Assist. Prof. Mario Krešić, Ph.D.*

THE SCIENTIFIC APPROACH TO LAW AND THE ROLE OF LEGAL CONSCIOUSNESS

UDK: 340.12
DOI: 10.31141/zrpfs.2022.59.144.257
Izvorni znanstveni rad
Primljeno: 21. 10. 2021.

The present article constructs the concept of a scientific approach to law as consisting of non-cognitivism, monistic ontology, non-formalism, non-reductionism of law to linguistic outputs, a (two-level) description of reality, falsifiability and rationality. The article claims that: the scientific approach to law, as constructed in this article, presents the key element of Alf Ross' theory on law; and that the concept of legal consciousness plays important methodological and explanatory roles in this scientific approach to law.

Key words: *scientific approach to law, legal consciousness, monistic ontology, non-cognitivism*

1. INTRODUCTION

The attempt of modern legal theory to describe or prescribe the *practices related to law* in a way to be perceived as scientific-like practices is an effort rooted in the modern movement of promoting the scientific conception of realty. Alf Ross is one of the legal theorists who has developed the theory of law following this attitude towards science and reality as it emerged in the Age of Reason. His attempt differs from other attempts of this kind and contemporary theorists have already described many elements that make his approach a specific one. What is missing in these descriptions of his work are: a) the construction of the overall concept of a scientific approach to law that can be ascribed to his work; b) the analysis of the role of his concept of legal consciousness for such a concept. The goal of the present article is to construct the concept of scientific approach to law that can be seen as part of Ross' legacy and to indicate the methodological and explanatory roles the concept of legal consciousness plays in the scientific approach to law. We will introduce the concept of legal consciousness in this introductory section, explain the scientific approach to law in the second section, and the role of legal consciousness in this kind of approach in the third section.

* Mario Krešić, Ph.D., Assistant Professor, University of Zagreb, Faculty of Law, Trg Republike Hrvatske 14, 10000 Zagreb, Croatia, e-mail: mario.kresic@pravo.hr; ORCID: https://orcid.org/0000-0002-0014-4157

For the purpose of this article, legal consciousness is defined as the structure of attitudes that are of a specific kind. In opposition to the attitudes based on interests,[1] the attitudes constituting the legal consciousness, at least at first sight, are not motivated by interests. These "disinterested attitudes" are like moral attitudes governed by the sense of duty. But unlike moral consciousness, focused on interpersonal relations, legal consciousness consists of the attitudes towards the norms governing a society. Legal consciousness can be characterized as "irrational" due to its origin and its feature of opposing practical considerations, but at the same time it is suitable to be rationalized. It influences the law, but it can also be influenced by law. It can be of different types based on the criteria of to whom it belongs – official and popular legal consciousness – and on whether it refers to the norms of behaviour of the members of the community or the norms of creation and application – material and formal legal consciousness. This definition is the result of the reconstruction of the Alf Ross' concept of legal consciousness described in more details in the previous articles.[2]

2. THE SCIENTIFIC APPROACH TO LAW

2.1. The elements

Following the main tenets of continental realism,[3] to which Ross belongs, we claim that the elements listed below can be recognized in Ross' theory on law. As explained below, the third and the fourth elements are implied by the second one.

1. Non-cognitivism;
2. Monistic ontology;
3. Non-formalism;
4. Non-reductionism of law to linguistic outputs;
5. Scientific approach to law.

These elements of Ross' theory have already been recognized by scholars including those who refer critically to Ross' thesis. Torben Spaak has analysed Ross' non-cognitivism and ontological monism ('ontological naturalism').[4] Before that, H.L.A. Hart criticized Ross's account of the legal validity of norms which

[1] Interest in the sense of what Alf Ross' calls "interest in narrower sense". Ross A., *On Law and Justice*, The Lawbook Exchange, Clark, New Jersey, 2004, p. 359.

[2] See: Krešić M., *Ross's concept of the legal consciousness and deliberate normative change*, Pravni vjesnik, Journal of the Faulty of Law in Osijek, Vol. 35, no. 3-4, 2019; Krešić M., *Legal consciousness and (de)constitutionalisation of the legal order*, in: Mercescu A. (ed.), Constitutional Identities in Central and Eastern Europe, Peter Lang, Berlin, 2020.

[3] See: Fittipaldi E., *Introduction: Continental Legal Realism*, in: Pattaro E.; Roversi C. (eds.), Legal Philosophy in the Twentieth Century: The Civil Law World, Tome II, Springer, Dordrecht, 2016.

