

REFLECTING LEGAL FUTUROLOGY AS A SCIENTIFIC APPROACH TO THE FUTURE OF LAW¹

ZAMYSLENIE NAD PRÁVNOU FUTUROLOGIOU AKO VEDECKÝM PRÍSTUPOM K BUDÚCNOSTI PRÁVA

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ABSTRACT

This article presents legal futurology as a new analytical and predictive framework for legal thinking, based on the need to anticipate future social, technological, and environmental challenges in the law. The author focuses on the general characteristics of futurology and legal futurology, the classification of its internal areas, and analyzes the possibilities of using relevant futurological methods (e.g., backward planning, scenario analysis) in the context of law. At the same time, he distinguishes futurological thinking from utopian thinking. The text confronts legal-futurological foresight with traditional forms of prediction that appear in existing legal theory, philosophy, and practice in the form of future-oriented legal considerations. The aim of the paper is to open up space for further research into the future of law as dynamic and open knowledge, capable of reflecting dominant social trends that may fundamentally influence the nature and functioning of law in the future.

ABSTRAKT

Príspevok predstavuje právnu futurologiu ako nový analyticko-predikčný rámec právneho myslenia, vychádzajúci z potreby anticipovať spoločenské, technologické a environmentálne výzvy budúcnosti v právnej oblasti. Autor sa zameriava na všeobecnú charakteristiku futurologie a právnej futurologie, klasifikáciu jej vnútorných oblastí a analyzuje možnosti využitia relevantných futurologických metód (napr. spätné plánovanie, scenárová analýza) v kontexte práva. Zároveň odlišuje futurologické myslenie od myslenia utopistického. Text konfrontuje právo-futurologickú predvídavosť s tradičnými formami predvídavosti, ktoré sa objavujú v doterajšej právnej teórii, filozofii a praxi vo forme právnych úvah orientovaných na budúcnosť. Zámerom príspevku je otvoriť priestor pre ďalší výskum budúcnosti práva ako dynamického a otvoreného poznania, schopného reflektovať dominantné spoločenské trendy, ktoré môžu zásadne ovplyvniť povahu i fungovanie práva v budúcnosti.

I. INTRODUCTION

The current period of accelerating social, technological, and environmental change leads us to reflect on the ability of legal science to quickly identify future challenges and clarify the place, function, and form of law in them. The law, which aims to regulate an increasingly complex reality, must be able to identify and scientifically capture the uncertainty arising from the future and, if possible, dispel it. In this sense, it must anticipate development trends, identify new regulatory needs, but above all, consider whether these trends represent factors of future change in its nature and functioning. It is at this crossroads that legal futurology emerges, as an

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interdisciplinary field exploring possible, probable, or even desirable versions of the future of law.

Legal futurology is an analytical and predictive way of thinking about law that focuses legal thinking on the future. It shows that merely reacting to problems with descriptive or analytical responses is no longer sufficient; instead, we must anticipate and recognize future challenges on time. In this way, it complements the reactive side of legal science. It is based on the assumption that the development of law is not an isolated event, but part of broader social dynamics. Today, these are shaped by megatrends such as digitalization, rapid technological development (e.g., in the fields of artificial intelligence, machine learning, and natural language processing), climate transformation and the search for renewable resources, demographic changes (ageing population, ethnocultural diversity, and migration), and changes in society (accompanied by its polarization and fragmentation). In the context of social dynamics, law cannot remain static, but must learn to "think toward the future." The promise of the development of legal futurology is not only the description of possibilities and scenarios for the future development of law, nor is it only normative considerations about its desirable future form, although both are part of legal futurology. The purpose of legal futurology is, so to speak, to capture the legal future in the hands of legal science.

This article aims to present legal futurology as a methodologically and substantively layered framework that allows us to consider the future of law with an emphasis on its nature, methodological aspects, and normative and practical dimensions. The article will be divided into six parts. The first and second parts will focus on a general introduction to futurology and legal futures as a brief presentation of each. The third part will be devoted to the internal heterogeneity and possibilities of classification of legal futurology, which is influenced by related areas of legal research. It will also be shaped by an open and dynamic thematic classification reflecting current social trends and megatrends with an impact on law. The fourth part will describe foresight, prediction, and predictability in current legal theory, philosophy, and practice. This part will seek to argue in favor of foresight, prediction, and predictability as an inherent part of current thinking about law. The fifth part will present futurological foresight as a special part of thinking about law, which is the result of interdisciplinarity and the application of futurological methodology in legal science. The result is foresight about law as a special group of legal consciousness and conclusions of legal science. The sixth part will aim to distinguish the legal-futurological approach from the objection that it is only utopian thinking about the future place of law in society. The basic starting point here will be the difference between the anticipatory aspect of futurological thinking as opposed to the purely idealistic nature of utopian thinking. The framework of this paper is thus to show and justify the possibilities for integrating legal futurology into legal science and its subsequent development in terms of the specifics that appear in its preliminary form.

