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## THE PHENOMENOLOGICAL METHOD IN THE ETHICS AND LEGAL PHILOSOPHY OF THE XX CENTURY

### Abstract

This paper analyzes the essence of the phenomenological method as it is used in certain theories in ethics and legal philosophy. The purpose of the paper is to provide a full study of phenomenology to determine its place in modern philosophical thought.

The paper used methods of the history of philosophy, especially method of rational reconstruction, and based on interpretation of the classical phenomenological texts (E. Husserl, E. Levinas, A. Reinach).

The main result of the paper is the justification that the unity of logic, ontology and ethics became the ground of application of the phenomenological method in the field of legal and ethical knowledge. Therefore the ideas of E. Levinas's ethical phenomenology were the basis for understanding ethics as the "first philosophy" in a phenomenological context.

The main conclusion of this paper is that the ethical dimension of responsibility for the actions of the subject and their consequences expands the horizons of phenomenological reduction and allows us to reveal the essence of legal reality in a new way.

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*Keywords:* phenomenology, ethics, legal philosophy, a priori knowledge, reality, transcendental subject, phenomenological reduction.

### Introduction

Phenomenology in modern philosophical knowledge is a classical direction of research in which all the key areas of the humanities and social sciences have been developed. Despite the complex conceptual apparatus and the specifics of the application of the phenomenological method, the understanding of the features of the relationship between consciousness and human behaviour is largely formed in the context of phenomenology. The appearance of the phenomenological method was a reaction to the radical changes in the sphere of philosophical understanding of reality that occurred in the 20<sup>th</sup> century under the influence of both major scientific discoveries in the natural sciences and the

development of analytical philosophy. Phenomenology is formed in continental philosophy as an alternative to scientism in the field of epistemology and an attempt to reveal the nature of consciousness and the ways it constructs being, taking into account the creative activity of a person.

The purpose of this paper is to reconstruct the key features of the phenomenological method and its application in the field of ethics and legal philosophy, since it is in these areas that the most profound philosophical understanding of the regulators of human activity and the normativity of ethical and legal prescriptions is carried out. To achieve this goal, the ideological and methodological guidelines of not only classical but also realistic phenomenology will be analyzed.

## The Essence of the Phenomenological Method

The philosophical context, within the possibility to study the specificities, essence and content of the phenomenological method, comprises the conditions for the formation of phenomenology as philosophical teaching and movement. These include the formation of psychology as a field of scientific knowledge and the philosophical understanding of logic and the ways of its development in the 20<sup>th</sup> century.

The fame of empirical studies of human behaviour, as well as attempts to explain the work of the mentality, consciousness, and the nature of mental states, at the turn of the late 19<sup>th</sup> – early 20<sup>th</sup> centuries, led to the separation of psychology into an independent field of scientific knowledge. During this period, the appeal to consciousness as a source of any knowledge in the spirit of the Kantian tradition, taking into account new experimental approaches in science, could not but entail logical criticism in terms of raising questions about the validity and scientific nature of the conclusions proposed by psychology on fundamental philosophical questions. As noted by R. Ingarden (1975), “in the first edition of this work he described phenomenology as “descriptive psychology” in the sense of Brentano” (p. 10).

Meanwhile, scientists from other sciences, when turning to psychology, sought not to be limited only to the empirical level of knowledge. F. Brentano, who had a great influence on the formation of E. Husserl’s philosophical ideas, was the first to turn to descriptive psychology, based on the description of mental experiences and sensory experience, and attempts to describe the work and process of consciousness. From F. Brentano’s point of view, descriptive psychology was to become not just a part of philosophical science, but its foundation, determining the content and order of research of other disciplines (Brentano, 1995, p. 4; Moran, 2000, pp. 39-40). Such a hypothesis has caused serious controver-

sy in the philosophical community, and the emergence of phenomenology is becoming a way to find answers to the question of the status of psychology as a science. It is no coincidence that R. Ingarden (1975) notes that “it is not quite clear what Brentano himself understood by “descriptive psychology,” especially in the period when Husserl listened to his lectures in Vienna” (p. 10).

