

The Rightness-Justice Binomial. Conceptual Considerations

Hak-Adalet Binomu. Kavramsal Değerlendirmeler

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ABSTRACT

The paper makes some theoretical contributions, regarding the concept of the theory of rightness. In the first part, several scientific concepts are identified and defined as elements that belong to the theory of rightness as fairness. The second part of the paper analyzes the logical relations between rightness and justice, affirming and arguing that rightness is the state of a social system in which the natural right is verified, and justice is the state of a social system in which positive right is verified. Finally, the concept of the theory of rightness is defined logically, epistemologically and methodologically.

Keywords: Rightness, justice, theory of rightness.

Öz

Makale, doğruluk teorisi kavramına ilişkin bazı teorik katkılarda bulunmaktadır. İlk bölümde, adalet olarak doğruluk teorisine ait unsurlar olarak çeşitli bilimsel kavramlar tanımlanmıştır. Makalenin ikinci kısmı, haklılığın doğal hakkın doğrulandığı bir sosyal sistemin durumu olduğunu ve adaletin pozitif hakkın doğrulandığı bir sosyal sistemin durumu olduğunu onaylayarak ve tartışarak, hak ve adalet arasındaki mantıksal ilişkileri analiz eder. Son olarak, doğruluk teorisi kavramı mantıksal, epistemolojik ve metodolojik olarak tanımlanır.

Anahtar Kelimeler: Hakkaniyet, adalet, adalet teorisi.

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INTRODUCTION

Considering the concept of justice as belonging to a social reality in which individuals have a behaviour based on social reasons, the present work brings some clarifications of a conceptual nature. Thus, Rawls regards justice as the first virtue of social institutions and states in his work (Rawls, 1999) that the fundamental object of justice is the basic structure of society, the way in which social institutions distribute fundamental rights and duties and determine the distribution of the benefits of social cooperation.

Rousseau's proposal for a social contract generalized the concept of justice as a right established by the general will of individuals. Another approach to the concept of justice is found in Nozick (Nozick, 1974), which replaces the two raw principles (the principle of equal freedom and the principle of difference) with the following three principles: 1) the principle of acquisition; 2) the transfer principle; 3) the principle of rectification.

Regarding the concept of justice, it refers either to a result or to a process that describes either a fair state of a system or a fair process regarding the application of a certain procedure, measure or action. By fair result or fair trial we mean that result or process that has been reached or is produced in accordance with a positive norm (right), that is, by checking (observing) that norm. The concept of justice includes the rationality of the positive norm involved in the realization of justice, that is, the entire normative device designed or intended to establish, ensure and verify the realization of justice.

LITERATURE REVIEW

Regarding the rightness, as property or mechanisms of the society, there is a rich specialty literature, also very few of the works delivered provided a complete and significant theory of rightness. The most impacting such works are the following: a) Kant – with his categorical imperative, described especially in *The Critique of the Practical Reason*; b) John Rawls – with his concept of fairness, which undergrounds the fundamental principle of difference aimed at to regulated the rightness (and justice) in society; c) Harsanyi - with his function of social welfare and his theory of rational behavior with the three components: decision theory, game theory and ethics - the theory of rational value judgments (Harsanyi, 1980); d) David Gauthier - with his concepts of arhimedic point, and non-tuism (Gauthier, 1990); e) Robert Nozick – with his invisible hand mechanism of generating the society as a whole, as well as with his principled procedure to avoid the unrightness or, after the case, to correct such unrightnesses; f) Kurt Gödel – with his incompleteness theorems.

THE CONCEPT OF RIGHTNESS

In the literature and, in general, in the public debate on the quality of life, one of the ubiquitous issues is that of rightness.