The purpose of this paper is not to thoroughly examine and verify the functionality of the methodology and methods of legal futurology. Rather, its purpose is to reflect on the possibilities of applying futurology in the legal field and to define the basic features of the framework of legal futurology. In this sense, this paper can serve as a basis for further research, teaching, and interdisciplinary discussions on the possibilities of researching the future of law. Although due to the preliminary nature of legal futurology, the system, methodology, and place of legal futurology in legal science have not yet been described more conceptually, I proceed from the assumption that legal futurology is not merely an academic exercise, but has a practical dimension. Methodology and the place of legal futurology in legal science have not yet been described in a more conceptual manner. However, I assume that legal futurology is not just an academic exercise but is intended to serve as a practical tool for strategic legal thinking in times of ongoing and upcoming social change.

II. GENERAL OVERVIEW OF THE EARLY DEVELOPMENT OF FUTUROLOGY AS A SCIENTIFIC FIELD: THE IDEA, ESSENCE, FUNCTIONS, AND OBJECT OF STUDY OF FUTUROLOGY

The term futurology can generally be understood as a scientific approach to understanding the future and a theory of the future. Futurology encompasses a general philosophy of the future, but also more specific teachings about forecasts, predictions, and projects whose purpose is to program and plan certain steps for future development.³ Its subject and area of scientific research are mainly perspectives that focus on social processes.⁴

The origins of futurology as a scientific discipline date back to 1949, when it was introduced as a scientific concept by German lawyer, political scientist and futurologist Ossip K. Flechtheim.⁵ Flechtheim is also considered the founder of modern futurology.⁶ In its early days, futurology was formulated as a science of predictive probability.⁷ In his book *Futurologie: Der Kampf um die Zukunft*, he shapes futurology as a science that is supposed to be a critical counterbalance to the influence of ideologies in society, based on the following principles:⁸

- The world is dynamic, changing, and always bringing something new;
- The structure and basic laws of change in the world are knowable;
- Changes in the world can be roughly predicted;
- Different predictions are valuable because they can foreshadow future crises and problems;
- Freedom of choice and opportunities for implementation play a role;
- The future is shaped by knowledge of what is necessary, possible, and desirable.

Last but not least, futurology also pursues a specific purpose. According to Flechtheim, this is not just the ability to make bare predictions, but above all to contribute to the elimination of wars and the consolidation of peace, the eradication of hunger and poverty, the stabilization of population numbers, the elimination of exploitation and oppression, and to contribute to the democratization of the state and society. According to him, other purposes of futurology include stopping the devastation of nature and ensuring the protection of nature and humans from humanity itself. Furthermore, it also includes the elimination of alienation and the creation of a new creative human being.⁹ All these purposes, which normatively define the possible purpose and contribution of futurology, are highly attractive due to their relevance at the beginning of the second quarter of the 21st century.

³ BALÁŽOVÁ, E. et al. (eds.) Slovník súčasného slovenského jazyka. 1. zväzok, A-G. Bratislava: VEDA, 2006, p. 1036.

⁴ KRAUS, J., PETRÁČKOVÁ, V. et al. Slovník cudzích slov. Bratislava: Slovenské pedagogické nakladateľstvo, 1997, p. 307.

⁵ Ossip K. Flechtheim was also the first person to use the term "futurology" in 1942, when he used it in private letters, and also in 1943, when he used it in an article published in the Atlantic University magazine *Phylon*. See KLINEC, I. Ossip K. Flechtheim a vznik futurologie. In RUSKO, M., SLOVENSKÁ SPOLOČNOSŤ PRE ŽIVOTNÉ PROSTREDIE. (eds.) Sustainability - Environment - Safety 2016: recenzovaný zborník príspevkov zo VI. medzinárodnej vedeckej konferencie. Bratislava: Slovenská spoločnosť pre životné prostredie v spolupráci so STRIX n. f. Žilina, 2016, p. 32.

⁶ TOFFLER, A. *The Futurists*. New York: Random House, 1972, p. 264.

⁷ BUTLER, A. M. *Futurology*. In LATHAM, R. (ed.) *The Oxford Handbook of Science Fiction*. New York – Oxford: Oxford University Press, 2014, pp. 513-523.

