga čine pripadnikom neke artefaktne vrste. U radu se stoga ispituje što su to konstitutivni pojmovi i koju ulogu imaju. Također, nastoji se objasniti odnos između tih pojmova i onih "teorijskih". Budući da je osnovna teza rada da je pravo kao takvo, ili preciznije, pravni sustav artefakt, spomenuto se pitanje razmatra posebno u odnosu na pravnofilozofska gledišta o ontološkom značaju prava.

Ključne riječi: *pravni sustavi, artefaktne vrste, institucionalni artefakti, pojmovna ovisnost, praktični pojmovi, teorijski pojmovi*