[4] Spaak T., *Ross on the Dualism of Reality and Validity*, Utopía y Praxis Latinoamericana, vol. 20, no. 71, 2015.

involves 'empirical methodology'[5] and we can say that Ross' account - that attempts to "uncover behind legal forms and theories the 'facts of social reality'"[6] - is based on ontological monism. Hans Kelsen also criticised Ross' account of validity and his insights on monism-dualism in the realm of law.[7] In regards to the non-formalism, William Loutit Morison argued that Ross is not a "positivist" - in a specific sense of that word known today as formalist – "in the sense that [Ross does not] regard law as a closed system of rules within which judges engage in purely derivational exercises" and in the sense that "[Ross does not] limit his horizon to the analysis of legal doctrine".[8] On the contrary, Ross' theory involves insights on the creativity of judges, a specific account of the sources of law and judicial method, as well as insights on legal politics and applied sociology of law.[9] In regards to the non-reductionism of law to linguistic outputs (in the following text: non-reductionism) we can mention the distinction made by Jakob Holtermann between, on the one hand, Hart and Kelsen's accounts of law and, on the other hand, Ross' account of law. Hart and Kelsen are focused only on inter-normative inferences; by contrast Ross is focused on the totality of judges' actual normative beliefs which are to be studied by legal science as a sociopsychological study of the beliefs commonly held by judges.[10] We should add, not only beliefs, but attitudes too.

In regards to the fifth element contemporary jurisprudence has recognized Ross' attempt to make legal doctrine more scientific.[11] Spaak has emphasized that Ross' theory of law espoused methodological naturalism requiring empiricist methods for attaining knowledge of the law.[12] According to Holtermann, "unlike Hart, Ross is clearly not interested in the ordinary usage of […] legal terms *per se*. His goal is epistemological, *i.e.*, to show how the doctrinal study of law can be possible as a science.[13] As it will be clear from the explanation below, we propose that Ross' scientific attitude should be seen as referring not only to scientific practices but also to other legal practices. Although legal theorists have recognized Ross' scientific inclination it was never explicated as a concept that encompasses all elements of his approach to law. Hence, the concept of the scientific approach to law is constructed in the present article based on interpreting Ross' methodology in

---

[5] Hart H. L. A., *Essays in Jurisprudence and Philosophy*, Oxford University Press, Oxford, 1983.

[6] *Ibid*., p. 162.

[7] Kelsen H., *A 'Realistic' Theory of Law and the Pure Theory of Law: Remarks on Alf Ross's On Law and Justice* [translation of an article published in Österreichische Zeitschrift für Öffentlich Recht (1959)], in: d'Almeida L. D.; Gardner J.; Green L. (eds.), Kelsen Revisited: New Essays on the Pure Theory of Law, Hart Publishing, Portland, 2013.

[8] Morison W. L., *Review on Law and Justice*, The Yale Law Journal, vol. 69, no. 6, 1960, p. 1090.

[9] *Ibid*.

[10] Holtermann J. v. H., *A Straw Man Revisited: Resettling the Score between H.L.A. Hart and Scandinavian Legal Realism,* Santa Clara Law Review, vol. 57, no. 1, 2017, pp. 40-41.

[11] Pattaro E., *From Hägerström to Ross and Hart*, Ratio Juris, vol. 22, no. 4, 2009; Bindreiter U., *The Realist Hans Kelsen*, in: d'Almeida L. D.; Gardner J.; Green L. (eds.), Kelsen Revisited: New Essays on the Pure Theory of Law, Hart Publishing, Portland, 2013; Holtermann J. v. H., *Naturalizing Alf Ross's Legal Realism*, Revus, no. 24, 2014; Spaak T., *op. cit.*, note 4; Holtermann J. v. H., *op. cit.*, note 10.

[12] Spaak T., *op. cit.*, note 4, p. 43.

[13] Holtermann J. v. H., *op. cit.*, note 10, p. 21.

light of the pragmatic goal of better understanding his theory and utilizing it in the research of contemporary legal orders. The concept includes additional elements - description, falsifiability and rationality – plus the four elements identified above (non-cognitivism and monistic ontology that encompass non-formalism and non-reductionism). While each of the first four elements can be explored separately and each of them can be accepted by readers without accepting the others, the fifth element connects them and the three newly-added elements in one coherent unit that can be accepted or refused by readers in totality. In support of accepting the concept of the scientific approach to law as part of Ross' theory we can argue the following.