⁸ See FLECHTHEIM, O. K. *Futurologie: Der Kampf um die Zukunf*. Cologne: Verlag Wissenschaft und Politik, 1971, pp. 1-40.

⁹ See more FLECHTHEIM, O. K. *History and Futurology*. Meisenheim am Glan: Hain, 1966, pp. 28-29.

Even today, futurology can still be broadly defined as the science that studies the future.¹⁰ In addition, there are other names for future study, such as prognostics.¹¹ The term prognostics directly reveals what futurology is about – forecasting, i.e., predicting and making predictions. Forecasting is an activity that consists of gathering knowledge, experience, and ideas about the future, obtained through rational procedures and logical reasoning, which is then completed by formulating statements about possible variants of development.¹² A prediction is a systematic and reliably derived statement about the future that is expected to occur under certain conditions and at a certain time or time range.¹³ However, these predictions can be of various types, and therefore, futurology creates a certain classification between them depending on the method used, the purpose set, the time range, etc.

The development of futurology is largely dependent on a combination of knowledge from various scientific disciplines. It combines these appropriately for the purpose of studying future developments.¹⁴ Therefore, it can be said that futurology is, by its very nature, an interdisciplinary study that also has its own range of methods and methodologies for researching the future. Thus, futurology can be said to be a science that deals with detailed research into the future based on and using all the means available to science.¹⁵ This emphasizes not only its interdisciplinary nature but also its scientific nature. Futurology therefore seeks to use scientific methods. In this case, it is not about creating space to publish subjective, intuitive assumptions, estimates, or opinions.¹⁶

To address skepticism regarding the validity of such forward-looking research, it is essential to highlight that legal futurology does not aim for absolute certainty, but for scientific probability. Historical precedents show that systematic foresight can successfully anticipate major changes. For example, Richard Susskind's predictions from the 1990s regarding the dominance of the internet and email in legal practice, which were once viewed with doubt, have become the standard reality of modern law. By identifying weak signals today, legal futurology provides a framework to manage the transition toward future legal paradigms rather than simply guessing their form.

In summary, it can be added that futurology is a science and, like any science, it can be related to the idea of Nobel Prize winner in chemistry, Ilya Prigogine, according to which science is, in a sense, an expression of culture that is simultaneously framed by dialogue with

¹⁰ KLINEC, I. Futurologia a anticipatívne vládnutie. In RUSKO, M., KOLLÁR, V., KLINEC, I. (eds.) Globálne existenciálne riziká 2013. Zborník z medzinárodnej konferencie. Žilina Stix, n.f. v spolupráci so Slovenskou spoločnosťou pre životné prostredie, 2013, p. 64.

¹¹ See, for example KLUFOVÁ, R., POLÁKOVÁ, Z. Demografické metódy a analýzy: demografie české a slovenské populace. Praha: Wolters Kluwert ČR, 2010, p. 249.

¹² VESELÝ, A., NEKOLA, M. (eds.) Analýza a tvorba veřejných politik: přístupy, metody a praxe. Praha: Slon, 2007, p. 274.

¹³ Ibid., pp. 274-275.

¹⁴ A similar approach can be found in the novels of the English writer and founder of science fiction Herbert George Wells. This artist is associated with futurology mainly because of his ability to use contemporary scientific knowledge to predict the future development of various phenomena in society. It is possible to find that he predicted the emergence of airplanes, tanks, satellite television, and even the internet, which are now commonly established inventions. Although Wells did not write explicitly about futurology during his lifetime, in 1932 he spoke out in favor of scientific research into the future. He asked the following question: "It seems strange to me that although we have thousands and thousands of professors and hundreds of thousands of history students studying events from history, there is not a single person anywhere who is engaged full-time in predicting the future consequences of new inventions and new devices." Wells thus presented a protoversion of the science of the future positive and negative consequences of fundamental scientific discoveries of the time, which he called "Foresight." See, for example, WELLS, H. G. Wanted – Professors of Foresight! (1932). In *Futures Research Quarterly*. Vol. 3, No. 1 1987, pp. 89-91.

¹⁵ DIANIŠKA, G., STRÉMY, T., VRÁBLOVÁ, M. et al. Kriminológia. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2016, p. 69.

¹⁶ For more on the methodology and methods of futurology, see section "5. Futurological foresight and visions in law" of this article.

nature.¹⁷ Futurology is dynamic and, together with other sciences, it is constantly changing under the influence of trends and scenarios relevant to the current, but especially the future, course of society.

