TOWARDS THE ONTOLOGICAL FOUNDATION OF LAW
(Some theses on the basis of Lukács'Ontology*)

CSABA VARGA
Hungría

1. The present theses are but working hypotheses. Although they are based on theoretical generalization, they are to serve further investigation only as motives to be doubted/ corrected/ asserted at any time and not as bases for deductive inference substituting a concrete analysis of reality.

On the basis of the methodological considerations, categories and analyses to be found in Lukács'Ontology and involving the legal phenomenon, they are aimed at outlining a conceptual framework which makes possible the explanation of the various manifestations, social and historical aspects of the phenomenon "law" in a way notionally uniform, developed from the ontology of social being, and for this very reason, open to past and future as well. Like any theoretical achievement, Georg Lukács'work does not preclude the possibility of different interpretations either. The present theses do not pretend to offer an exclusive, or in itself authentic, interpretation. For their aim is to make use of Lukács'theoretical work in the explanation of legal

* Georg Lukács'last work, *Toward the Ontology of Social Being,* has only been published in Hungarian translation /*A társadalmi lét ontológiájáról* I-III Budapest: Magvetó 1976/. The German MS, *Zur Ontologie der gesellschaftlichen Seins,* is available for research at the Lukács Archives and Library, Belgrád rakârt 2, Budapest 1056. For some chapters published in English, see *Hegel's False and Genuine Ontology* and *Marx's Basic Ontological Basic Ontological Principles* London: Merlin 1978 /book I chapters 3 and 4/, and "Labour as a model of social practice" *New Hungarian Quarterly* XIII /Autumn 1972/No. 47 /book II chapter 1, section 2/. As to the Ontology in general and the author's former attempts at a jurisprudential interpretation en droit: Essai d'interprétation de l'Ontologie de l'être social de Lukács" in *Archives de Philosophie du Droit* 23 Paris: Sirey 1978; "The concept of law in Lukács'Ontology" *Rechtstheorie* X &1979/ 3; "Chose juridique et reification en droit: Contribution à la théorie marxiste sur la base de l'Ontologie de Lukács" in *Archives de Philosophie du Droit* 25 Paris: Sirey 1980; "Towards a sociological concept of law: An analysis of Lukács'Ontology" *International Journal of the Sociology of Law* IX/may 1981/ 2. For the problems of law in Lukâcs'oeuvre and the reconstruction of the Ontology's legal conception, cf. Cs. Varga *A jog helve likács György világképében* /The place of law in Goerg Lukács'world concept/ Budapest: Magvetó 1981, in preparation for a revised and enlarged English edition.

phenomenon instead of formulating a mere variant of given theses, related to the sphere of law.

2. Law has no separate ontology, independent of the ontology of social being. All that develops peculiarly in law and lays the foundations of its relative autonomy, can unfold within the whole and as one of its components given at any time only; all these can owe both their existence and raison *d'être* to the whole in question.

3. Law is a social phenomenon. A phenomenon is social if its existence is manifested in that it exerts an influence on a social scale.

3.1. Lukács'Ontology analyses society as a complex of complexes. The individual complexes are exerting a continual, mutual effect on each other. Social existence is just the total sum of such mutual effects, i.e. the expression of their state at any given time. Consequently, the total complex consists of the mutual effect of the part complexes. In the same way, also the part complexes /as relative, *i.e.* never closed, totalities/ are the product of the mutual effect of the /part/ part complexes concretely making/shaping them.

In such a way social existence is an unbroken, irreversible process. In this process all that comes about will leave its mark. That is to say, as a new component it will be built in the system of conditions in which the mutual effect /and also the self-reproduction/ of the individual complexes will take place.

3.2. As an irreversible process, social existence is at the same time a historical existence. The historical character of social processes may be grasped in socialization in the most striking manner.