Another important premise for the formation of phenomenology and its specific method of cognition was the research of E. Husserl in order to identify the philosophical foundations of logic. A specific feature of his philosophical reflections, which differed from the arguments of logicians and mathematicians of the turn of the 19<sup>th</sup>-20<sup>th</sup> centuries, who discussed the nature of new forms of logical analysis in various types of non-classical logic, and on the program of logicism in the philosophy of mathematics, was his appeal to the study of the process of consciousness, ways of reproducing objects in thinking and mental “awareness” of the content of philosophical categories (Ingarden, 1975, pp. 5-7). For example, thinking on the concept of number, E. Husserl questioned its definition as a set of its constituent units. The formation of the concept of “number” is the result of a complex long-term work of consciousness, which cannot be accepted a priori and should be at the centre of scientific research.

In general, the formation of E. Husserl’s phenomenology in the methodological aspect is associated with a philosophical understanding of the relationship between psychology and the studied sphere of consciousness with other branches of scientific knowledge. In fact, already in one of Husserl’s first works, “The Philosophy of Arithmetic”, one can find his ideas of a priori (“pure”) scientific knowledge, devoid of logical and psychological premises (Husserl, 2003). And “Logical Investigations” is devoted to the fundamental problem of substantiating theoretical knowledge with a critique of psychologism and theories that affirm the identity of the logical and mental (Costa, 2009, pp. 68-69). However, Hus-

serl justified the purpose of phenomenological research in a different way.

He sought to develop a new way of philosophical reflection based on the explication of consciousness, which sets the horizons of knowledge of the world. During the life of E. Husserl's system of his philosophical views on the content of the phenomenological method, its foundations and methods of application changed underwent qualitative changes, but in general, phenomenology in the understanding of its creator can be defined as a strictly scientific philosophy "about the phenomena of consciousness as pure entities forming the world of ideal being", about "self-evident logical principles" (Moran, 2000, p. 95) that make it possible to purify consciousness from empirical content, which is carried out using a multi-stage method of phenomenological reduction (Husserl, 2001b, pp. 81-85). Thus, theoretical propositions absolutely do not need any realistic content to be attributed to them. The research itself presupposes the knowledge of the possibilities, conditions and prerequisites for the existence of a phenomenon, regardless of whether it is empirically real or not: "this concept of consciousness can be seen in a purely phenomenological manner, i.e. a manner which cuts out all relations to empirically real existence" (Husserl, 2001b, p. 82).

Husserl extends this argument to all spheres of knowledge, including the field of values and normative regulation of human behaviour. It is the a priori conditions of the given phenomenon in consciousness, which are cognizable due to the intentionality of acts of consciousness, that are the subject of phenomenological analysis (Cairns, 2013, pp. 23-24). It should be noted that in the field of ethics and philosophy of law, Husserl's followers will further interpret the specifics of the application of the phenomenological method in different ways. Basically, these interpretations will go beyond the classical understanding of phenomenology as a transcendental philosophy, which is especially noticeable in the philosophical views of E. Levinas, R. Ingarden,

N. Hartmann and others.

The installation of the phenomenological method does not consist in establishing a connection between the a priori and the empirical but in the reverse movement – from visible phenomena to their reproduction in the form of a priori entities in consciousness: "this relation of the phenomenal object (that we also like to call "conscious content") to the phenomenal subject (myself as an empirical person, a thing ) must naturally be kept apart from the relation of the conscious content, in the sense of an experience" (Husserl, 2001b, p. 84). Therefore in the context of phenomenology, the use of the term "existing", "real", "real" will have a different meaning than in the concepts of analytical philosophy or in existentialism. Husserl believed that in the process of analyzing intentional acts of consciousness, it is possible to intuitively comprehend the truth, to achieve "apodictic evidence". Therefore, all types of objects and phenomena accessible to consciousness fall into the field of phenomenological analysis.

The transcendence of phenomenology was justified by Husserl by the fact that it is the "Pure Self" and intentional acts of consciousness that are the main object of philosophical research (Husserl, 1983, pp. 55-56). Such a subject is transcendental because, unlike an empirical subject, it is understood as a unity of intentional acts in the stream of consciousness, the transition from one act of consciousness to another. The transcendental subject is not subject to change, is not subject to causal dependencies. The path to the knowledge of the "Pure Self" lies through phenomenological reduction.