Rightness has as its etymological root the idea of right, which, in turn, has a series of connotations such as those of correct, proper, according to a norm/prescription or according to a common belief (philosophical or just at the level of common sense), etc. The scientific concept of rightness is contaminated, like any other concept, by its acceptances of the common language, so it will have to be rigorously defined, so that analyses and interpretations based on it are protected from ambiguity or equivocality. In order to define the concept of rightness, we must first establish its predicate of sufficiency (by predicate of sufficiency of a concept we mean those attributes/characteristics of that concept which, once verified simultaneously, ensure the qualification of the concept in question as such. This mode of defining is analogous to the Aristotle-ian mode of defining (identification of the proximal genus and the introduction of specific difference) but is more general. Moreover, by this method the nomination of the proximal genus is eliminated, because the predicates of sufficiency enumerate, in "cascade", as successive filters, the attributes that ultimately specify the respective concept). We consider that the following five predicates of sufficiency should be retained, in this case:

- (R_S^1) *concerns at a social relationship*: the concept of rightness refers to the human being and to the relationships of interdependence (Miller, 2001) that the individual (from the perspective of rightness, we should talk about the person rather than the individual but, in the following, we do not distinguish between the two terms, considering them inter-substitutable. When the need for argumentation requires this, the rigorous specification will be made) has with the rest of society (contemporary or not). In other words, the concept of justice is not a concept that concerns the whole reality, but only a social reality;
- (R_S^2) *a value is attached to the social relationship*: not all social relationships have values (i.e. axiological marks), many of them are purely functional in nature and even possess automatic, routine characteristics. The concept of rightness concerns those social relationships that have meaning for the individual and for society, and to have meaning it must have a value attached. Therefore, in order to define the concept of rightness, we must operate a selection in the set of social relationships, so that we retain only the subset that has values attached;
- (R_S^3) *has a practical nature* (in the Kant-ian sense here - that is, regarding the subject-subject relationships): considering that we have already introduced the predicate of sufficiency regarding the social relationship, it seems that the predicate that demands a practical nature for the concept of rightness is superfluous (redundant). The objection is unfounded, however, because the social relationships are of three types: a) cognitive-type relationships (for example, knowledge development); b) praxiological-type relationships (for example, economic activities); c) practical-type relationships (for example, political or religious activities). By the latter predicate we want to exclude the first two types of social relationships and select only the social relationships of practical type (cognitive relationships refer to social relationships that concern objects (including people as objects of knowledge), praxiological relationships

refer to social relationships that concern the interaction of people with nature, and practical relationships refer to social relationships that concern the interaction of people with society).

- (R_S^4) *the value attached is of a moral type*: among the social relationships that have attached values (Prust, 1996), we will have to select, further on, those social relationships that have attached moral values. The concept of moral value we consider known for the needs of the present study - in principle, a value is of a moral type if it concerns or has significance linked, in one way or another, to the dignity (self-respect) of the human being (we do not want to limit the moral value to the well-known concept of good, because it can easily slip into the utilitarian concept. In this context, although anything utility can be good, not every is good must be an utility. Therefore, from a logical point of view, the significant sphere of the good is wider than that of the utility (some researchers consider, however, that we have, in fact, an intersection, not an inclusion between the two spheres, in the sense that there may be types of utility, which are not types of good), but we do not develop such semantic considerations here.);
- (R_S^5) *morality is of a non-utilitarian type*: we want to exclude from the concept of rightness the utilitarian aspects, although there are approaches in the literature (for example, the Pareto optimality principle) which, although it seems to „protect” those with the risk of worsening their situation (so to record a decline in the good) is, in fact, focusing on a final state, i.e. a utilitarian category. In this sense, we ask the concept of rightness to verify this predicate of sufficiency, i.e. to be non-utilitarian.

Therefore, from a formal point of view, the concept of justice can be described as follows:

$$R = \{R_S^1, R_S^2, R_S^3, R_S^4, R_S^5\} \quad (1)$$

or, equivalently:

$$R \leftarrow [(R_S^1) \wedge (R_S^2) \wedge (R_S^3) \wedge (R_S^4) \wedge (R_S^5)] \quad (2)$$

Figure 1 gives a synoptic picture of how the concept of rightness is obtained based on the predicates of sufficiency.