First, Ross himself used the concept of science as an important concept for the theory of law and he used it in a specific way. His thoughts on science are in an accord with Kelsen's view on the purity of legal science[14] in the sense of seeing it as a practice of issuing theoretical propositions which should not be mixed with the value judgements. However, Ross does not perceive scientific practice as not including any value judgements but he requires that valuations should be clearly distinguished from pure theoretical statements.[15] In contrary to Kelsen, he has never made a sharp distinction between legal sociology and legal theory. In Ross' opinion "all propositions about law refer, in the last analysis, to a social reality."[16]

Secondly, as mentioned above, legal theorists have already emphasized Ross attempt to make legal science more scientific and have analysed elements identified here as part of the concept of scientific approach to law.

Finally, the importance of the scientific approach to law for Ross' theory can be completely understood if we look at his biography. This approach was his personal attitude towards professional and private life; it was his philosophy of life; his fundamental norm in life and theories; it was his private normative ideology.[17]

2.2. The concept of the scientific approach to law

The scientific approach to law can be best explained in terms of two goals to be achieved by such practises and five elements important for it in achieving such goals. The two goals are to: explain the reality of a particular legal phenomenon and to predict future incidents in the realm of law.[18] Legal policy in comparison to some other practices related to law, if it follows the scientific approach has, in addition to description and prediction, a *rational* (in the sense as described below)

[14] Kelsen H., *Pure Theory of Law*, [Translation from the second revised and enlarged German edition (1960)], The Lawbook Exchange, Clark, New Jersey, 2005.

[15] Ross A., *op. cit.*, note 1., p. 319.

[16] *Ibid.*, p. 27.

[17] Evald J., *Alf Ross: A Life*, Djøf Publishing, Copenhagen, 2014.

[18] Krešić M, *Ross's concept… op.cit.*, note 2, p. 165.

model of valuation.[19] The elements important for practicing the scientific approach to law are the following.

The first element is the *two-level description of reality*. Ross can be read as providing two descriptions relating to reality i.e., in our case the practices related to law. We propose these two kinds of description with an aim to address the argument on the contradiction between descriptive and prescriptive aspects of his theory.[20] The first level is description of the reality as it is; and the second is the description of the model of scientifically or scientific-like functioning reality (in the following text: the scientific model). The social reality of law consists of "the existing activities of the participants in different practices connected to law" [21] and it is usually described based on researching particular communities. The scientific model of reality can be defined as the set of standards forming the patterns of behaviour that can be noticed in the real practice of different communities of scientists. It is "one of the possible models that may be, but does not necessarily have to be, adopted in practice"[22] by actors outside the scientific communities. For instance, the functioning of legal agencies such as the Ministry of Justice, can be based on the scientific model and in fact it is often presented as functioning in that way. This does not necessarily mean that members of the particular institution following this model, ground their whole official practice on all elements of the model. At the second level, the description of the model can be followed with the description of the extent to which the reality corresponds to the scientific model. The further elements of the scientific approach can be attached to both levels: the level of description of the reality and the level of the description of the scientific model.

The second element of the scientific approach is *falsifiability* which is, according to some philosophers of science, the key feature of the natural sciences. Karl Popper makes the distinction between the scientific and non-scientific theories based on this criterium.[23] While a scientific theory contains a hypothesis which can be tested by crucial evidence with the possibility to make the theory fail, this is not the case for the non-scientific theories. Any scientific theory will fail sooner or later and new better theory will win the old one while the non-scientific theories are immune from such rigorous testing and competition. The criterion of falsifiability can be used at both levels of description. The theory which claims to explain existing legal practices can be tested and correspondingly the theory can remain or be falsified. In the same vein, we can test whether the existing practice corresponds to the model of scientifically functioning social reality or whether the results of the actual practice correspond to the results reached by the scientific model. If the answer to anyone of these questions is negative it can be said that the scientific model does not adequately explain the reality.

---

[19] *Ibid.*, p. 164, 167.

[20] Rorty A. O., *Review of On Law and Justice by Alf Ross*, Ethics, vol. 70, no. 2, 1960, p. 177.

[21] Krešić M., *Ross's concept… op.cit.*, note 2, p. 164.

[22] *Ibid.*

[23] Popper K., *The Logic of Scientific Discovery*, Routledge, London, New York, 2002.