The understanding of the process of scientific cognition will be similar because it is the cognizing subject who is able to reveal the essence of the phenomena being studied. His consciousness "clarifies" the connection between the elements of the object being studied. As D. Moran (2000) notes, "Husserl understands phenomenon as 'what appears as such'; in other words, everything that appears, including everything meant or

thought, in the manner of its appearing, in the 'how' (Wie) of its manifestation" (p. 127). A slightly different understanding of phenomenology is offered by S. Priest (1991), who claims that "it is the practice of observing and characterizing the contents of experience just as they appear to consciousness, with a view to capturing their essential features" (p. 183). In this case, the experience will act as a link between the intentionality of consciousness and empirical reality, which is not of great importance in classical phenomenology.

The essence of the phenomenological method consists in describing what is given to consciousness with evidence, "is the attempt to produce presuppositionless descriptions of the contents of experience, without any prior commitment to the objective reality of those contents" (Priest, 1991, p. 183). The purpose of this description is to search for universal a priori structures of consciousness, the establishment of which is carried out through phenomenological reduction (Husserl, 1983, pp. 131-132).

The first type (or preparatory stage) of phenomenological reduction is the epoch (from the greek *ἐποχή* – "stop"). The epoch is accomplished by leaving the "natural attitude" that is the state of pre-phenomenological awareness of phenomena (things, concepts, subjects), in which things accessible to consciousness are not questioned, are recognized as data with evidence. Husserl describes the procedure to the epoch as follows: "thus, the entire natural world, which constantly "exists for us", is "at hand", and which we always remain there in accordance with consciousness as "reality", even if we decide to enclose it in brackets ... rather, I use the "phenomenological *ἐποχή*", which also completely disconnects me from any judgment about the spatio-temporal actual being" (Husserl, 1983, p. 61). Thus the "natural attitude" is an ordinary position when the scientist's mind habitually assumes the existence of a world external to consciousness. By questioning what is given with apparent evidence, the subject commits an

epoch-encloses the world in phenomenological brackets, in which the question of the truth or falsity of judgments and assumptions about the world remains unresolved.

As a result of the epoch and the conclusion of the world in phenomenological brackets, the act of consciousness that constitutes the world remains intentionality as a property of consciousness to be directed at an object. In Husserl's understanding, intentionality (a term that he borrowed from F. Brentano) is the very a priori structure of consciousness that is free from emotive, psychological, social and other factors. Husserl describes the ways of representing an object in the context of intentionality: "we must distinguish, with respect to the intentional content taken as the object of action, between the object as it is conceived and the object (period) that is conceived. In each action, the object is represented in a certain way, and as such, it can be the object of various intentions, evaluative, emotional, desirable, etc." (Husserl, 2001b, p. 113).

The second stage is the commission of eidetic (from the greek *εἶδος* - type, appearance, image) reduction, the main purpose of which is to free the emotive phenomena of consciousness, psychological, social and other factors, to open the way to the "inner essence" of the phenomenon, the way to phenomenology as an eidetic science. D. Cairns (2013) in particular notes: "I can affirm the Eidos' material object as a subject and affirm its solutions, including extendedness, as a predicate, and constitute in the original proof of the eidetic essence: "the material of objectivity presupposes extendedness"" (p. 240).

The third stage of reduction is a transcendental reduction which involves the conclusion of the consciousness of the conscious person himself, his psychological reality in phenomenological brackets in order to reject the identification of the objective and the psychic: "the ego has something as an intentional object of its presentation" (Husserl, 2001b, p. 101). Transcendental reduction opens up the possibility of comprehending semantic connections, and the sphere of analysis

of consciousness becomes the semantic shades of perception, memory, fantasy, doubt, acts of will, etc.

When considering the phenomenological method, it is necessary to note the status of the carrier of consciousness. It is an individual subject capable of committing an epoch and acting as a source of transcendental subjectivity. However, as noted by S. Priest (1991), the status of the transcendental ego, which does not manifest itself within the limits of ordinary experience, but is its condition, was never finally resolved by E. Husserl (pp. 207-208).

Nevertheless, the implementation of phenomenological reduction is possible on the basis of the “principle of principles” formulated by E. Husserl (1983): “If we need the norms prescribed by the phenomenological reductions, if, as they demand, we exclude precisely all transcendences, and if, therefore, we take mental processes purely as they are within respect to their own essence” (p. 147). This principle is called the principle of evidence and openness to new experience, but it means that things are subject to research in the quality that they are given to us.

