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The Legal Semiotics of C. S. Peirce

Theses of the doctoral dissertation

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I. Introduction

The dissertation will approach certain questions of legal theory from the perspective of the pragmatist semiotician and philosopher Charles S. Peirce. The aim is to examine whether the terminology of Peirce's semiotics can be used to provide conceptual tools for a more detailed understanding of the workings of legal practice.

Semiotics (the theory of signs) became a globally recognised science in the mid-20th century, in the wake of structuralism. There are two main approaches to semiotics: European structuralism and American pragmatism. The former is represented by the Swiss-French linguist Ferdinand de Saussure, while the latter is represented by Charles S. Peirce. Linguistics played a crucial role in the development of structuralist semiotics. Saussure believed that *semiosis* (the functioning and development of the sign system) is built up through the interaction between the *signifier* and the *signified*. In this view, semiotics is part of linguistics. In contrast, for Peirce, semiotics is not part of linguistics, but of epistemology and logic; moreover, semiosis is made up of three elements: the *sign*, the *interpretant* and the *object*.

Peirce is regarded as the founder of the classical era of American philosophy. He is the founder of the basic concepts of pragmatism. Peirce's method of pragmatism was an attempt to find answers to the principles underlying the operation of cognition. His semiotics is therefore somewhat interdisciplinary. Logic, cognitive theories, psychology, mathematics, phenomenology and metaphysics are all present. In this thesis, I will try to outline systematically this complexity of pragmatist semiotics, because it is a way of situating certain problems of legal theory within Peirce's pragmatist semiotics.

II. The structure of the thesis

The thesis consists of four parts. The first part is of a more general nature, in which the concept and development of semiotics and legal semiotics are explained. The second part will discuss the emergence of pragmatism and its essence in a few words. The importance of Peirce's particular worldview and his conception of human cognition is that without knowledge of these, his semiotics cannot be fully understood. As Umberto Eco has already pointed out, Peirce's vision is an intersection of two visions: the 'metaphysical-cosmological' and the 'cognitive'. The essence of this is that his semiotics cannot be understood without reconstructing the underlying worldview.¹ In the third part of the paper, Peirce's classification of signs will be presented. The aim here is to answer the following questions: what is a sign in the legal sense, what properties does it have, what is its function in the system (the formal side of the concept of law). In the fourth part, I will try to outline the substance side of the legal sign system by introducing the systematics of the sciences and by explaining the three branches of philosophy.

Peirce divided philosophy - which belongs to the Science of Discovery - into three parts: *phenomenology*, the *normative sciences* (aesthetics, ethics, logic) and *metaphysics*. The following questions will be examined: what is the place of law in the system of sciences and normative sciences (i.e. is it essentially a practical or a theoretical science); what is law in the light of phenomenological categories (this will provide an answer to the mechanism of legal action); and finally, what is the relationship between law and metaphysics. Such a synthesis of the concept of law is important because law has been defined from different directions in Peirce's semiotics. Accordingly, in a phenomenological approach, law is the continuity of experience; in normative sciences (and within them logic), law is an operative symbol; and in metaphysics, law represents a kind of efficient reasonableness.²

¹ ECO (1999) 136.

² TIEFENBRUN (1986) 109.

III. The sources of the research

Primary sources:

- Peirce's writings were rarely published during his lifetime. It was in the 1930s that his papers began to be collected and published. The first was the *Collected Papers of C. S. Peirce*,³ edited by Charles Hartshorne and Paul Weiss. This edition introduced an internationally accepted method of citation: the CP symbol followed by the volume number, followed by the page number of the volume referred to (e.g. CP 1.124.)
- The other important volume of Peirce's writings is *The Writings of Charles Sanders Peirce. A Chronological Edition*.⁴ These volumes contain especially the important semiotic, logical and philosophical studies and fragments.
- *The Commens Dictionary of Peirce's Terms*, edited by Mats Bergman and Sami Paavola, is an online dictionary that is very useful for semiotic research because it contains the most important terms.⁵
- Only a couple of shorter writings by Peirce have appeared in Hungarian translation. In the quotations within the text, these are also given with the traditional CP symbol.⁶

Secondary sources:

