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AI TECHNOLOGIES TO THE QUESTION OF THE "POLICY" OF LEGAL REGULATION AT THE PRESENT STAGE. ESSENTIAL AND INSTRUMENTAL FACTORS

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ABSTRACT

The article examines the essential characteristics of rulemaking activity in the context of modern challenges and priorities, which is analyzed with due regard for the instrumental and essential typologizing elements. It is noted that one of the priority areas for the development of rulemaking at the present stage is to consider the "achievements" of the latest technologies related to artificial intelligence. It is emphasized that rulemaking at all levels should ensure human rights and freedoms (in particular, this refers to the improvement of veteran policy at the present stage, its forms, and methods).

KEYWORDS

Rulemaking, Typologization in Rulemaking, "Content" and "Form" of Rulemaking Activity, Instrumental Approach to Rulemaking, Essential Approach to Rulemaking, Veteran Policy, Rulemaking Style, Artificial Intelligence (AI)

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Introduction.

One of the interesting points that we would like to emphasize is, of course, the conceptual approaches, fundamental principles, and communication practices that have been and are used in relation to rulemaking activities. They have been thoroughly studied in domestic and international legal thought from different angles and in different temporal coordinates, and the capabilities and potentials of artificial intelligence deserve additional study in this context, and this article is designed to address them. The purpose of the article is to emphasize the need to focus on new emphases and new aspects of rulemaking, its existing and possible typological classification characteristics.

At certain stages of legal development, this issue was dealt with by legal theorists, including S.V. Bobrovnyk, T.O. Didych, M.I. Kozyubra, N.M. Onishchenko, O.V. Petryshyn and representatives of branch directions: N. Kuznetsova, O. Kot, Z. Zahinei-Zabolotenko, and others. Nevertheless, many questions remain,

particularly in the area of artificial intelligence. Today, such issues cannot be considered non-negotiable and require consensus-building among the scientific community.

1. Problems and unexplored elements of typology.

According to the universal dictionary of the Ukrainian language, typology is a classification of objects or phenomena according to common features [1, c. 750]. A large explanatory dictionary also defines typology as a type of scientific systematization, classification of something according to common features [2, c. 602]. The typology of states is a classification of groups of states according to common features, which determine the characteristics of these groups of states. The typology of legal (legal) systems is a classification of legal systems according to their social characteristics, which determine their socio-essential characteristics [3, c. 912].

After encyclopedic research, we want to emphasize at least those classification accents that have not been researched or insufficiently researched, or which, unfortunately, have been left out of the attention of representatives of theoretical thought.

In our opinion, such typological elements can be instrumental or essential features (associated with the corresponding meanings dictated by modern conditions). By the way, it is this approach, taking into account instrumental practices and essential characteristics, that could be useful when considering the problems of adaptation of Ukrainian legislation to the legislation of the European Union.

2. Instrumental mechanisms of typology.

For example, in Belgium, the Institute of Social Law is developing a rulemaking system called SOLON to determine the quality of legislation, which includes a substantive criterion (content of legal acts) and a formal criterion (structure, formatting, etc.) at the request of the Government. Moreover, such an idea is not a novelty, as similar systems are already in use in the Kingdom of the Netherlands (LEPA, OBW) and in the Italian Republic (Lexidit, Lexeditior IRI_AI, Arianna, Norma). There is even a whole science called "legimatics" that studies and explores the possibilities of computer technology in the field of rulemaking. Scientists of the Institute of Social Law highlight the following advantages of the SOLON system:

1) it helps lawmakers avoid mistakes;

2) helps to create draft laws faster and in a more productive way

3) applies guidelines to rulemaking that prevent lawmakers from changing the sequence of actions;

4) plays an important role, as sectoral experts often do not have a legal background.

In turn, rulemaking in the Kingdom of the Netherlands is notable for the existence and use of algorithms for creating legal rules that transform formulas into legal rules, which greatly simplifies and speeds up the rulemaking process (rulemaking), but requires special mathematical and computer science knowledge. This experience has been successfully implemented in domestic higher education institutions, particularly, the experience of KNUPE, where, before the full-scale invasion, the information (technical) factor of creating and testing legal norms was actively developed.