To implement such a “principle of principles”, it is necessary to choose appropriate methods taking into account the specifics of the forms of cognition. E. Husserl, in “Logical Investigations”, distinguished the following forms of cognition: “categorical contemplation” and “discretion” (essential discretion). Later in a revised form, Husserl’s forms of cognition were developed in the philosophical and legal theory of A. Reinach as “essential vision” and “essential discretion”.

The next element of the phenomenological method is the essential analysis, which differs from the description of facts. The content of the essential analysis is an appeal to words and their meaning for the knowledge of things. Finding support in language, essential analysis clarifies what is already available in experience. The limitations of the essential vision are overcome by the essential discretion, which clarifies, discovers

and sees new entities when directly addressing things (Reinach, 1983, pp. 1-5).

Later in realistic phenomenology, an attempt is made to rethink the key features of the method of phenomenology in the classical version. In particular, the ontological orientation of phenomenology will mean the assumption of an autonomous world in relation to the subject. A peculiar program of realistic phenomenology was the report of A. Reinach “On Phenomenology”, read in Marburg in 1914. A number of arguments were expressed in it, which served as the basis for the development of the phenomenological movement in the future.

Reinach notes that phenomenology as science studies only existing objects, which means that existing existence, both potential and hidden phenomena, is recognized as knowable. He introduces the concept of a priori knowledge, which is based on the knowledge of entities. Unlike laws derived from facts (which is characteristic of such spheres of knowledge as physics, biology, mathematics), essential laws are necessary since they are derived from the essence of the objects themselves. Such a process of cognition does not depend on external conditions. A priori cognition is universal, and the task of phenomenological reduction is to clarify it and “highlight” a priori relationships.

Following E. Husserl, A. Reinach recognizes that the source of a priori knowledge is the consciousness of an individual subject. Since the world is recognized as a correlate of consciousness, phenomena already contain the entire set of knowledge about cognizable phenomena. The phenomenological method is intended to help in the study of the essences of things, which, in turn, leads to the formation of philosophy as a strict science (Varsegov, 2008, p. 153).

#### The Method of Phenomenology in Ethics: E. Husserl and E. Levinas

The phenomenological method was deeply reflected in the field of ethics in the early works

of E. Husserl. For example, ethics issues are discussed by him in lectures delivered in different years and included in the corpus of Husserlian texts: "Lectures on Ethics and Axiology" (1908-1914), "A Priori Axiology and Ethics", "Social Ethics", "Introduction to Ethics" (1920-1924). However, Husserl justifies the fundamental ethical ideas already in "Logical Investigations", distinguishing between normative and theoretical disciplines. He turns to the concept of good and gives it a rather abstract definition: "the term" good "naturally functions in the widest sense of what is in any way valuable" (Husserl, 2001a, p. 34). Thus if we focus on the status of the cognizing subject, then it is he who acts as a source of normativity forms the meaning and values that provide the basis for evaluating ethically significant actions. The phenomenological description of the connection between values as ideal entities and subjective experiences of these values allows us to apply the concept of the intentionality of consciousness more deeply in the field of ethics. After all, the very perception of values and moral imperatives implies immersion in the world of human consciousness. Consciousness, being "consciousness about something" that is consciousness always directed at some object, reveals to a person what is transcendent to consciousness. In the case of moral values, this means the allocation of a semantic object in the act of consciousness (value) and the act of consciousness itself (evaluation of actions from the point of view of value). The value is revealed to the subject immediately, with apodictic evidence, and it is precisely this "openness" to consciousness that phenomenology should describe (Loi-dolt, 2009, p. 54). Each act of evaluating actions necessarily corresponds to a correlated value, regardless of whether it has empirical grounds. Phenomenological ethics, with the help of "essential analysis" and other procedures of phenomenological reduction, should break through to the values themselves, showing their cognition as a phenomenon.

Husserl's phenomenological ethics is also

based on the belief that it is the special status of the subject that makes it possible to make sense of the knowledge of the world. The world does not exist by itself, it is the world of the subject himself, and for the subject, it gets meaning in the intentional acts of consciousness that characterize subjective experiences (Husserl, 1983, pp. 51-55). Thus a person acquires responsibility for those moral imperatives that accompany his behaviour for the state of the world in which he lives.