- Important secondary sources include the works of Roberta Kevelson. Kevelson was a philosopher who is regarded as an important authority on the pragmatist semiotics of Charles S. Peirce. Her most important work in the context of Peirce's legal semiotics is *The Law as a System of Signs*, published in 1988. In this work, Kevelson drew on Peircean notions of speculative rhetoric to analyse the signs of law.⁷ The significance of the book is that it explains in detail the basic concepts of Peirce's semiotics (the

³ PEIRCE, Charles S. (1931-1958) *Collected Papers of C. S. Peirce*. Edited by Charles Hartshorne, Paul Weiss, Cambridge Mass.: Belknap Press of Harvard University Press. (1931-1958)

⁴ *The Writings of Charles Sanders Peirce. A Chronological Edition*. Edited by Edward C. Moore, Bloomington: Indiana University Press, 1982-2014.

⁵ <http://www.commens.org/dictionary>

⁶ PEIRCE, Charles S., A jelek felosztása. In: HORÁNYI Özséb – SZÉPE György (szerk.): *A jel tudománya. Szemiotika*. Bp.: General Press. 2005. 23–37.

⁷ Additional important works: *Charles S. Peirce's Method of Methods*, University of Texas Press (Austin, TX), 1983, new edition, J. Benjamins (Philadelphia, PA), 1987.; *Peirce, Paradox, Praxis: The Image, the Conflict, the Law*, Mouton de Gruyter (New York, NY), 1990.; (Editor) *Peirce and Law: Issues in Pragmatism, Legal Realism, and Semiotics*, Peter Lang (New York, NY), 1991.; *Peirce's Esthetics of Freedom: Possibility, Complexity, and Emergent Value*, Peter Lang (New York, NY), 1993.; *Peirce, Science, Signs*, Peter Lang (New York, NY), 1995.; *Peirce's Pragmatism: The Medium as Method*, Peter Lang (New York, NY), 1998.; *Peirce and the Mark of the Gryphon*, St. Martin's Press (New York, NY), 1999. <https://www.encyclopedia.com/arts/educational-magazines/kevelson-roberta-1931-1998>

dynamic character of semiosis; the concept of logic, the role of habitus in the formation of (legal) signs, etc.) and then analyses them in relation to legal phenomena. Kvelson also did not ignore the cognitive nature of Peirce's semiotics and the metaphysical aspects of his semiotics. On this basis, Kvelson argues that even signs that function as law are always complex in nature and thus represent values.

- In the Hungarian semiotic literature, there is little written about Peirce. The first to write in detail about Peirce was Özséb Horányi in 1981, not only outlining his theory of signs, but also situating Peirce in the history of American philosophy in general.⁸ Peirce's views on logic and abduction were presented in 1989 by Thomas A. Sebeok (a Hungarian-born professor of semiotics and linguistics at Indiana University) and his wife J. U. Sebeok (an anthropologist) in their book, *Do You Know My Method?*⁹ Here they compare Sherlock Holmes' method of deduction with Peirce's theory of abduction in a very entertaining and readable style, but also very informative thanks to the many references to the literature.

⁸ HORÁNYI Özséb (1981) „A nyelvről való gondolkodás történetének egyik állomása: Charles S. Peirce.” In: TELEGDI – SZÉPE (szerk.) *Általános Nyelvészeti Tanulmányok 13. – A nyelvről való gondolkodás története.* Budapest.

⁹ T. A. SEBEOK – J. U. SEBEOK (1989)

IV. Brief summary of the research

Peirce identified two general branches of science: the first is the theoretical sciences; the second is the practical sciences.¹⁰ Peirce further divided the sciences into three broad categories essentially according to their method. The first group is *the Science of Discovery*; the second group is *the Science of Review*; and the third group is *the Practical Science*.¹¹ There are three major parts of the Science of Discovery: mathematics, philosophy and idioscopy. Peirce divided philosophy into three parts, which are (1) *phenomenology*, (2) *normative sciences* and (3) *metaphysics*.

Phenomenology identifies and studies the types of elements that are generally present in a phenomenon. That is, it refers to the degree of complexity of the semiosis, which can be Firstness, Secondness or Thirdness (depending on the complexity of the semiosis). Normative science already makes dualistic distinctions in the light of 'what ought to be'. Metaphysics, on the other hand, gives an account of the 'universe' of mind and matter, i.e. it emphasises the interaction between them.