The development of futurology has also led to its split into specific areas of science. Last but not least, it is a subject taught at universities.¹⁸ Fragmentation has also led to the emergence of legal futurology. In this process, the calls for closer cooperation and mutual support between the various branches of futurology should definitely not be ignored, along with the strengthening of the epistemological, philosophical, and ethical aspects of futurology.¹⁹ This can contribute to the creation of scientific knowledge about the world that also anticipates global negative scenarios, sets natural limits to anthropocentrism, and is prepared to face lurking injustices with more or less concrete positive steps.

III. INTRODUCTORY DEFINITION OF LEGAL FUTUROLOGY: THE FEATURES OF THE SCIENCE OF PREDICTING FUTURE LAW

Legal futurology is currently a relatively young subdiscipline of legal science.²⁰ It is distinguished from the rest of legal science primarily because its conclusions are not limited to the law in its present forms. Its conclusions are not exclusively normative considerations of law. Moreover, its considerations are not limited by the history of law, although examining the future of law can be an invitation to study history and learn from it.²¹ Back in the 1980s, David Funk argued in favor of the development of legal futurology by comparing it to the space in legal science and academia that is usually devoted to the study of the history of the state and law. Funk argued that the teaching of legal history receives considerable attention and that there is personnel and institutional support to ensure historical legal research. On the contrary, the study of the future of law is random and seems to be on the margins of interest, with minimal or no personal and institutional support.²²

Legal futurology seeks to predict the nature, form, and functioning of law in the future. This means that it attempts to define the future forms and manifestations of law, legal systems, and legal practice. The main and at the same time most generally expressed subject of legal futurology thus becomes the future of law. This involves knowledge that synthesizes insights

¹⁷ PRIGOGINE, I. Science, reason and passion. In MASINI BARBIERI, E. (ed.) Art and science: studies from the world academy of art and science. World Futures, Budapest: Gordon and Breach, 1993, p. 42.

¹⁸ KLINEC, I. Z histórie svetového futurologického myslenia II. Ossip K. Flechtheim a vznik futurologie. In RUSKO, M., PROCHÁZKOVÁ, D., ANDRÁŠ, P., KOLLÁR, V. (eds.) METES 2020: Motivation - Education - Trust - Environment - Safety 2020 : recenzovaný zborník z V. medzinárodnej vedeckej konferencie. Bratislava: Slovenská spoločnosť pre životné prostredie v spolupráci so STRIX n. f. Žilina, 2020, s. 56.

¹⁹ See, for example, MASINI, E. B. New challenges for futures studies. In Futures. Vol. 33, 2001, p. 646.

²⁰ See, for example, HAGUE INSTITUTE FOR THE INTERNATIONALISATION OF LAW. Law Scenarios to 2030: Signposting the legal space of the future [online]. Hague: Hague institute for the internationalisation of law, 2011, 39 p., 2011, p. 8 [accessed on 2024-09-17]. Available on: <<https://www.foresightfordevelopment.org/sobipro/download-file/46-1188/54>>.

²¹ MACEY, G. P. Legal Futurism [online]. July 3, 2013 [accessed on 2025-04-18]. Available on: <<https://prawfsblawg.blogs.com/prawfsblawg/2013/07/the-future.html>>.

²² See FUNK, D. Legal Futurology: The Field and its Literature. In Law Library Journal. Vol. 73, No. 3, 1980, pp. 625-633.

into dominant trends, known as megatrends²³²⁴ and weak signals²⁵, together with knowledge of law, to create scientific ideas about future law.²⁶ In this sense, legal futurology brings concepts of future law and can be understood as a scientific discipline that systematically deals with legal futures.²⁷ Thus, legal futurology is knowledge about how law should, could, or must develop in the future.

The significance of legal futurology lies in the fact that it provides defined ideas about future law on a general and specific level. However, these ideas are not immutable. It is necessary to revisit and update them over time.²⁸ In connection with this, the ability to make long-term predictions about law is often subject to the objection that it is itself determined by many factors, including culture, economics, politics, the degree of development, and the technical level of a country, etc.²⁹ This means that making certain predictions here may be impossible, highly risky, or even useless, because the scope of uncertainty increases proportionally to the number of determining factors.³⁰ Furthermore, it is also true that supranational and international organizations have an impact on law, which may seemingly evoke a harmonizing effect towards the same or similar development of law in the world (or at least in certain areas of law and the world); it must also be realized that these entities enter into different national conditions, which can transform and adapt them.³¹ Law is therefore subject to a certain social complexity and national diversity, which can hinder the development of the ability to make successful predictions about the future form of law.