The third element is *rationality*, understood by Ross as something originating from practical considerations of human needs, suitable for justification and argumentation, and as such opposite to the emotional sphere of life.[24] In accordance with Ross' theory, two factors are important for any practical activity: operational belief and attitude as a negative or positive valuation of the object.[25] The valuation can be based on human needs (interested attitudes) or the feeling of duty (disinterested attitudes).[26] The beliefs on reality acquired through the scientific model are the closest to the ideal of rationality in sense of justification and argumentation.[27] If for no other reason, beliefs are rational since scientific theories can be tested. The valuation of the objects in the scientific model are based on human needs and when dealing with disinterested attitudes they are rationalised by connecting them with the interested attitudes. In regards to legal policy following the scientific model, valuations of goals to be followed by the community are rational: not only because they are interest-oriented valuations, but also because of the model of the selection of goals to be followed. The model of selection is based on values that correspond to the values of science: discussion, intellectual liberty, autonomy and the absence of arbitrariness. This model on selection of goals requires open communication channels for public debate and demonstration of the experiences regarding controversial differences which contributes to rational choice.[28]

The fourth element is the *non-cognitivism*: *a priori postulates* acquired by reason do not exist in reality. The acceptance of this thesis in context with other elements of the scientific approach has several implications for the description of the reality. Firstly, the true description of reality cannot be grounded on ideologies and the search for the truth cannot be motivated by ideologies. Ross' anti-metaphysical attitude is well known. Secondly, this anti-metaphysical attitude does not mean that description of the law should ignore or not refer to the ideologies that are in fact manifested in practice. The scientific description of law includes the understanding of the role of ideologies that factually exist in a particular legal practice. These ideologies in practice are based on the entities which are perceived as existing in reality or as referring to the reality although they do not exist or do not refer to something real. However, the existence of legal and political ideologies has to be taken into account as factual datum. This is what Ross did.[29] He refers to legal ideologies when explaining the concept of rights, normativity and normative ideology. The knowledge of political ideologies is important to understand the influence on the deliberate change, that is, the creation of the content of law. Thirdly, the ideologies

---

[24] Ross A., *op. cit.*, note 1, p. 370.

[25] *Ibid.*, p. 299.

[26] *Ibid.*, p. 358.

[27] In addition to rational methods of description, the idea of rationality may include the construction of models having rational features such as consistency, completeness, coherence and progressiveness. However, the two-level description of reality has to be respected. See: Krešić M., *A jurisprudential attempt at rule of law creation: an analysis of theoretical assumptions for compulsory international adjudication and realistic challenges*, Collected Papers of Zagreb Law Faculty, vol. 71, no. 6, 2021.

[28] Krešić M., *Ross's concept… op. cit.*, note 2, p. 166, 171.

[29] Ross A., *op. cit.*, note 1, p. 297.

are perceived as real in consciousness; therefore, for the explanation of law it is important to understand the cultural and legal consciousness of a particular society. The valuations which characterise the scientific model are not based on any existing ideology. The best that can be done by applying the scientific model in legal practice is to ensure the best possible result in achieving the goals selected in a rational way by taking into account the scientific description of the existing reality and the prediction of possible worlds.

The fifth element refers to the *monistic ontology*: the reality, in the last consideration, is only factual. At the level of the scientific model, beliefs are based on the monistic ontology and valuations are based on the interest attitudes as the result of the factual needs of humans. When the law is understood through this model, the view on what exists determines the description of law. Firstly, the description of law is not based on a dualism separating the worlds of facts and norms. Ross refutes the jurisprudence which considers the world of ideas as entities separated from physical and psychic phenomena in time and space.[30] Secondly, the description of what is the law of a community is not reduced to the description of "what is formally established"; it also includes the description of relevant facts such as cultural and legal consciousness. Thirdly, the description of the internal point of view of the legal actor regarding the standards of behavior is not reduced to a description of the official discourse of these actors, i.e., the linguistic outputs manifested in the external objects such as legal documents; it includes description of the relevant facts such as cultural and legal consciousness.