In the narrow sense of the word, socialization is a process in course of which connections are getting more and more indirect. As social motion gets realized through the mutual effect of individual complexes in the course of which their self-reproduction will also take place, the indirect nature of connections manifests itself above all in the mechanism of mutual effect and self-reproduction. This means that in the construction and functioning of this mechanism the purely nature-given conditions and components are playing a continuously diminishing role as more and more purely social elements of mediation are inserted in the mechanism of mutual effect and self-reproduction. The social nature of the whole process comes increasingly to the fore –*i.e.* its determination by conditions and components rooted in and produced by the processes of mutual effect and self-reproduction.

By the progress of socialization the role and importance of mediation will also increase. According to its widest definition, mediation is the social medium in which mutual effect of complexes is getting realized. Mediation is not simply a characteristic of social motion, or

one of the functions of social complexes. By the progress of socialization it grows into such a comprehensive category that all kinds of motion will also be qualified as mediation. The complexity of the forms it takes will exclude the possibility of its being exclusively the agent or subject of mediation. All that is to mediate in certain direction/s/ will be mediated in other direction/s/.

At a relatively early phase of development the compound mechanism of mediation has called to life complexes whose only function is to mediate. Such a complex is, *e.g.*, language in the field of social communication, or law in the field of regulation. In its turn, socialization develops their relative autonomy and peculiarity step by step too.

3.3. Viewed from the point of view of human activity and actual social functioning, social existence is nothing else but an interrelation of teological projection and causality, mutually conditioning each other.

Based on the cognition of elements and their connections given in causal processes, taleological projection is their re-arrangements in new contexts. Consequently, teleological projection is nothing more than what is inherent, as to their inner potentialities, in causal processes. Yet owing to the circumstance that they have only been inherent as potentialities in causal processes without being able to evolve in these processes in a spontaneous way, the act of teleological projection is just what is needed for man to shape and socialize his environment by creating things which would not have been provided ready-made by nature.

From the very first elementary act of labour onwards, every form of human activity is being built on the connection between teleological projection and causality. However, it circumscribes only and does not define what will have been taken shape as human history. This circumstance has a dual explanation. On the one hand, every teleological projection presupposes alternatives in decision. On the other, causal processes are going on in a composite environment and influenced by various factors to such a degree that in all probability one cannot foresee the actual result correctly. In the final analysis it will be more or less, or simply different from than what was aimed at by the original projection.

The transformation of connections and interrelations into more indirect and mediated ones will be sensed in teleological projection, too. By the progress of the forms of the division of labour, social regulation, etc. more and more acts of teleological projection of a purely mediating character will be wedged in between the original

teleological projection and its realization. And the outcome is that the process which is to realize the original teleological projection will turn to be more and more markedly a process of many factors and chances.

3.4. Object-character is the very manifestation and basic quality of natural existence. It transforms into objectification when man realizes/creates it, putting it into his own service, as the subject of his teleological projection.

As the product of socialization, more and more compound systems of objectification come into being. Their working and its reflection in mind will increasingly ever be characterized by the appearance as if it would be the case —representing a kind of second nature— of forces working by the laws of purely natural objects. This is the phenomenon of rectification, the necessary and self-reproducing consequence of socialization, which does not by itself involve any distortion.

It turns into a source of social problems only if its coincidence with some other conditions gives rise to the objective fact and subjective experience of alienation. Such a situation arises when social existence comes into conflict with human substance. By the progress of socialization the possibility of alienation grows, yet there is no inner necessity of its actual realization. That is to say that alienation is a function of several tendencies prevailing in the total development of the total complex.

3.5. It is the investigation of interrelations, starting from the whole given at any time and delimiting their place and importance within the whole, that is called totality approach in Lukács'Ontology.

According to the totality approach, also ideology —*i.e.* the kind of consciousness with the help of which human beings and their groups fight their conflicts through— is considered as one of the components and shaping factors of social existence. Consequently, the decisive question is not to know whether its content is epistomologically verifiable or not, but to define the role and the efficacity it accomplishes while influencing given processes of motion in a given situation.