The influence of social complexity can be reduced by limiting research and thus correctly setting the scientific objective. At the same time, this does not necessarily exclude the possibility of developing abstract legal-philosophical considerations within legal futurology. National conditions can also have an identifiable form and weight, and all of this can be considered when making predictions about future impacts on law. The unpredictability of certain events, which can be simply interpreted as chance, and subsequently their impact, does not necessarily play a role. It should also be noted that general futurology takes into account the possibility of sudden emerging issues and unexpected but highly effective phenomena known as wild cards. The incorporation of an analysis of these facts leads to the updating and correction of originally expressed predictions, thereby making prediction not a static activity but a continuous and dynamic creative intellectual process.

²³ This term and its meaning are derived from the sense in which it was used by John Naisbitt. See NAISBITT, J. *Megatrends: Ten New Directions Transforming our Lives*. New York: Warner Books, 1984. 333 pp. ISBN 0-446-32922-3.

²⁴ For the purposes of this article, a megatrend can be simply defined as a long-lasting factor of change with global significance that influences thinking and behavior across multiple areas of social life. Compare KAIVO-OJA, J., SANTONEN, T. *Global Megatrends and Global GDP in 2004-2021: An Empirical Big data Look at John Naisbitt's 12 Key Global Megatrend Variables and Global GDP PPP*. In UDEN, L., TING, I-H. (eds.) *Knowledge Management in Organizations: 17th International Conference, KMO 2023*. Cham: Springer Nature Switzerland, 2023, p. 170 and HANSEN, H. O. *Megatrends in Agriculture, Food Industry and Food Markets: An Empirical and Holistic Approach*. Cham: Palgrave Macmillan, 2024, p. 1.

²⁵ Weak signals are, in comparison with megatrends, undeveloped forces of change in society. In other words, they are emerging trends that may or may not later become megatrends. For more details, see HILTUNEN, E. *The Future Sign and its Three Dimensions*. In *Futures*. Vol. 40, Iss. 3, 2008, pp. 251 et seq.

²⁶ See About Legal Futurism [online]. In *Law 2050: A Forum about Legal Future* [accessed on 2025-09-17]. Available on: <<https://law2050.com/about-legal-futurism/>>.

²⁷ See *ibid*.

²⁸ VASILEVIČ, G. A. *Juridičeskaja nauka: otaženie dejstvitel'nosti i formirovanie obraza buduščego*. In *Izvestija Nacional'noj akademii nauk Belarusi. Serija gumanitarnych nauk*. Vol. 70, No. 1, 2025, p. 73

²⁹ See, for example, MEZEY, N. *Law as Culture*. In SARAT, A. D., SIMON, J. (eds.) *Cultural Analysis, Cultural Studies, and the Law: Moving Beyond Legal Realism*. Durham - London: Duke University Press, 2003, pp. 37-72.

³⁰ See KOTOWSKI, A. *Legal futurology – potential of foresight research in legal sciences: could legal futurology be treated as an independent science in jurisprudence?* In *GIS Odyssey Journal*. Vol. 2, No. 2, 2022, p. 95.

³¹ See, for example, MICHAELS, R. *Global Problems in Domestic Courts*. In MULLER, S., ZOURIDIS, S., FRISHMAN, M., KISTEMAKER, L. (eds.) *The Law of the Future and The Future of Law*. Oslo: Torkel Opsahl Academic EPublisher, 2011, p. 166.

In this sense, the established methods of legal futurology in legal science are not clearly defined. As a result, the possibilities of its current independence become questionable, as it does not have developed methods that would be specific to it. Therefore, it does not have methods that would be typical for it and applied in examining the future of law. Its place in the current system of legal sciences also raises doubts.³²

In general, however, legal futurology represents more of an interdisciplinary approach, the aim of which is to predict what social, economic, technological, environmental, and other factors may influence law in the future. An essential part of legal futurological considerations will be to take into account external factors which, although not of a legal nature, may have a fundamental impact on law (socio-economic factors, demographic factors, cultural, civilizational, moral, ethical, etc.).³³ The interdisciplinary nature of legal futurology presupposes that, as a science, it is linked to a broader vision of the future shape of society. This interdisciplinary science seeks to anticipate the place, form, and significance of law for future society. As a result, legal futurology must strive to identify dominant trends in society, together with scenarios for its development, which will also have a fundamental impact on law, thereby influencing its future development. Properly functioning legal futurology is therefore largely dependent on a well-targeted analytical approach.