In phenomenology, ethics has a normative nature that is it is the teaching of art (science, construction, etc.) which covers not only moral norms but also the goals of human behaviour its motives and means (Ferarello, 2015, pp. 4-5). Thus the subject of phenomenological ethics turns out to be broad and includes both ways to achieve higher life goals (like Aristotle's ethics or Lon Fuller's "morality of aspiration") and rules that allow the subject to ensure a reasonable arrangement of his life. Its instrumental character is combined with the formation of knowledge about the soul and its abilities. In his Lectures on Ethics and Axiology, Husserl draws attention to such types of experience as evaluation, choice, motive, goal, desire, that is, the characteristics of a rational understanding of subjectivity (Trincia, 2007, p. 169).

The normativity of ethics was originally laid down in Husserl's understanding of the nature of logic. So, for the formulation of a normative judgment, he introduces the concept of a "basic norm", which acts as the basis for rationing future assessments of actions (Husserl, 2001a, pp. 25-26). The basic norm is the basis for assessments, but not the assessment of the actions performed.

However, along with this, Husserl uses the concept of "technical teaching" in relation to ethics which combines the practical significance of actions (the proportionality of achieving goals with the help of means) and a system of rules for achieving life goals. It is obvious that there is a relationship between the normativity of the

“basic norm” and the “technical teaching”, which ensures the unity of phenomenological ethics, its integration into the phenomenological perception of the world. No one value can be realized without the participation of the subject. The subject both evaluates and implements values by performing actions. Therefore, in Husserl’s classical phenomenology, ethics is essentially a universal mechanism for evaluating actions, goals and means. Ethics formulates ethical principles and moral imperatives that relate to the subject and indicate to him how he needs to act. This understanding of ethics in phenomenology brings it closer to the classical ethical teachings from the era of Antiquity to the Modern time.

Phenomenological ethics is developed as a fundamental philosophical theory in the teachings of E. Levinas. He is concerned not with the epistemological side of phenomenology but with the philosophical understanding of human-to-human relations in order to overcome domination and violence. Speaking about the idea of intentionality, he suggests interpreting it more broadly, that is, abstracting from the natural position, when the fate of a person is to be in the world among people and objects, go to philosophical reflection on the meaning of the “natural position” and the world itself (Crowell, 2012, p. 565). Nevertheless, in the works of Levinas, one can see a deep interest in the development of the phenomenological method and its means of cognition. “The presentation and development of the notices employed owe everything to the phenomenological method” - this statement of Levinas (1969) is expressed in his attempts to give a detailed analysis of not only the procedures of phenomenological research but also their further development (p. 28). Since the source of all concepts in phenomenology is the experience of describing the facts of consciousness, these concepts themselves do not create any absolute principles of cognition. There is no universal truth in phenomenology, and there are no pre-selected concepts for achieving it. However, Levinas then introduces the author’s interpretation of the in-

tentionality of consciousness and phenomenological reduction, taking the first steps towards his own teaching about “ethics as the first philosophy”. The main aspect of intentionality is the premonition of the possibility to go beyond being due to the fact that consciousness transcends itself and turns to something outside of it, forms meaning (Feng, 2008, p. 551). But in this case, the world is a secondary and derived structure. Phenomenological reduction in its content is violence committed by a person against himself in order to achieve pure thinking, namely, the understanding that the beginning of being lies in the world of consciousness. Thus, a person opens his consciousness from the point of view of giving meaning to things, turning it into a transcendental consciousness (consciousness “before the world”).

Levinas introduces the concept of the Other into phenomenological ethics (Crowell, 2012, p. 566). Violence retreats in the face of Other since resistance to violence is an ethical resistance. The other, addressing the “I”, enters into a communicative situation with him, into a situation of dialogue and demands for an answer to his request. Ethical treatment of the Other implies an attitude towards him as an ethical subject and not a projection of being (Levinas, 1969, pp. 23-24, 51). Levinas emphasizes the importance of his new argument – the origins of humanity and humanism lie not in the understanding of one’s own individuality but in the perception of Another as an equal. The ethical “I” asks the Other for the right to life and its existence, apologizing to him for this: “questioning the Identity of the Other ends with a positive movement – the responsibility of the “I” for the other and before the other” (Vdovina, 2009, p. 204). Therefore, a person is responsible for his right to exist not before an abstract moral law but in fear for Another (Nuyen, 2001, pp. 435-436). Levinas replaces “Consciousness about” in the classical formulation of Husserl with “living something” to express spiritual life in terms of the subjective experience of consciousness. In addition, it is impossible to



hold, know or grasp the Other since such behaviour will become an analogue of domineering domination.