In this context, special attention can be paid to rulemaking in Canada, where such activity is considered an "art" rather than a routine activity that employs about 100 people.

In our opinion, these rules should include the need to involve both representatives of legal doctrine and legal practice. Certain attempts to do so have been made repeatedly in various government institutions, including the Ministry of Justice of Ukraine. However, today there is an urgent need to create a single center for planning and studying rulemaking activities, which was repeatedly discussed even before the full-scale invasion of Ukraine by Russia. And what makes this need (for rule-making activities) even more urgent today.

3. Essential features of typology.

It is somewhat more difficult to study issues that are related to the essential substantive aspect of normative design. The philosophical significance of the essential characteristics of normative design activity was discussed, in particular, in the studies of R.K. Bergeron, where several rules of normative design activity were distinguished:

1) fixation of the key philosophical position on the intercorrespondence of content to the forms of the project;

2) the author of the rules of rule-making proposes to take into account the time factor of such activities, believing that insufficient time can affect the quality of development and the very quality of the regulatory legal act;

3) E.K. Bergeron draws attention to the importance of a professional approach to such activities (the factor of professionalization);

4) attention must necessarily be focused on the possible negative result of normative drafting (the factor of negativity of rulemaking);

5) it is also stated that the rules of normative drafting are not and will never be absolute (the factor of deabsolutization), since they cannot cover the entire set of development and design of normative texts;

6) teleological dominants of normative design (teleological factor) must be considered [4, c. 24].

In addition, it should be noted that the study of the experienced practices of different legal systems does not exclude those tasks that become quite prominent concerning the domestic community. In particular, the attention of foreign donors is focused on the following stages of regulatory drafting in Ukraine:

1) Creation of a Ukrainian style of rule-making, which will be able to prevent existing inconsistencies in legislation caused by the work of different groups of lawmakers and various sources of law, in particular, we are talking about alternative normative acts, the number of which is growing rapidly;

2) Normalization of current consultations with foreign advisers, whose rule-making technique is based on the rules of rule-making inherent in the jurisdiction of other countries;

3) Assisting the Ukrainian Government in bringing Ukrainian legislation in line with the legislation of the European Union;

4) Deepening the existing understanding in public opinion of the principles of democracy, constitutionalism, ethics, and fair governance and applying them in the law-making process;

5) Fight corruption by preventing contradictions and eliminating gaps in the current legislation [5].

4. Ukraine's unique experience in normative design.

The above considerations can also serve as an interesting basis for distinguishing among the essential characteristics of rulemaking activities the experience of Ukraine, which is currently not available in any other country in the world. Such provisions should be supported by illustrative conclusions. In particular, this can be emphasized in view of the work currently being done in the field of veterans' policy. This refers to the draft Law of Ukraine “On the Basic Principles of State Veteran Policy”. It is this draft that is being worked on by a working group established under the Ministry of Veterans Affairs of Ukraine. We would like to focus on the following provisions. Public policy, as we understand it, consists of many facets: social, legal, etc. One of these hypotheses, and one of the primary ones today, is veterans' policy. Veterans' policy is usually considered in the context of veterans' integration into civilian life. However, we understand today that after the Victory, a two-pronged process will take place: society will integrate veterans, and veterans will adapt society to life in new conditions and realities, given the proximity of the state sponsoring terrorism. In addition, the level of “non-legal consciousness” and “non-legal culture” existing in Russia deserves special attention in this context. It is impossible to influence these processes in one day, one week, or even one year. Therefore, it is systematic work, which will consist of appropriate educational practices, starting with schools, higher education institutions, enterprises, organizations, etc., that can be organized by veterans, their representatives, and veterans' centers [6].

Another aspect that we would like to emphasize today, demonstrating the need for substantive etymologization when adapting Ukrainian legislation to EU legislation, should be the principles on which veteran policy in Ukraine is implemented.

1. The rule of law: ensuring the priority of the rights and freedoms of veterans, members of their families, and family members of deceased veterans.

2. The principle of humanism: respect for the dignity of veterans.

3. The principle of democracy: the possibility for veterans, their family members, and family members of deceased veterans to participate in the formation and implementation of the state veterans' policy.

4. Barrier-free: ensuring unimpeded access of veterans, members of their families, and family members of deceased veterans to various spheres of human activity.