Therefrom it follows that the epistemological approach as such is also subordinated to the ontological one. It goes without saying that the veracity or falsity of cognition is by far not indifferent as far as the planning of teleological projection and of causal series, the understanding of the nature and components of conflicts, *i.e.*, in the final account, the whole progress of social existence is concerned. Yet ontology has to reckon with the real interconnections of real motion. Accordingly, ontology also has to reckon with the fact that to define which kind of cognition in which manner exerts an influence on

social motion in a given context is a function of a number of factors pointing beyond the sphere of epistemology.

3.6. In such a way social existence is equal to social total motion. It is the state of the unbroken mutual effect of individual complexes as given at any time. All that comes about in this irreversibly progressing process, owing to its exerting an influence, will be indestructibly fed back to and built in the subsequent processes as one of the elements of their conditioning environment.

This is the reason why the priority in time does not mean an ontologic priority. For the total process is getting realized in a complex network of mutual determinations where neither exclusively determining factors, nor exclusively determined components are given; there are but mutual determinations.

Notwithstanding, to answer at sufficient depth the question of which are the determinations in the system of mutual determinations that prove to be the predominant ones by defining the direction of the total process, and how to explain the way in which the unequality of determinations can lead to a determination in the last resort /*e.g.* economy vs. other spheres/, is less the job of a philosophical generalization than the one of empirical research directed to reveal the channels and the mechanism through which indirectnesses and also inequalities can materialize and prevail.

4. Law is a mediating complex. As such, it does not hold its raison *d'être* in itself. Yet in order to fulfill its function of mediation, it is expected to have relative autonomy.

4.1. Historically, law as law has differentiated and transformed into the holder of a peculiar mediation when, defined by conflicts of interests, society has developed stratification in several directions, in which one by classes has distinguished itself as the basic organizing factor.

In societies cut into antagonistic layers in line with the conflicts of interests, law has been called to life in order to overcome every part order and to exert an influence thereby, unifying society in the last resort. In such a way law has a natural connection to the state which fulfills the role of the final unifying force in the sphere of the politically organized social power.

4.2. The task of law is to settle the basic conflicts of interests of society. Law is to guarantee social order by binding the settlement of conflicts to given patterns.

4.3. The connection of law and state is twofold. Law and state are the subject of common social determination. Regarded as a means influenced by the prevailing class situation at any time, both of them

express and realize social targets in a way coloured by class targets. The question in which manner and with what kind of exclusivity will the representation of class targets by carried out in/by them, is a function of social arrangement and relation of forces.

By the construction of its hierarchically built up, territorially divided system of organization the state is taking steps for gradually monopolizing law, i.e. for acquiring the exclusive rule over law. This is advanced by the historical process resulting in law's peculiar objectification, then in its being considered as exclusively embodying law just in this objectified form. The *étatization* of law will be more emphasized and thoroughly completed in systems where the making and application of law is to be separated both notionally and institutionally, getting on a formal importance.

This process shows in the direction of mutual conditionedness which in extreme cases can even lead to the mutual embodying of each other's contents. As a matter of principle, in such cases every state activity appears at the same time as a legal one, and every legal activity appears as a stage one.

4.4. At early times the objectification form of law attached to the choice of certain elements of the actual practice as a pattern to be followed. Later on these patterns developed into those of conduct and decision, considered as normative. The created and written norm structures have been established in order to influence *i.e.* to complete, modify, unify/, then to succeed these patterns.

In various phases of historical development the created and written norm structures have been striving for the exclusive embodiment of law. This is the attempt at a reduction of the ius to the lex, a recurring phenomenon in legal development. In any of its forms it is an attempt at acquiring an exclusive rule over law, although its concrete motives and manifestations can be different from one another /as in the case of the Roman domination, the law based on revelation, the law of Byzantium, the enlightened despotism, or the legislation of the French revolution/.

5. Norm is a teleological projection. Based on the cognition of causal connections of the processes in reality, it sets targets and makes the choice of the instrumental behaviour/s/ considered the most favourable in view of reaching the given target.