3. THE ROLE OF LEGAL CONSCIOUSNESS IN THE SCIENTIFIC APPROACH TO LAW

The concept of legal consciousness is the central concept of Ross' theory of law. It is appropriate to comprehend the concept through the scientific approach to law. Regarding the first element of this approach, legal consciousness in particular societies can be analysed on both levels: analysed as a fact with different content in different societies; and analysed as the object that can be changed in line with the goals and methods that can be described as part of the scientific model. The applicability of falsifiability, rationality, non-cognitivism and ontological monism to this concept will be illustrated in explaining the methodological functions of this concept. Legal consciousness performs six functions in the scientific approach to law: four methodological and two explanatory roles.[31]

The methodological role of the concept is to strengthen the arguments on falsifiability, rationality, non-cognitivism and ontological monism.

---

[30] *Ibid.*, p. 65; Ross A., *Towards a Realistic Jurisprudence: A Criticism of the Dualism in Law*, Scientia Verlag, Aalen, 1989, p. 57.

[31] Krešić M., *Ross's concept… op. cit.*, note 2, pp. 164-165.

Legal consciousness is suitable, under the assumption that adequate conditions for scientific research are ensured, for empirical testing. A scholar can pose a thesis on legal consciousness in a society and a thesis on the extent it corresponds to the legal consciousness in the scientific model of the practice. Then, the theses can be tested through socio-psychological methods such as surveys among practitioners. In that context, those theories on practices connected to law that take into account legal consciousness can be characterised as *falsifiable* and thus as scientific theories. It should be pointed out, however, that according to Ross, the theories on the normative content of the particular legal system are already falsifiable by the very possibility of the court making the final decisions on what is the content of law. The thesis about the law in the community can be tested by investigating the practices of courts. Although, the falsifiability based on the research of legal consciousness is the "secondary" test in this sense, it nevertheless strengthens the scientific position of the legal theories by providing the possibility of testing of a broader range of factors that influence the making of adjudicative and legislative decisions. In the analysis of the process of changing or transforming the legal system, the empirical research on the legal consciousness is of even greater importance.

The concept strengthens the *rationality thesis.* Although the legal consciousness itself could be conceived as irrational, once the scholar becomes aware of the origin and the specific quality of legal consciousness, he/she can proceed with the rationalization of why we have the legal system as it is. In that context, the scientifically moderated discussion, i.e., open discussion supported by actual examples from life, aimed at the rationalization of the disinterested attitudes can influence the creation and application of law. Whether this kind of discussion exists in the society and whether it influences the creation and application of law is a matter of fact. In line with Ross, we can say that this happening is only a possibility in a society following the criteria of rationality in practice.

The concept also serves to strengthen the *non-cognitivist thesis*. What are claimed to be *a priori* postulates of the law are merely the products of legal consciousness. There are no models of law that can be claimed to be the only true models. Different conceptions of how a society could be regulated are possible and which conception will dominate in a society depends on the specific legal consciousness in a society.

Legal consciousness plays the role of 'connecting operator' between norms and behaviour in that it connects the normative language of practitioners of the law with the factual world in time and space. This connection confirms the thesis on *ontological monism*. This is reflected in taking into account legal consciousness when describing the law. It is not enough to describe the normative texts, but also legal consciousness that leads the creation and application of law (ant-formalism). It is not enough to take into account what is expressed in texts and decisions but also the legal consciousness that is behind these outputs of law must be articulated (anti-reductionism).

Two explanatory roles of the concept of legal consciousness are "connected with the goals of the scientific approach to law: to explain reality and to predict future incidents."[32]

The concept of legal consciousness contributes to better understanding of the law as it explains "the roots of the specific content of a particular legal order",[33] i.e., particular legal institutions as well as different forms of the legal order. It also contributes to our understanding of the process of changing the legal system and the possibility of normative influences on this process.

The concept of legal consciousness also "helps to support predictions on the result of legal processes."[34] For instance, if we know that a judge is under the influence of legal consciousness, we will be in better position to predict his decisions when taking into account this factor.

4. CONCLUSION

In the previous sections, following the writings of Alf Ross, we have explained the scientific approach to law and the role of the legal consciousness for the scientific approach to law. It is the attitude of legal theorists whether or not they will accept this approach when describing the law and the concept of the legal consciousness as having the place in their approach. However, different approaches to law can affect the practice of researching the law as well as the practice of creating and applying the law. Some of the advantages of the scientific approach to law based on the concept of legal consciousness are its focus on human needs through the rationalization of the ideologies and the empirically oriented methodology of testing the thesis about a reality such as law. Both of these advantages are in line with the contemporary developments in modern societies: the fall of ideologies and the rise of theories that are applicable in real life due to the fact that they are falsifiable.