Thus, after illustrating the substantive characteristics required by rulemaking, we would like to emphasize once again that legal acts should correspond to the realities of life, and rulemaking practices should take into account the current context of the global legal order. This means that rulemaking at all levels, from supreme public authorities (general rulemaking), central executive authorities (departmental rulemaking), local executive authorities (local rulemaking) to rulemaking by heads of enterprises, institutions, and organizations (local rulemaking), should effectively ensure human rights, freedoms, and legitimate interests.

It is clear that even this range of problems (many of which remain beyond the scope of this article) requires not only new approaches but also the solution of the tasks set. We will allow ourselves to focus on the so-called “intellectually artificial” use of certain modern technologies.

5. Innovative approaches to scientific research and normative design practice.

At the same time, the realization of the above tasks is radically changing its vector in the direction of modern immersive technologies, Metaverse, artificial intelligence (AI), blockchain, cryptography, robotics, and quantum technologies. Science and Technology Revolution 5.0 has not only stimulated technological breakthroughs but also launched the development of new social relations, the transformation of morality and law, ethics and philosophy.

On November 30, 2022, OpenAI released ChatGPT, which provided scientists with a wide range of modern tools for generating the latest scientific research, paradigms, theories, models, and discoveries. Under such conditions, rulemaking can acquire radically different methods and algorithms, one of which is considered promising, namely, the method of modelling the socio-legal evolution of civilization and law.

For example, R.M. Montgomeri's research analyses possible trajectories of human civilization development under the influence of AI. The research is based on stochastic differential equations (SPDEs) to model probable scenarios in time-space. The model takes into account the impact of AI and visualizes a wide range of potentially balanced prospects for the future of civilization with significant probabilities in both positive and negative directions [7]. In addition, a team of Indian scientists proposes a new metaheuristic algorithm for social evolution by studying the processes of optimizing human social learning (SELO). The research is based on the newest class of optimization algorithms - socially inspired algorithms that calculate the social propensity of people to adapt to the manners and behaviour of others through observation and learning [8,9]. However, these studies generally do not consider the alternative retrospective simultaneous development of society and law.

6. Methodology for Predicting the Future Evolution of Humanity and Law Using Dynamic AI Models.

Our proposed method of modelling the socio-legal evolution of civilization and law is to develop a dynamic AI model of human development and law using AI and other immersive technologies, big open data based on historically reliable sources and legal documents of all eras and social systems. This model is an innovative, alternative construction independent of personal influence, in which two parallel “family trees” of social relations and law are simultaneously built historically, and their recursive “historical gene” of fundamental definitions is formed from a simple basic legal structure to its modern correlation in space and time.

The proposed dynamic AI model of human development and law and the method of modelling the socio-legal evolution of civilization are aimed at creating an innovative dynamic model that takes into account the historical, social and legal aspects of human development through the use of AI, immersive technologies and big data (fig.1).

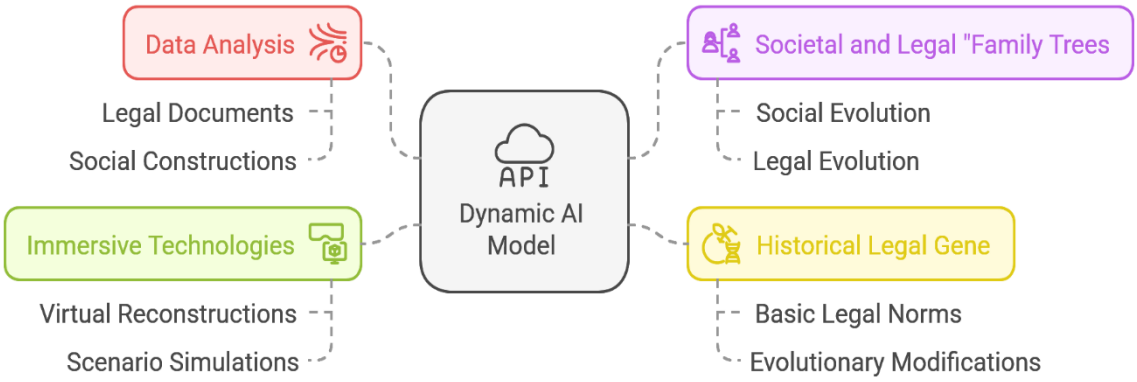

Fig.1. *Dynamic AI model of human development and law*

The algorithm of the dynamic AI model of human development is as follows:

1. Analysing data and historical sources, legal documents of different eras (laws, codes, court decisions, international agreements); studying social constructions (traditions, rituals, behavioural norms, and social structures); rethinking historical facts confirmed by archaeological and documentary sources. AI algorithms

provide automatic processing of this data, analysing to identify patterns, trends, and key points of transformation of the social and legal system.

