

# **Ideology and Law**

## **Abstract**

In the presented work, I examine in depth the concept of ideology in its historical changes. Afterward, I relate these various forms to law. My work aims to analyze how law and ideology interact and whether there is an inherent relationship between them. I am therefore concerned with answering the question whether law is ideological, or under what conditions law and the application of law are influenced by ideology.

The work is divided into three parts. In the first part, I address the notion of ideology. Here I examine how Karl Marx and his followers grasped and elaborated on this notion. I show the transformation of the Marxist conception of ideology in the works of Lenin, Gramsci and Althusser. In the second chapter of the first part, I present a different, historically relevant tradition of understanding ideology that I call, for the purposes of this work, conservative-democratic. In the second discussed tradition, I describe the ideas of Arendt, Popper, Scruton, and Pithart. Subsequently, I compare the two negative concepts of ideology to each other.

The second part is devoted to how these negative concepts of ideology can be applied in legal theory. In the first chapter, I focus on the Critical Legal Studies movement, whose proponents were inspired by the previously mentioned Marxist understanding of ideology, which they explicitly applied to law and legal theory. As part of the chapter on Critical Legal Studies, I set out how the movement has theoretically developed the relationship between law and ideology, and then show their ideas in three specific critical analyses. In the second chapter, I turn to the ideas of the traditions of legal positivism and naturalism and report on how their knowledge can contribute to a closer understanding of the ideological critique of the conservative-democratic tradition.

The third part deals with neutral conceptions of ideology. Here I describe how these differ from the aforementioned negative concepts, and how they were conceived in the theoretical work of Mannheim. I associate the neutral conception with relativism, which I analyze in relation to ideology through the work of Balkin. I then relate ideological relativism to the field of law in a chapter dealing with discursive concepts in law. I conclude the last part with a chapter on language games, as they were explained in relation to law by Morawetz, which I believe show the problem of plurality in an interesting light.

**Key words: ideology, law, relativism**