However, the result of legal futurology needs not only predictions, but also reflections on the possibilities, scenarios, and challenges that future social, political, environmental, economic, and technological changes will bring to legal systems, the legal profession, and everything related to law. When reflecting on future possibilities of the law, we can consider an activity or a method known as futurecasting. Futurecasting is not about accurate predictions, but rather focuses on various scenarios of future legal developments that may occur. Legal futurology is thus limited to the predictability of certain events, challenges, and needs, for which it expresses the probability that they will occur. This makes it a scientific method to think about legal possibilities and alternatives for the future. This implies that it does not have to yield one single, sharply delineated, and precisely articulated future conception of law.

Regardless of the problems, the uncertainty that is inherently linked to the future, or the opinions that may view the effort to make predictions as futile, it must be recognized that legal futurology can have a primarily preventive and preparative function, thus pointing to impending problems in the development of law.³⁴ In other words, it can help anticipate certain future problems of law and future social challenges that the law is likely to face. Legal futurology thus provides an opportunity to prepare for them in advance and bring them under control. It can hypothetically present legal problems that do not currently exist but may arise in the future, and therefore it will be necessary to deal with them in some way or prepare for them.³⁵ Similarly, Jack Kieffaber points out that for futurologists, it is not a question of whether machines will be able to replace judges and other legal professions in the future – he considers this a certainty. According to him, the real challenge is to answer the question of whether this will be the right thing.³⁶ Therefore, from a broader perspective, it will be necessary to take into account not only the bare development of law towards the future but also the existing purposes of law, the principles of the rule of law, and the broader framework of social values, and to reconcile them

³² See KOTOWSKI, A. Legal futurology – potential of foresight research in legal sciences: could legal futurology be treated as an independent science in jurisprudence? In *GIS Odyssey Journal*. Vol. 2, No. 2, 2022, pp. 102-103.

³³ VASILEVIĆ, G. A. Juridičeskaja nauka: otkraženie dejstviteľnosti i formirovanie obraza buduščego, p. 73.

³⁴ WIDDISON, R. Electronic Law Practice: An Exercise in Legal Futurology. In *The Modern Law Review*. Vol. 60, No. 2, 1997, p. 163.

³⁵ MUZAKIR, M. The Legal Futurology as a Criticism of Law Enforcement in Indonesia. In *Ratio Legis Journal*. Vol. 1, No. 4, 2022, p. 772.

³⁶ See KIEFFABER, J. Predictability, AI, and Judicial Futurism: Why Robots will Run the Law and Textualists Will Like It (Preprint) [online]. p. 1 [accessed on 2025-04-18]. Available online: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4966334>.

with the advantages and disadvantages of trends that are likely to influence the form and functioning of law in the future.

At this point, it is possible to consider the normative aspect of legal futurology, or rather the construction of normative legal futurology. In summary, it can be said that legal futurology will primarily be part of legal science, which takes its conclusions into account and seeks to create a synthesis in the form of a triangle of legal science, society, and future. A characteristic feature of legal futurology is its openness to what the future will or may bring.

IV. DEFINITION OF POSSIBLE AREAS AND TOPICS OF LEGAL FUTUROLOGY

Legal futurology, as a reflective and anticipatory discipline, does not represent a unified methodological whole, but rather a spectrum of thematic and analytical approaches that seek to capture the dynamics of future legal developments. In this context, based on its current state of development, it can be divided into three related areas:³⁷

- ***The future of law.*** In this sense, legal futurology can address questions such as how thinking about law will change as a result of its altered form and nature due to the influence of globalization, the electronization of the state, the application of advanced legal tools in legal practice (especially concerning artificial intelligence, machine learning, natural language processing), stronger protection of particularly vulnerable groups or minorities, environmental factors, climate change, etc. All this creates fertile ground for us to start looking at law differently than we have done under traditional legal frameworks and creates space for the application of abstract, i.e., philosophically and theoretically profound ideas about future law.
- ***The future of legal practice.*** This, as a field of legal futurology, focuses on the practice of the legal profession in the future under the influence of technological progress. This progress will streamline the manual activities of lawyers or even eliminate them through automation.³⁸ Socio-technological changes may also change the form of practice of traditional legal professions as we know them today. A controversial topic and a major question mark is the potential elimination of certain legal professions or their replacement by artificial intelligence.³⁹ In this context, it is not yet clear whether the application of hybrid intelligence in law will become relevant in the long term.⁴⁰
- ***The future of legal education.*** This topic, as an area of interest in legal futurology, must respond to possible changes in law by adapting the education of students at law schools and also the continuing education of legal practitioners. Technological progress and increasing automation in legal practice can change not only the content of this education but also its form, function, and purpose.⁴¹ Similarly, the climate change crisis calls for changes in the way education is provided, ensuring that raising student's environmental

³⁷ About Legal Futurism [online]. In Law 2050: A Forum about Legal Future [accessed on 2025-09-17]. Available on: <<https://law2050.com/about-legal-futurism/>>.