2. Creation of “family trees” of society and law, namely parallel “family trees” of social relations, including all stages of society's evolution from primitive to modern globalized systems, family structures, social hierarchies, and legal systems, from basic legal structures such as customary law to complex legal systems of the present. These “trees” are not static - they are built dynamically with the help of AI algorithms that identify key “nodes” (periods of significant change) and reflect the relationship between social processes and legal norms.

3. Formation of a conditional “historical gene” of law based on data analysis, which contains: the basic legal structure of primary legal norms that determined social relations at a certain stage of history; evolutionary modifications of the “historical gene” of law and changes that occurred under the influence of economic, political, technological or cultural factors; modern correlation and current versions of legal norms that are the result of a long evolution. This approach allows us to visualize both elements of law and social norms and their transformation over time, preserving their main features or adapting to new conditions.

4. Immersive technologies for interactive analysis, such as virtual reality (VR) or augmented reality (AR), are integrated into the model to create an interactive environment to immerse users in virtual reconstructions of legal systems from different eras, simulate alternative scenarios of law evolution based on variable parameters (e.g., what would have happened if a certain historical event had not occurred), and study the cause-and-effect relationship between social change and legal reforms.

A dynamic AI model of human development and the socio-legal evolution of civilization and law should perform the following main tasks

- distinguishing legal constructions from primary legal norms of national law, jurisdictions of other states, and international legislation from the definition-artifact to modern legal constructions
- re-engineering of national law to dilute it from legal normative constructions that are duplicated, have different logical and legal content, create funnels of “legal uncertainty” or scenarios of legal contradictions;
- to help researchers and lawmakers to formulate legal acts, norms and definitions in synergy with the Constitution of Ukraine, fundamental rights, freedoms and ethical principles of humanity;
- functioning of systemic AI as both a “law auditor” and a “supervisory module”, with the function of a scientific and advisory structure that studies social transformation and develops proposals for prompt legal response to changes in social relations in Ukraine and cross-border space, forecasting legal trends, assessing the impact of modern decisions on the future evolution of law, preserving historical heritage, and popularizing knowledge about human development.

The main feature of the dynamic AI model of human development is its independence from personal influence. The algorithms analyze data objectively, without bias, creating scientifically grounded reconstructions. At the same time, the model allows considering the multiplicity of factors that influenced the evolution of law and society, providing a deep and multifaceted analysis. Such a system has the potential to become a universal tool for studying historical dynamics, understanding the present, and predicting the future.

7. Technologies for creating algorithmic copies and simulacra: impact on social and legal evolution.

Today, in our opinion, there are three fundamental studies that can have a huge impact on the development of society and law. These are technologies for creating algorithmic copies of any social groups developed with the use of AI technologies, which give grounds to assert the real possibility of implementing a model of civilizational and legal modelling of the positive development of Ukraine and civilization as a whole. LLM GPT language models can be used as a proxy for human cognition at the aggregate level and as universal windows into human thinking - technologies can create an algorithmic copy of a person and an algorithmic copy of any social group. Now, for sociological research, it is no longer relevant to interview physical respondents; this procedure has been transferred to algorithms that imitate given social groups or individuals [10].

The first study. In 2023, scientists developed the “Chinese Room of Increased Complexity” technology to create algorithmic copies of citizens of any country [11]. This was followed by the Wuhan experiment to predict the US presidential election in 2024 based on the analysis of the AI model of preferences of simulacra rather than people. The simulation was conducted 90 days before the elections and predicted the victory of the new president with a 99% probability, a difference of 3 units for each party [12].