5.1. Legal norm is a teleological projection which fails to formulate the target that is socially desired to reach. In order to guarantee its unequivocality as a rule of conduct and decision, excluding even the mere questionableness of its content, it does formulate the instrumental behaviour defined by the legislator as the target to be reached.

It is also the exclusion of questionableness that is aimed at by the formalism in the shaping of norm content. This formalism manifests itself in attaching the description of both the instrumental behaviour and the situation in which the behaviour in question is to be followed, to externally recognizable signs of the facts that constitute a case.

5.2. The circumstance and tendency of development that, owing to the growth of the need of regulation and the state's striving for an absolute monopoly over law, legal objectification appears as a created and written norm structure more and more accentuatedly and in a more and more exclusive way, makes the law a peculiarly separate sphere also from a formal aspect.

At early times legal quality was expressed in the assertion of some content as a pattern to be followed. That is to say, legal validity was attached to the practice recognizing the pattern as a normative one. It presupposed a content, adequate to the targets and interests involved in the concrete situation, on the one hand, and a medium spontaneously carrying it as a legal one, on the other. Consequently, traditionalism and attachment to patterns, sacred or of proved value, had a considerable role to play in the continuity of law.

In order to strengthen the dynamism of law, the formal surrounding of legal quality has come gradually to the fore. This has presupposed the detachment of law from its traditional holders above all. It has resulted in a change of the basis of the validity of law. Namely, by this time validity —in the meaning of belonging to and being within the law— has been attached to the form of objectification, to its enactment in a given way, independent of any concrete content.

The formalism of legal validity has a dual consequence. On the one hand —from a social point of view—, traditionalism will wither away in favour of formal qualities. Legal systems based on custom will retire; they survive only as folkways /*i.e.* as substitutes, complements, remnants/ at the most. On the other hand —from a legal point of view—, the transformation of law into a purely formal system will be completed in as much as the way in which the form of objectification is to be enacted in the hope of acquiring validity will also be defined by a legal enactment.

5.3. By the decline of traditionalism, institutionalization will prevail as the factor guaranteeing legal continuity.

In the most comprehensive manner, institutionalization is characteristic of state organization when the building up of the differentiated organizational and institutional system of modern statehood has been accomplished. It involves both the concentration of power and the formation of its system divided territorially and according to spe-

cialization. It results in the rise of an autonomous branch of the division of labour, namely administration, as a profession based on qualification and organizing itself into a separate body.

The institutional set-up of modern formal law is also established as a part of modern statehood, laying the foundations of the latter, and at the same time as a branching off pointing beyond administration. The institutional set-up of modern formal law includes both the system of valid legal enactments, formally separated and laid down in books, and the legal profession as a separate body based on qualification, destined to function/support/ reproduce the system of enactments. In its turn, the presence of legal profession draws the traditions connected with lawyers'training, skill, and working ideology, needed for fulfilling their specific role, also into the conceptual sphere of the institutional set-up.

5.4. As to the construction and functioning of law, this development has some definite consequences.

The entire legal sphere is becoming dominated by the spirit of central enactment foreseeing everything. The teleological component grows into one of unprecedented strictness and dimensions. Law just strives to plan every social occurrence in conformity with the abstract definitions of goals and instruments as previously decided from above, as well as to display and treat in practice actual occurrences as a "realization" of these definitions.

A form of objectification corresponds to the spirit in question in which law is considered the total sum of enactments, logically arranged, coherent, based on an almost axiomatic ideal of hierarchy and deduction, and organized into a system conceived of as complete and closed in/by itself.

In the whole of the legal complex, the moment of enactment, *i.e.* the projection of law, will be more and more accentuated. As one of its consequences, projection and its practical implementation will be thoroughly separated from each other. In such a way, the differentiation between law-making and law-application will be considered not simply as derived from the heterogeneity of the tasks, in other words, from a distinction made within the division of labour, but as one resulting in the breaking of the process-like unity, the relative balance of law-making and law-application. Law-making grows to become the framer of the legal sphere, while law-application is degraded to a mere execution. Law-making is lifted to a space to be filled exclusively by the free will of mankind, and this circumstance also lifts law-application to a space where the only factor of determination permitted to get on seems to be determination by legal enactments.