---

[32] *Ibid.*, p. 165.
[33] *Ibid.*
[34] *Ibid.*

BIBLIOGRAPHY

1. Bindreiter U., *The Realist Hans Kelsen*, in: d'Almeida L. D.; Gardner J.; Green L. (eds.), Kelsen Revisited: New Essays on the Pure Theory of Law, Hart Publishing, Portland, 2013, pp. 101-129.
2. Evald J., *Alf Ross: A Life*, Djøf Publishing, Copenhagen, 2014.
3. Fittipaldi E., *Introduction: Continental Legal Realism*, in: Pattaro, E.; Roversi, C. (eds.), Legal Philosophy in the Twentieth Century: The Civil Law World, Tome II, Springer, Dordrecht, 2016, pp. 297–318.
4. Hart H. L. A., *Essays in Jurisprudence and Philosophy*, Oxford University Press, Oxford, 1983.
5. Holtermann J. v. H., *Naturalizing Alf Ross's Legal Realism*, Revus, no. 24, 2014, pp. 165–186.
6. Holtermann J. v. H., *A Straw Man Revisited: Resettling the Score between H.L.A. Hart and Scandinavian Legal Realism*, Santa Clara Law Review, vol. 57, no. 1, 2017, pp. 2-41.
7. Kelsen H., *Pure Theory of Law*, [Translation from the second revised and enlarged German edition (1960)], The Lawbook Exchange, Clark, New Jersey, 2005.
8. Kelsen H., *A 'Realistic' Theory of Law and the Pure Theory of Law: Remarks on Alf Ross's On Law and Justice* [Translation of an article published in Österreichische Zeitschrift für Öffentlich Recht (1959)], in: d'Almeida L. D.; Gardner J.; Green L. (eds.), Kelsen Revisited: New Essays on the Pure Theory of Law, Hart Publishing, Portland, 2013, pp. 195-221.
9. Krešić M., *Ross's concept of the legal consciousness and deliberate normative change*, Pravni vjesnik, Journal of the Faulty of Law in Osijek, Vol. 35, no. 3-4, 2019, pp. 163-179.
10. Krešić M., *Legal consciousness and (de)constitutionalisation of the legal order*, in: Mercescu, A. (ed.), Constitutional Identities in Central and Eastern Europe, Peter Lang, Berlin, 2020, pp. 117-134.
11. Krešić M., *A jurisprudential attempt at rule of law creation: an analysis of theoretical assumptions for compulsory international adjudication and realistic challenges,* Collected Papers of Zagreb Law Faculty, vol. 71, no. 6, 2021, pp. 819-847.
12. Morison W. L., *Review on Law and Justice*, The Yale Law Journal, vol. 69, no. 6, 1960, pp. 1090-1096.
13. Pattaro E., *From Hägerström to Ross and Hart*, Ratio Juris, vol. 22, no. 4, 2009, pp. 532–548.
14. Popper K., *The Logic of Scientific Discovery*, Routledge, London, New York, 2002.
15. Rorty A. O. (1969), *Review of On Law and Justice by Alf Ross*, Ethics, vol. 70, no. 2, 1960, pp. 175-177.
16. Ross A., *Towards a Realistic Jurisprudence: A Criticism of the Dualism in Law*, Scientia Verlag, Aalen, 1989.
17. Ross A., *On Law and Justice*, The Lawbook Exchange, Clark, New Jersey, 2004.

18. Spaak T., *Ross on the Dualism of Reality and Validity*, Utopía y Praxis Latinoamericana, vol. 20, no. 71, 2015, pp. 41-66.

ZNANSTVENI PRISTUP PRAVU I ULOGA PRAVNE SVIJESTI

Ovaj članak konstruira pojam znanstvenog pristupa pravu koji se sastoji od nekognitivizma, monističke ontologije, neformalizma, neredukcionizma kojim se odbacuje redukcija prava na lingvističke rezultate, (dvorazinskog) opisivanja stvarnosti, opovrgljivosti i racionalnosti. U članku se tvrdi da: znanstveni pristup pravu, kako je konstruiran u ovom članku, predstavlja ključni element teorije prava Alfa Rossa te da pojam pravne svijesti ima važne metodološke i objašnjavajuće funkcije u ovom znanstvenom pristupu pravu.

Ključne riječi: *znanstveni pristup pravu, pravna svijest, monistička ontologija, nekognitivizam*