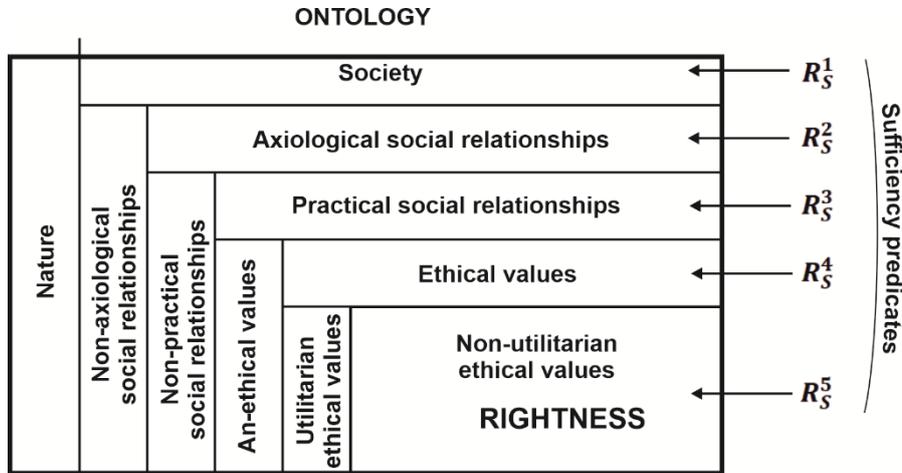


Figure 1. Logical derivation of the concept of rightness

Source: authors' graphical construction

Based on the sufficiency predicates established above, we can formulate now the following definition of the concept of rightness: *rightness is that social relationship of practical and non-utilitarian type, which objectifies to human dignity (self-respect).*

A brief qualitative analysis of the concept of rightness, as defined, would consist of the followings:

- *rightness is a social relationship.* This means that rightness is a relational concept, not a property of something, of a choice, for example. This remark is important because it prevents the equaling of rightness with a state (for example a desirable final state, as required by the Pareto optimality principle);
- *rightness has no utilitarian significance.* This means that rightness is not related to well-being, happiness and other similar concepts that are generated by the concept, or through the concept of utility;
- *rightness is a practical social relationship.* Taking into account the other two characteristics (predicates of sufficiency) mentioned above, this means that rightness is closer to the procedural aspect (convoked, for example, by Robert Nozick (see his work, *Anarchy, State, and Utopia*, translated into Romanian by Humanitas Publishing House, in 1997). This result will be proved to be particularly significant in designing the automatic stabilizer in the field of social justice (Pańkowska, 2020), the final goal of the present study.

NATURAL RIGHT VS. POSITIVE RIGHT THE CONCEPT OF RIGHT

Based on the concept of rightness, we will define, in the following, the concept of right. *First of all*, let's note that the right term is a predicative one (adjective, grammatically), which means it expresses a property. This property is the social relationship of a practical nature, a relationship that generates rightness, as defined above.

Secondly, the concept of rightness and the concept of right stay in the following logical relation: rightness occurs when the associated social relationship is right. In other words, the vehicle for the objectifying of rightness is the just the right character of the choice, decision, action or behaviour that objectifies the social relationship associated with rightness.

Thirdly, rightness is a cumulative concept, that is, it is only performed if all the events (choices, decisions, actions, behaviours) associated with the social relationship concerned are right.

Based on the above considerations, the predicate of the right can be defined in the following way: it is the act (or abstention, as the case may be) that objectifies the self-respect of the individual (it is important to note here that self-respect (dignity) never refers to the group, community or other social aggregative structures, but always to the individual, even if, inevitably, s/he is „immersed” sociologically into such aggregate structures. Therefore, there are no collective merits, no collective wines, no collective obligations, no collective responsibilities, but only individual ones).