³⁸ This issue is also addressed by the legal futurists Richard E. Susskind and his son Daniel Susskind. See SUSSKIND, R. E., SUSSKIND, D. *The Future of the Professions: How Technology will Transform the Work of Human Experts*. Oxford: Oxford University Press, 2015, e.g. pp. 119 et seq., 164, 183, 214.

³⁹ See, for example, KIEFFABER, J. *Predictability, AI, and Judicial Futurism: Why Robots will Run the Law and Textualists Will Like It* (Preprint), pp. 1 et seq.

⁴⁰ Hybrid intelligence is understood here as the simultaneous application of artificial and natural (human) intelligence. See WU, T. *Will Artificial Intelligence Eat the Law? The Rise of Hybrid Social-Ordering Systems*. In *Columbia Law Review*. Vol. 119, No.7, 2019, pp. 2001-2028.

⁴¹ For more details, see GOLDSWORTHY, D. *The Future of Legal Education in the 21st Century*. In *Adelaide Law Review*. Vol. 41, No. 1, 2020, pp. 243 et seq., and also DOLIDZE, T. *The Evolving Role of Artificial Intelligence in Legal Education and Research*. In *Law and World*. Vol. 11, Iss. 1, 2025, pp. 93 et seq.

awareness becomes an integral part of the curriculum.⁴² A certain general response to the impact of all these current challenges is the opinion of Martha Nussbaum, according to whom it is essential to provide education for lawyers that corresponds to the breadth and complexity of the current challenges facing societies and the possible future threats that arise from them.⁴³

In addition to the above, legal futurology can be classified into thematic frameworks. Given the current state of society, it can be argued that legal futurology can thus provide predictions about the future of law that will be marked by the acceleration (or completion) of globalization, planarization, and rapid advances in technological progress.⁴⁴ Last but not least, it is also worth mentioning megatrends such as the climate crisis and rapidly changing societies with value and political implications. In the context presented, legal futurology can be divided thematically as follows:

- ***The impact of technology on law in the future.*** Legal futurological research must reflect more closely on topics such as the challenges of a wide range of technological innovations, e.g. the application of artificial intelligence⁴⁵ and robotics⁴⁶, the importance of blockchain technology⁴⁷, virtual currencies⁴⁸, smart contracts⁴⁹, etc. All these areas also have an impact on the law and may cause more permanent changes to its nature and functioning.
- ***The impact of ecology, or rather ecological changes and the climate crisis, on future law.*** The fundamental impact of climate change raises the question of human survival on Earth. In this sense, anthropocentric political and scientific thinking is being called into question. Anthropocentric discourse is being challenged by concepts such as the rights of nature or the legal subjectivity of nature.⁵⁰ The limitations of the anthropocentric approach to law naturally lead to considerations of correcting or changing existing legal concepts, terms, and institutions at their very foundations.⁵¹ More precisely, it is pointed out that they may not be inherently adapted only for and according to humans.

⁴² See, for example, PRESTON, B. Mainstreaming Climate Change in Legal Education. In *Griffith Law Review*. Vol. 32, Iss. 4, 2023, pp. 431-454.

⁴³ See NUSSBAUM, M. Why Lawyers Need a Broad Social Education [online]. *The Future of Australian Legal Education*, August 11-13, 2017, p. 22 [accessed on 2024-10-22]. Available online: <<https://entreabogadosteveas.wordpress.com/wp-content/uploads/2018/05/nussbaum-why-lawyers-need-a-broad-social-education.pdf>> and NUSSBAUM, M. Cultivating Humanity in Legal Education. In *The University of Chicago Law Review*. Vol. 70, No. 1, 2003, pp. 256-279.

⁴⁴ See SMITH, J. M. Whither the Future of Law? Concluding Remarks. In MULLER, S., ZOURIDIS, S., FRISHMAN, M., KISTEMAKER, L. (eds.) *The Law of the Future and The Future of Law*. Volume II. Oslo: Torkel Opsahl Academic EPublisher, 2012, p. 468.

⁴⁵ For selected legal-philosophical issues concerning the application of artificial intelligence in law, see, for example, BRÖSTL, A. Artificial Intelligence, Law-Making and Law-Application. In MEZZETTI, L. (ed.) *Science, Technology and Law: Mutual Impact and Current Challenges*. Bologna: Bologna University Press, 2024, pp. 85-93.