Thereby the function proper of the administration of justice and also its pathos will be vanished. By its original sense, administration of justice is a legal functioning reckoning with the facts of the case and taking into consideration norm structures only as possible patterns in the search for a satisfactory solution all through the resolution of conflict. This is the reason why it could give way to the determination of the facts of the case and it could aim at a reaching material justice. As opposed to it, the settlement of conflict embodied by the model of law-application is the more or less mechanical execution of legal enactments. Figuratively speaking, it is the arm of law-making, lenghtened to cover concrete cases, but missing real autonomy as well as any specific role which would be markedly its own. Consequently, justice turns to be a formal rule-conformism reducible even to mere lawfulness.

Even if the ideal of law-application, characteristic of formal law, seldom shows itself in an extreme form, its direction is indicated by various utopian ideas born in diverse social movements of two thousand years on the codes foreseeing and regulating everything, on the prohibition of law-interpretation, on the legislator having but one book in the name of the cult of simplicity, or on the substitution of profesional lawyers by lay judges or even machines meting out the law.

It is this being, surrounded formally in a peculiar way, growing into a formally operated system and having the tendency of autonomous development, that is described from within by Hans Kelsen's pure theory of law. This is a theory of logics which explains the construction and functioning of law by a gradual breakdown starting out from an extreme point /*i.e.*/ from a hypothetical basic norm or the real international legal order/. As to the construction of law, it is built of steps in which the norm/legal source/ that qualifies as of a lower grade at any given time derives its validity from the norm/legal source/ of a higher grade. As to its functioning, it is such that only the two extreme points can qualify purely as law-making and law-application; the points in between qualify as law-application when viewed from the former aspect and law-making when viewed from the latter.

The sum up, the guiding principle of the construction is formal validity; that of the functioning is formal legality.

From this arrangement follows the lawyers' world concept. In the light of this concept, law is seen as a formation, sufficient in/by itself, that moves according to its own laws, sufficient in/by itself too. For in compliance with the principles of construction and functioning, declared by the system itself, validity is the question of how

to enact /*i.e.* by whom, where, and in what manner?/, and legality is the one of the logical subordination of the case to the norm,

6. Both the appearance of the autonomy of law and its ideology are a function of the relative autonomy of the norm. In its turn, it is the contradiction, characteristic of mediating complexes in general, that is reflected in the norm.

6.1. Law is expected to mediate in such a way that social determinations involved in law should be asserted through the peculiar autonomy of law. For law has its goal beyond itself, embodied in the mediated complexed. At the same time it has its own system of fulfilment, *i.e.* it is expected to realize the social targets, transformed into legal ones, by fulfilling its own system of requirements. That is to say, in the functioning of law the formal rationality, carried by the organizing principles of validity and legality, has to realize material rationality in a socially concrete way.

Due to such a contradiction, law is a manipulated mediation at all times. For neither validity, nor legality is a definition prevailing in the field of the total complex; as principles of construction and functioning within the legal complex, they are but postulates with a restricted sphere of operation only. If the motion of legal complex comes into conflict with other complexes, only their relation will decide whether the social total motion will go on in conformity with the tendencies of motion of the legal complex temporarily, or the superiority of strength of other complexes ends by subduing the legal one.

Nevertheless, dramatic moments are not of common occurrence in the life of law. Still, manipulation seems to be its everyday form of existence. For as a socially existing phenomenon, law itself is process-like; its practice is equal to its continuous formation. This unbroken formation manifests itself in one of the meanings of the legal norm, which is —within the given process— a function of diverse social and legal factors as concretely given at any time. Since circumscription, *i.e.* definition, by the means of language can be approximate at best, there remains always a certain scope for motion. And therein every displacement and shift of accent, maybe indiscernible in itself, can add up to substantial changes in the long run.