A very important result of the ideas discussed so far, is the following: the rightness is a state, and the right character is a procedure. In other words, the state of rightness is attained if the procedures leading to that state are right - so the right procedure must be considered as an operational predicate, and rightness, to which the right procedure leads, must be considered as a desiderative substantive predicate.

Figure 2 suggests these conceptual distinctions.

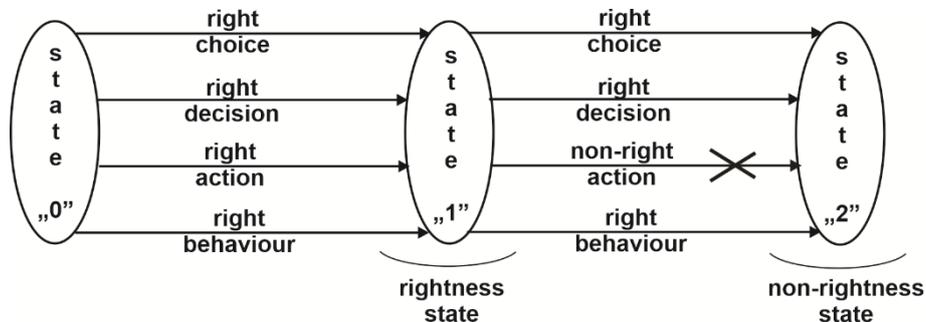


Figure 2. Rightness may be cumulative regarding a procedural right character
 Source: authors' graphical construction

NATURAL RIGHT VS. POSITIVE RIGHT

The *right* predicate can have two alternative origins, although not entirely distinct: a) natural origin; b) positive origin.

The natural origin of the right is claimed from *human nature*. By human nature is meant the set of the physical and mental characteristics of the human individual, as a component part of nature and as a result of natural evolution, without any influence of the social. Of course, the human individual has never been an a-social one, but it can be assumed that, from the evolutionary biological point of view, we can isolate the set of physical and mental traits that are exclusively naturally conditioned.

The positive origin of the right is claimed from the *human condition*. By human condition is understood the human nature adjusted by culture. In other words, the human condition, although it has as its „backbone” the human nature, it is „contaminated” by values, institutions, traditions, etc. If the human nature can be considered, in general, invariant, the human condition has a predominantly historical and contextual character, it is relative not only from the perspective of time, but also from that of space.

Some additional considerations may prove useful in the conceptual dissociation of natural right from the positive one:

- natural right can be objectified only through the positive right - natural right is an inalienable foundation of man, but which, in principle, can never be manifested as a right in itself, but only as a positive right;
- it is desirable that the positive right does not interfere contradictory with the natural right. This means that positive right must, as far as possible, represent public codifications of the natural right;

- the positive right is much richer, from the point of view of the denotative sphere, than the natural right, in the sense that the same natural right can be codified in a plurality of norms of positive right (of course, all converging with the natural right in question);
- natural right is what we could call in a legitimate way as being right, while positive right could be called as legal right;
- natural right and positive right establish, among them, a co-evolutionary process. This means that there will be a causal relationship from natural right to positive right (logically, this causal relationship signifies a legalization - or public codification - of the legitimacy), and a feed-back relationship from positive right to natural right (obviously, not in the sense of establishing new natural rights, because the natural right is invariable, but in the sense of specifying additionally the set of natural rights, as well as the ways in which the natural rights are found in the positive rights).

Figure 3 outlines the relationship between natural right and positive right.