The second study. In 2024, researchers conducted the Stanford Simulacrum Experiment, in which they created a thousand simulacra of the individual consciousness of “typical” Americans. That is, real Americans were selected to represent the US population in terms of age, gender, education, and political views. The main

tool of the joint research of Stanford University and Google DeepMind, as in the case of the Wuhan experiment, is generative AI of large speech models (ChatGPT-4o). According to the results, the simulacra predicted the reaction of their real human prototypes to the GSS test with 85% accuracy, and the simulacra gave results that almost did not differ from the reactions of their human prototypes (correlation coefficient of 0.98) [13].

The third study. A universal computational model of human cognition, Centaur, was created by retraining the open language model Lama 3.1 70B on a new large-scale dataset called Psych-101. Psych-101 is capable of accurately predicting and modelling any human behaviour in any experiment from any field that can be described in natural language, i.e. AI models become indistinguishable from humans in their behaviour in any situation and circumstance related to research, planning, and training. In other words, AI models can not only operate with our languages without us noticing but also behave like intelligent entities similar to us [14].

8. Simulacra and AI in Modeling the Interaction of Society, State, Social Groups, and Citizens in the Future of Ukraine as a Subject of the World Legal Space.

The use of AI in legal systems is an important stage in the development of modern society that can significantly affect various aspects of the judicial process, including access to justice, decision-making efficiency, and the accuracy of legal document analysis. A high level of automation can lead to fair results not only at the initial stages of the legal decision-making process but also throughout the entire procedural vertical, reducing the destructive nature of the “human factor”. The introduction of AI can lead to the so-called technical and legal positivism, when decisions will be made solely based on algorithms that take into account only formal legal norms and facts, leaving aside the human factor, moral values, and individual approach to each case. This raises serious concerns about the preservation of the principle of justice and humanity in justice, as automation can lead to the dehumanization of the judicial process.

We proposed two main “family trees” to create the model. In fact, the dynamic AI model of human development and the socio-legal evolution of civilization and law is multifunctional, and by analogy, it is possible to build a socio-legal “family tree” to model the field of veteran policy and legislation, using the best legal artifacts of the past and modern practices. Artificial intelligence is able to model the psychophysical archetypes of veterans, make forecasts for this social group, create models of interaction between society, the state, and veterans, and, based on the analysis of their simulations, form an appropriate regulatory framework. These changes in society and law in the field of veterans' policy will be adapted to reality as much as possible based on the results of the simulation, which will greatly reduce the time and resources spent on rulemaking and improve the quality of laws. Simulators and AI can become a positive tool that will ensure high-quality interaction between people and the state.

Artificial intelligence has the potential to significantly improve the efficiency and accessibility of law, provided that it is implemented carefully and prudently.

The digital transformation of law is quite positive and pragmatic, especially given the inevitability of integration and cross-border processes of Ukraine's entry into the global legal space as an entity that, after the war, may become a “typical model” for restructuring the state system, social, legal and economic conditions of the functioning of a modern state in the emerging digital world. In view of this, the proposed Method of modeling the socio-legal evolution of civilization and law and the dynamic AI model of humanity and law development will allow Ukraine to conduct a large-scale independent and objective audit of law, significantly optimize the active part of the state's legal field, start the process of creating legal and moral norms of the present, relevant and realistic definitions, and, most importantly, provide a reliable legal shield for the Constitution of Ukraine, democracy, fundamental human rights and freedoms.

Conclusions.

For a long time, the thesis has been discussed that legislation needs constant updating, and the process of drafting regulations should finally undergo positive changes, which means its effectiveness and effectiveness. The thesis after the full-scale invasion of the Russian Federation into Ukraine seems especially prominent. In turn, this means a call to the scientific community to distinguish between the processes that existed "before" and "after", to apply new approaches, using the experience that existed, the new experience that exists "from the present" in Ukraine. In particular, such an approach to typology can be considered the allocation of instrumental (model), technical characteristics in normative design. We will talk about the forms of normative legal acts and content characteristics, which also require constant updating and cannot be covered by dogmatic (once and for all given) approaches to normative design practices. At the same time, we especially emphasize, emphasize, emphasize that this does not mean separating the "form" from the "content" of the legal

act, but on the contrary, contributes to the improvement of normative drafting by studying both the best practices of the world level, and the elaboration and provision of perfect normative forms of a new experience of legal development in Ukraine.

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