Another essential element of Levinas' phenomenological ethics is the concept of a Person. The face symbolizes the Other against the background of being, which does not imply any separation of consciousness or pure "I": "The face of the other constantly destroys and surpasses the plastic image presented to me, goes beyond it" (Feng, 2008, pp. 556-557). The face is not from the world itself, but it enters the world without being an object. The existence of one for the sake of the other is such an ethical attitude Levinas deduces from the concept of a Person in his relationship with Another (Kanaan, 2016, p. 487). An ethical attitude is the ability to take the place of another, see the situation and take responsibility not for yourself but for another. It is obvious that the horizons of phenomenological ethics in Levinas argumentation are significantly shifting towards a new understanding of humanism and the establishment of new connections between theoretical and practical ethics, which are difficult to find in the works of Husserl.

#### Phenomenology of Legal Reality by A. Reinach

In legal philosophy, the most noticeable influence of the ideas of phenomenology and the phenomenological method can be traced in the papers of A. Reinach and N. N. Alekseev. Reinach outlined his own phenomenological and legal views in the fundamental work "A Priori Principles of Civil Law".

The concept of a priori grounds in law was developed by A. Reinach in the midst of philosophical and legal discussions between supporters of legal positivism and natural law theory. Opposing the positivists in their view of the nature and emergence of law A. Reinach notes that positive legal provisions differ significantly from scientific provisions, at least in "what is decisive for the development of law are the given moral

convictions and even more the constantly changing economic conditions and needs" (Reinach, 1983, p. 4), which makes it impossible to argue about the truth or falsity of the provisions of positive law. Also, from a scientific point of view, it makes no sense to talk about the scientific nature of positive law since it is too variable, which is why it cannot be universal.

In the context of the procedures of the phenomenological method, in particular the epoch procedure, A. Reinach substantiates the thesis that legal entities, for example, such as obligations or legal requirements, like houses and trees, have their own independent being: "legal entities such as claims and obligations have their independent being, just as houses and trees do. To this latter, we can ascribe all kinds of things which we can find in the world outside of us through acts of sense perception and observation" (Reinach, 1983, p. 4). But unlike the houses and trees that we perceive from the world, legal formations are phenomena of a special order.

A distinctive feature of legal entities (which cannot be attributed either to natural objects or to "ideal" objects, such as numbers) is their temporality (a certain duration in time). The phenomenological analysis is intended to reveal the essential connections between legal entities that have temporality.

R. Yuriev wrote that the criterion separating legal entities from physical, natural objects is also causality. When cognizing objects of the physical world, causality does not give us an idea of necessity in itself since any consequence can become an independent given. "Therefore, the difference between a legal phenomenon and a natural and physical one is that it cannot be understood a priori as self-awareness" (Yuriev, 2010, p. 120). Illustrating his argument A. Reinach (1983) writes about obligation and demand-legal entities that logically assume a reference to their primary source – the basis for which the promise acts (p. 9).

With this approach, it is not the cause-and-effect relationships that are available to cognition

but the relations of the modality of the “state of affairs”. This corresponds to Husserl’s “eidetic discretion”, which assumes that if there is any subject (legal education), then there are also many “states of affairs” (modality) in which the subject reveals itself to consciousness. Thus, “We shall see that philosophy here comes across objects of quite a new kind, objects which do not belong to nature in the proper sense, which are neither physical nor psychological and which are at the same time different from all ideal objects in virtue of their temporality” (Reinach, 1983, p. 6). It is important to note that the a priori nature of law, according to A. Reinach, is not mystical; it is universal and is revealed through specific phenomena.

The most important provision of A. Reinach’s concept is his introduction into theoretical circulation of the concept of a social act, which acts as one of the a priori foundations of civil law.