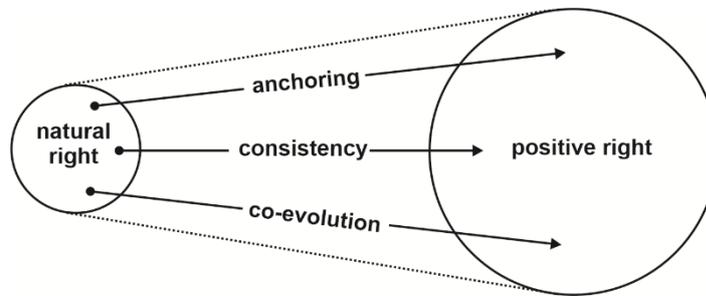


Figure 3. The logical relationships between natural right and positive right

Source: authors' graphical construction

RIGHTNESS VS. JUSTICE

Based on the distinction made above between natural and positive right, we can now turn to examining a more general distinction (and more important for the subject of the present study), namely the distinction between rightness and justice.

The concepts of rightness and justice, respectively, are often used as mutually substitutable (we will see, immediately, that there may be un-rightness even if justice is done and, reciprocally, the assertion of rightness can mean violation of justice. The ideal is, of course, the coincidence of the two achievements - of rightness, respectively of justice - within the same species and with reference to the same person). Although there are no serious consequences of this indistinction in the common language, when it comes to scientific examinations (or their practical application), much more attention and rigor is required with regard to these concepts, because unpredictable adverse effects may occur. In the followings we will draw some clear conceptual distinctions between rightness and justice.

RIGHTNESS - REFLECTION OF NATURAL RIGHT

Rightness is the state of a social system in which the natural right is verified. This means that the rights in question need not be publicly codified (by public codifying must be understood two properties at the same time: a) the codifying is performed by the public power - the state; b) the codifying is, from an informational point of view, publicly accessible - in practice, such public informational accessibility - or transparency - is ensured by the publication of the rules in a consecrated document - in Romania this is Monitorul Oficial), but that they must be considered by the population concerned (or most of them) to be legitimate, inalienable and definitory for the generic human being. Thus, an essential role in preserving the state of rightness of a society (communities) has the tradition, the collective memory, as well as what is called the popular wisdom. Therefore, in the establishment, implementing and functioning of the rightness, moral norms (we specify that the moral norms are not codified, this aspect not impinging on their quality as norms. In the moment a moral norm is publicly codified, it becomes a positive - i.e. legal - norm) are fundamental. The assessment of the state of rightness is always done by checking the morality of decisions, actions and behaviors. Rightness is generally evaluable subjectively but, especially in small communities, an inter-subjective evaluation may also work, although at the level of society as a whole the inter-subjective assessment of the state of rightness is difficult if not impossible. In essence, it can be said that rightness (or the state of rightness of a social system) is instituted when natural right is put in place. The contrary state of the rightness we call un-rightness (or the state of un-rightness).

JUSTICE - A REFLECTION OF THE POSITIVE RIGHT

Justice is the state of a social system in which positive right is verified. This means that the rights in question need to be publicly codified (through legal norms with different legal forces - thus, the norm with the highest legal force is the Constitution. Then there are the organic laws, the ordinary laws, the government decisions and the like, which form, together, the primary legislation. Based on the primary legislation, the secondary legislation is elaborated/codified (methodologies, procedures, institutional mechanisms that serve to implement the primary legislation). Government ordinances (adopted during parliamentary vacations) and government emergency ordinances (which are adopted during parliamentary activity) are considered laws, subject to ratification in Parliament. Codifying and ensuring advertising (public transparency) are sine qua non conditions of positive right. The assessment of the state of justice is done, simply, by checking the non-violation of the positive norms. It follows, therefore, that if a natural right is not codified in the form of a positive right, even if the positive right is enforced, so the state of justice is verified, it is possible that, in this way, a natural right be violated, that is, it is not checking the state of justice. In this context, the phrase *rule of law* refers to the verification of the state of justice, not of the state of rightness (for reasons of terminological unity, the state in which the state of rightness is verified could be referred to as *the rule of natural right*, in order to distinguish between natural right

working and the positive right working). The opposite state of justice is called injustice (or state of injustice).

Figure 4 provides a synthetic picture of the conceptual distinction that must be made between rightness and justice.