6.2. The reality and ideology of law co-exist in a contradictory may cast light on the basis of manipulation at any time: on the social forces channelizing legal mediation in the total process in a given way, independent of the kind of formal surrounding and logical ideal law-application has. This reality conflicts with the lawyers' ideology about the autonomy of law and its logical application. The ideology in question is based on false consciousness, yet from an ontological

point of view it has a real task; namely, as a kind of professional ideology, it is expected to transmit and help implement in practice the rules of the game, *i.e.* the declared principles of functioning, or a given profession. Or, in other formulation, it is expected to force the lawyer to seek the service of society through the satisfaction of the system of fulfilment proper to law, *i.e.* to maintain the functioning in the name of law as a functioning within the framework of law.

Hence it follows that Janus-facedness, *i.e.* the practice of double talk, is a necessary corollary of a lawyers'activity. They are to talk of law whilst they are to transfigure real social conflicts of interests into conflicts within the law, then to refine even these into conflicts of a mere appearance. In other words, they are settling real conflicts while they seem to operate with legal enactments in a logical way.

6.3. At the same time the process in question conceals that in spite of everything the realization of law is a social realization after all, enforcing the development tendencies of the total complex, *i.e.* the forces otherwise prevailing in the total complex.

For, on the one hand, what appears as observance of the law, on a social scale and in most instances is no more than the outcome of impulses originating from social norm systems, which run parallel to law, although the two are not identical. Incidentally, the problem of natural law may deserve special attention above all as an ideological force stimulating or hindering the practical realization of law. On the other hand, law can not be devoid of the joint effect of other norm systems and some further factors of shaping social behaviour if only because coercion is a peculiar, yet exceptional, feature of law. For law can only continue to exist as long as the threat by coercion is there as a last resort, although there is no need to employ it in common matters en masse as a rule.

7. Law is a practical category. Like any activity concerned with making, using, and reproducing instruments, legal activity is also based on the cognition of reality. It takes its matter from reality to set it in a new context, as a component of new relations. The shaping of these relationships is aimed at exerting an influence on reality, and not reflecting it. That is to say, the framing and fulfilling instrumental role is of primary concern; and every other possible consideration will be subordinated to that.

7.1. The inevitable existence of a discrepancy between norm and reality will be particularly stressed in the case of legal norm structures.

A legal norm structure is qualified by itself as an artificial human construction with formal definitions, with a structure composed of hypothesis, disposition and sanction, and with an inner duality ac-

cording to which it is to serve one circle of addresses as a rule of conduct and another circle of addressees as a rule of decision for judging the actual conduct of the former addresses and also for imputing to them its legal consequences.

At the same time, legal norms are organized into a system, therefore they are shaped and formulated within, and with respect of, a given system from the very beginning. And the legal system is in itself a complex whole, composed of branches of different solutions and traditions of regulation. In their turn, individual branches of the law are also composed of institutions of different solutions and traditions of regulation, and so on. Well, this variety issued from the diverse traditions of the selection of means will manifest itself not only within the individual systems of the law, but in their various groups, families, and types too. In such a way each norm is reflecting an instrumental response to a concrete social challenge, embedded in the instrumental traditions of its closer and further normative environment.

7.2. It is this instrumental formulation that will be manipulated in the process of norm-application. The selection of relevant facts and norms, as well as their interpretation and qualification will imply a responsible social decision based on an assessment of conflicting interests under a merely logical facade. However, logic is but a form of expression, and not a ruling medium of the decision. Logic can even be a form of expression only since it fulfills a controlling role in the process of decision-making.

The form of expression of any legal process is a conceptual one. At the same time the specific conceptual system of law is directed to other aims than the cognition of reality. Its only aim is to classify the most diverse occurrences in reality by pigeonholing them into a given, finite number of cases. A qualification according to which the real case is considered thd case of a construbable combination of norms, will be achieved in every process of norm-application completely in respect of its consequences and without exception. Legal analogy is but one of its extreme cases, with is pretension of stating the full identity of things in legal adjudication which are only similar in given respect/s/ at the most. As a matter of fact, the extreme nature of legal analogy makes only more pointed, but does not weaken the truth by which any reflection of reality in legal concepts is nothing more than a normative classification, which even in case of an adequate legal functioning can cover arbitrary operations from epistemological and logical points of view alike.