Turning to the phenomenological way of the subject’s awareness of his activity, A. Reinach writes that the Self (the transcendental Self) internally constitutes an action. He calls the acts of constituting spontaneous actions that precede the behaviour of the subject the manifestation of the act outside. These include decision-making, forgiveness, approval, and others.

A. Reinach also calls social acts a kind of spontaneous acts, the condition for the existence of which is the need for their attention from another subject. In other words, the social act includes the internal spontaneity of the phenomenological constitution and the external communication of the spontaneous act to the addressee with the receipt of a message from him about the acceptance of the act. The social act includes three stages:

1. a spontaneous internal act of consciousness preceding an external action;
2. an external expression of the action – an appeal to the addressee;
3. awareness of the action and, as a result: the formation of a non-phenomenological legal reality of requirements or obligations in the

individual’s mind (Reinach, 1983, p. 19).

Having determined the essential features of a social act, A. Reinach illustrates its variety with the following judgment: a special connection between subjects is generated, for example, by a promise that is a social act, which acts as an a priori basis for demand and obligation.

The establishment of a social act as an a priori basis of civil law gives A. Reinach a tool for studying other legal phenomena of civil law – property, possession, representation, which receive an interesting interpretation through the prism of a phenomenological-realistic approach.

Fundamental to the nature of property rights in A. Reinach is the understanding of competence, which is found in contrast to absolute and relative rights, in that the action with which it is associated (whatever it is expressed) generates an immediate legal consequence: the emergence of a claim and obligation, their change or termination (Zelaniec, 1992, p. 163). For rights, in turn, the legal consequence of the mode of action contained in them is completely irrelevant.

A. Reinach (1983) believes that the a priori basis of absolute rights and their transition from one person to another can be determined only through competence. Property relations are generated not by a promise, as in the case of an obligation and a demand, but by the transfer and provision of the owner, which are also recognized as a social act (pp. 52-53). But the mandatory condition for the transfer is competence. A. Reinach also calls the granting of rights (for example, in the case of representation), refusal and renunciation social acts.

Having decided on the sources of absolute property rights, A. Reinach asks about the primary source of the property itself. Enclosing in phenomenological brackets the emotive, psychological, ethical, historical and genetic prerequisites that led to the formation of the institution of property, A. Reinach proceeds from the fact that in the phenomenological analysis, only the definition of those conditions that are necessary to essentially constitute belonging should matter. In

the course of his arguments, A. Reinach (1983) concludes that “the relationship between a person and a thing which is called owning or property is an ultimate, irreducible relationship which cannot be further resolved into elements” (p. 6). The essential primary source of property is the creation, the creation of a thing as such.

Continuing the phenomenological analysis A. Reinach correlates competence and social acts, convincingly proving that social acts cannot be the primary sources of competence. In fact, the source of competence is always the person as such – the subject. The subject can carry out social acts, and this is his fundamental competence, which is inseparable from him and cannot be transferred to another person. It forms the ultimate basis, which alone makes it possible to establish social and legal relations. As S. Shevtsov (2009) notes, A. Reinach tried to “discover an ontologically independent source of law” (p. 217). Thus in Reinach’s legal philosophy, we can find the specifics of applying the phenomenological method to legal reality and its original reflection in the concepts of phenomenology and its cognition procedures (Textor, 2013, p. 574). However, being a supporter of realistic phenomenology, the external world of being is not “taken out of brackets” by him when implementing phenomenological reduction.

#### Conclusion

Phenomenology as a philosophical direction is characterized by the presence of a specific methodology for cognizing the essence of phenomena. The origins of the phenomenological method, its content and procedures were laid down as in the early works of E. Husserl, where the normativity of logic became a way to justify the unity of logic, ontology and ethics. This argument will be developed in the ideas of E. Levinas’ ethical phenomenology and will become the basis for understanding ethics as the “first philosophy” in a phenomenological context. The ethical dimension of responsibility for

the actions of the subject and their consequences expands the horizons of phenomenological reduction and allows us to reveal the essence of legal reality in a new way. Using the example of the philosophical theory of A. Reinach, it was shown that the phenomenological method could serve as a basis for rethinking the philosophical categories of cognition of legal reality, revealing the content of legal relations. Thus, the study of phenomenology in modern conditions contributes to the increment of philosophical knowledge about the transformation of the understanding of the subject in modern continental philosophical thought.

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