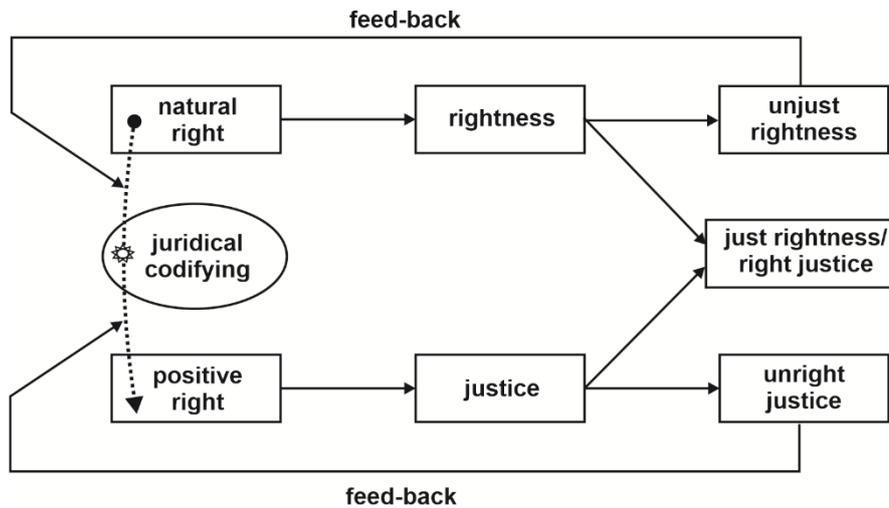


Figure 4. The logical relationships between rightness and justice

Source: authors' graphical construction

THE CONCEPT OF THE THEORY OF RIGHTNESS

The concept of theory of rightness refers to a logical, epistemological and methodological foundation of the state of rightness in the society.

Logically, the concept of the theory of rightness must specify the basic principles („axioms”) of establishing this concept and examine these principles from at least the following five perspectives:

- *the primitive* character of the principles: the principles must be self-based, it is not allowed that they can be logically derived (which would „degrade” them at the theorem stage) from other principles, more primitive than them;
- *the sufficient* character of the principles (often, in literature, the sufficiency of a set of principles (or predicates, as the case may be) is also called completeness. From a semantic point of view, the two terms - sufficiency and completeness, respectively – are, obviously, equivalent): the principles must allow to derive all the theorems, lemmas and sentences of interest for that theory, consistently and decidable from an alethic perspective (there is, of course, the problem of Gödel's two theorems, but, as the theorems in question are known, they have a relatively limited „validity”: they

refer only to axiomatized theories and, within them, only to those theories that include arithmetic (because the theorems in question are „dependent”, from the point of view of the demonstration, of the natural numbers). In this sense, theories of rightness could „escape” from Gödel's constraint) (Smullyan, 1992);

- *the consistent* character of the principles: the principles must be non-contradictory to each other (taken two by two), i.e. the verification of one principle does not undermine the verification of another one;
- *the independent* character of the principles: the principles must not be derived from each other, i.e. they must not be redundant at the whole set of principles (it should be noted that this characteristic is not, in its turn, redundant compared to the one that requires primitive character of the principles. Indeed, all principles can be primitive, and yet at least two of them may not be independent of one another). Although redundancy is a trait of great importance and significance in the functioning of any system (including a social system (Pańkowska, 2020), such as the system in which states of the type of state of rightness, respectively of state of un-rightness can appear), at the level of the set of principles of a theory, it is inadmissible;
- *the convergent* character of the principles: the verification of all the principles, simultaneously, must lead the phenomenon/process to which the theory in question is associated, towards the achievement of the specific objectives. The convergence of principles is often ignored in logical analyzes of theories, although, in our opinion, it is of the same „strength” as the other four characteristics of the theory, mentioned above.