Phenomenology therefore catalogues the content of experience. Normative science evaluates and judges the data thus collected, while metaphysics tries to understand their reality.¹²

My hypothesis is that this classification can be applied to the functioning of law as a whole, and that the concept of legal normativity can be defined on the basis of an exploration of the connections between phenomenology, normative sciences and metaphysics.

¹⁰ CP 1. 239.

¹¹ CP 1. 181.

¹² CP 1. 186.

Summary table

Law as Firstness	Law as Secondness	Law as Thirdness
Feelings	Actuality = Legal effect	Continuity = Interpretation (logical prediction)
Perceive	Law as „is”	Law as „what ought to be”
Law on the level of perception	Law as fact	Law as mysterious way stands above the facts
-	Peirce’s example: <i>sheriff</i>	<i>Court</i>
Shock Surprises	Compulsion, brute force, „the strong arm of the law” (without court) CP 8. 330.	Idle formula (without sheriff)
„They appear as surprises, to disrupt a relatively stable legal system...” Kevelson (1988a) 28.	„But when I feel the sheriff’s hand on my shoulder, I shall begin to have a sense of actuality.” CP 1. 24.	„A court may issue injunctions and judgments against me.” CP 1. 24.

The phases of normativity

Relative normativity	Absolute normativity
Experience-based	Not experience-based
At the level of <i>Thirdness</i>	At the level of <i>Ground</i>
Conscious interpretation (acquired habits: legal patterns)	Instinctive interpretation (congenital habits: principles and ideas)
Formal review	The effect of moral principles

	<p>“Conscience of like our Supreme Court” (CP 2. 153.)</p>
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V. List of publications

Könczöl Miklós, Bor Bettina: *Towards a semiotic theory of style in law: a Peircean approach*, INTERNATIONAL JOURNAL OF LAW IN CONTEXT 15: (3) pp. 263-273.

Kecső, Gábor ; Szentgáli-Tóth, Boldizsár ; Bettina, Bor : *Emergency Regulations Entailing a Special Case of Norm Collision. Revisiting the Constitutional Review of Special Legal Order in the Wake of the COVID-19 Pandemic*. JURIDICAL TRIBUNE 14. : 1. pp. 5-26. , 22 p. (2024)

Szentgáli-Tóth, Boldizsár ; Bor, Bettina: *Népképviselő a pandémia árnyékában: Az alkotmányossági felülvizsgálat szerepe a parlamentek rendkívüli működési rendjének kialakításában*. PARLAMENTI SZEMLE : 2 pp. 5-21. , 17 p. (2023)

Boldizsár, Szentgáli-Tóth ; Bettina, Bor: *Special vote arrangements during the public health emergency: A cursory glance at the main models and lessons to be learned*. IUSTUM AEQUUM SALUTARE 19 : 4 pp. 267-284. , 18 p. (2023)

Dr. Szentgáli-Tóth, Boldizsár ; Dr. Szilágyi, Emese ; Bor, Bettina: *Crises and democracy: The impact of COVID-19 on V4 countries' electoral systems.: The Case of Hungary*. ARSBONI XI. évfolyam : 2023/2. szám pp. 39-54. , 16 p. (2023)

Szentgáli-Tóth, Boldizsár ; Bor, Bettina: *Vélemények a jövő bíróságairól: a digitális talárok világa - Beszámoló a Bírósági munka a virtuális térben: a mesterséges intelligencia alapú technológiák szerepe és jelentősége című workshopról (2023. május 25.)*. MAGYAR TUDOMÁNYOS AKADÉMIA JOGTUDOMÁNYI INTÉZET BLOG 2023 p. on-line (2023)

Szentgáli-Tóth, Boldizsár ; Bor, Bettina: *Az összehasonlító alkotmányjog legújabb perspektívái: módszertani alapok és kihívások.: Globális adatbázis létrehozása a pandémia idején keletkezett alkotmányos esetjogból*. KÖZJOGI SZEMLE XVI : 2 pp. 25-35. , 11 p. (2023)

Szentgáli-Tóth, Boldizsár ; Bor, Bettina: *Crises and democracy: elections in the Visegrád countries in the shadow of the Covid-19 pandemic Report from the main conference of the research project*. MAGYAR TUDOMÁNYOS AKADÉMIA JOGTUDOMÁNYI INTÉZET BLOG 2023 p. on-line (2023)