7.3. The construction and functioning of a legal complex is composite and mastered by inner mediations to such a degree that there

is scarcely any possibility of establishing a direct, necessary correlation between the social change and the legal one. For the relative autonomy of the legal complex also implies that outside effects can not force their way through it directly. That is to say, on the one hand law is open to any effect. But on the other, the answer to the question in what manner these effects are formed and on what they assert themselves, is a function of the construction and mutual effect of the components composing the law as a whole, *i.e.* of the peculiar, concrete conditions of motion whithin the law. It may happen that a given social challenge will be responded in an adequate or the functioning. The answer to the question in which part field/s/ will this modification be expressed, to what extent will it become formally graspable, to what point will it be radiated through the entire complex, and finally, to what degree will it shape the influencing effect of the legal complex or will it be isolated from exterting any influence, all this is also a function of the concrete laws, and of the traditions within it, of the legal arrangement.

8. The expression "law" is multisense both in the general literature and in the context of the present paper. At the sametime, its seemingly conceptual uncertainty is illusory only. It follows not at all from the weakness of the definition, but from the composite nature of the phenomenon itself. Or, more precisely, it follows from the fact that in the course of its historical development ever more and ever newer indirectnesses and mediatednesses have been built in the system of legal mediation, and sometimes these have been pushed –relatively, with more or less firmness in permanence– to the fore by the dialectics of development. The theoretical explanation of law as a complex is just aimed at giving an idea of this varying appearance.

8.1. The system of norm objectivations, the system of institutions established in conformity with norm objectivations and responsable for the functioning and reproducing of the law, and the body of professional lawyers making use of norm objectivations within the institutional framework in question have a continuosly growing share, ever more marked and exclusive even in a formally expressed way. As a consequence, it is not only the mere existence and concrete activity of the legal profession, but also its traditions in training, skill, and ideology as well, that are acquiring an ontological significance as components of legal complex.

8.2. Present and past are both components of the legal complex insomuch as their being gets expressed in that they exert an influence. And, in point of fact, the ever more complex process of the functioning and reproducing of law with all of its branching off will, at all

times, be built into the system of conditions of legal motion; indeed, this process is effective in determining all further motion.

The continous tranformation of past into present seems to raise the question whether this in itself complex, and varying medium of the functioning and reproducing of the law does or does not make it possible and justified to elaborate a typology more definitely characterizing the legal phenomenon from this very aspect. As to the kinds of classification elaborated so far, families of law characterize by starting out from the traditional roots of the legal set-up, while the types of law are to do the same from the class content delimited and defined by the whole of the socio-economic formation. Is there anything to express the change nearly altering the character which has, whithin the same family and type of the law, taken place in the incessant vegetation of the system of norms, in the continued growing of formal qualities, in the proliferating extremeties of institutionalization, and in the development tendency of the role of lawyers, gaining an ever more essential, because ever more increased, independence?

8.3. Every typology is to characterize actual reality. For this very reason it is open to question whether the complex of modern formal law has not outgrown its own boundaries, converting its basic idea from a legal pattern into a social ideal, namely the idea of the merely rule-conformable, because norm-oriented, behaviour? Is it not the concrete achievement that ought to work its way in the mechanism of legal mediation in view of attaining eventually that the entire complex should become of a real social existence, adequate to the requirements of our age? In other words, would not the responsibility for concrete achievement have to appear in each new mediation brought about by the progress of socialization and also in its own system of fulfilment, to have socialization deepen humanization instead of running the risk of frustrating it?

9. The self-justification of law in the same way as the manner of how to make the conditions needed for its valid construction and legal functioning, is an inner question of the sphere of law. To serve the complex law has but one job to complete and that is mediation to support, through the accomplishment of its own system of fulfilment, the direction of motion, regarded as essential, of the total process.