From *the epistemological* point of view, the concept of the theory of rightness must specify the chances of rightness to be implemented, which are the institutions, procedures, and mechanisms for testing the rightness occurring. In other words, this aspect should indicate both the testability, as a property of the institutions, procedures, and mechanisms involved, as well as the ways of effective testing. The testability of the work of the rightness does not, of course, refer to the correspondence-truth (correspondence-truth is the concept of truth proposed by Aristotle and refers to the semantic coincidence between the statement describing a factual without the verification/inspection of that factual, and the statement describing the same factual by verifying/inspecting the factual in question. A version of the correspondence-truth (aimed especially at the empirical sciences) is the semantic coincidence between a predictive statement about a factual and the descriptive statement about the same factual), it does not refer to the cognitive aspect of the matter, but it refers to the achievement of a purpose - the accomplishment of the rightness. This means that the testability (and actual testing) in rightness matter concerns the semantic coincidence between the verbal formulation of the purpose before it is achieved, and the verbal formulation of the purpose already achieved. We could also say that testability in the field of rightness refers to the semantic coincidence between the normative statement and the descriptive statement regarding a given factual. The epistemological aspect of the theory of rightness highlights *the significance* of the action (either act or abstention) of the achievement of rightness.

From *the methodological* point of view, the concept of theory of rightness should specify which institutions (including norms), procedures, mechanisms are involved when the rightness is performed. It should be mentioned that the methodological aspect of the theory of rightness concerns, first of all, the potential character of the achievement of rightness and, secondly, the actual character of this achievement. The methodological aspect of the theory of rightness highlights *the possibility* (here we could talk about efficacy instead of possibility, but we consider that it is really relevant, methodologically, the possibility of doing rightness and not the actual degree of achievement. The degree of accomplishment is, of course, important although we can hardly accept degrees of rightness. However, as the theory of science accepts degrees of truth (with the adequate semantic details) it might not be exaggerated to accept, in the theory of rightness, degrees of accomplishment - but these analytical developments will not be pursued further in this study) of the action (either act or abstention) to perform rightness.

Some comparative delimitations between the aspects of a theory of rightness could be systematized as in next table.

Table 1. Comparative delimitation between the aspects of theory of rightness

	Logical Aspect	Epistemological Aspect	Methodological Aspect
Foundation	axioms	purpose/goal	way/mode
Functioning	deductive	normative	evaluative
Evolution	towards the middle included	towards the practical truth	towards self-control
Reason	justification	belief	preference

Source: authors' work

FUTURE RESEARCH DIRECTIONS

Future research directions will follow further clarifying of the relationship between commutative justice (which, in our terminology in this paper, should be named simply theory of justice) and the distributive justice (which, in our terminology in this paper, should be named theory of rightness). In the following works, we will examine more deeply the logical and institutional relationships between natural law and positive law, especially from the perspective of the non-procedural theories of social justice, like the theory of capabilities (Sen, 2009), (Nussbaum, 2006). Another future direction of research will be extending the analysis (particularly from the institutional perspective) of the evolutive property of the theory of rightness (or, better said, of the theory of social rightness). Here, the hypothesis of an autopoietic theory of social rightness (similar with Luhmann's theory of autopoietic social system) could be incredibly challenging and productive.

CONCLUSION

In the paper, five sufficiency predicates were identified on the basis of which the definition of the concept of rightness was formulated and a qualitative analysis of this concept was presented. Then, based on the concept of rightness, the concept of right was defined with its two alternative origins, namely the natural origin and the positive origin.

Several conceptual considerations have been set out that dissociate the natural right from the positive right, and it has been shown what a logical relationship exists between these two concepts, namely logical relationships of anchoring, consistency and co-evolution. Regarding the distinction between rightness and justice, clear conceptual distinctions were established in the paper, so rightness was explained as a reflection of natural right and justice as a reflection of positive right.

The last part of the present paper made theoretical contributions regarding the concept of the theory of rightness that was analyzed from a logical, epistemological and methodological point of view, highlighting some comparative aspects between the three aspects.

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