⁴⁶ For example, Resolution 2015/2103(INL), adopted by the European Parliament on February 16, which concerns recommendations to the Commission on civil law rules in the field of robotics, also addresses the issue of the possible legal personality of more advanced and autonomous robots.

⁴⁷ See, for example, RODRIGUES, U. R. Law and the Blockchain. In *Iowa Law Review*. Vol. 104, 2018-2019, pp. 679-743.

⁴⁸ See, for example, ŠTRKOLEC, M., SÁBO, J., POPOVIČ, A. *Virtuálne meny v digitálnej ekonomike*. Praha: Leges, 2023. 111 p. ISBN 978-80-7502-727-6; PUTERA, M., ŠTRKOLEC, M. Taxation of Income from the Sale of Virtual Currencies in the Slovak Republic. In *Interaction of Law and Economics: Sustainable Development*. Brno: Sciendo, 2023, s. 175-182; HRABČÁK, L., ŠTRKOLEC, M. EU Regulation of the Crypto-Assets Market. In *Białostockie Studia Prawnicze*. Vol. 29, No. 1., pp. 27-45.

⁴⁹ RÜHL, G. Smart (Legal) Contracts, or: Which (Contract) Law for Smart Contracts? In CAPPIELLO, B., CARULLO, G. (eds.) *Block, Chain, Law and Governance*. Cham: Springer, 2021, pp. 159-180.

⁵⁰ See, for example, CICORIA, M. Legal Subjectivity and Absolute Rights of Nature. In *New Legal Reality: Challenges and Perspectives II*. Riga: University of Latvia Press, 2022, pp. 65-87.

⁵¹ See, for example, BORRÁS, S. New Transitions from Human Rights to the Environment to the Rights of Nature. In *Transnational Environmental Law*. Vol. 5, Iss. 1, 2016, pp. 113-143.

- ***The influence of biotechnology and neurotechnology on the law and its possible application in the law.*** This topic raises the question of whether the law will only regulate the areas of cognitive autonomy, neural data, and human enhancement, or whether it is itself capable of using them reasonably to some extent.⁵²
- ***The law and the changing society.*** Legal-futurological research should capture the broadest possible changes in the structure of society and its value and political functioning. In this regard, we need not only to discuss the electronic functioning of the state and public administration or the possible practical application of the concept of e-democracy. The current struggle for minority rights and the elimination of discrimination and marginalization in the state and society may also fall within the scope of these considerations. Other current issues include the growing polarization⁵³ and fragmentation⁵⁴ of society, the rise of populism in democratic states, and the spread of hoaxes and disinformation, which can test the resilience of the rule of law. There are also a number of other issues that can have a negative impact on democracy and democratic values expressed in and through the law system.⁵⁵

With regard to this last classification, it should be noted that its openness makes it dynamic. Thus, some topics may be added during development (e.g., a global phenomenon such as the strengthening of ethnocultural diversity as a result of migration), or individual thematic areas may be narrowed, but always according to current events. All these new challenges pose ethical problems for the law, complementing traditional legal dilemmas and expanding the possibilities for their resolution⁵⁶. This means that, compared to the previous classification into areas, the thematic division is more open, that is, it can change by expanding or narrowing the topics. However, it is important to realize how, from the perspective of futurology and legal futurology, the influence of individual topics can be combined to influence law, legal systems, legal regulations, legal professions, and the legal behavior of subjects. For instance, the focus on technology and nature – which displaces anthropocentrism (that is, treating humans and the human being as the standard for designing all constructs) from the legal sphere – is a defining feature in the evolution of posthuman law theory.⁵⁷ However, what I want to say in conclusion to this section is that, given the number of these topics, it is necessary to anticipate their future impact on law to avoid some originally unintended difficulties, and that is precisely the task and very meaning/purpose of legal futurology.

⁵² See, for example, FILIPOVA, I. A. Neurotechnologies in Law and Law Enforcement: Past, Present and Future. In *Pravoprimenenie*. Vol. 6, No. 2, 2022, pp. 32-49.

⁵³ See, for example, KÜPPER, B., VÁRADI, L. Polarization in Europe: Positioning for and against an open and diverse society [online]. In *Demokratie gegen Menschenfeindlichkeit* (English Translation), 1/2021, pp. 9-19 [accessed on 2025-05-02]. Available online: <https://www.firstlinepractitioners.com/wp-content/uploads/2021/07/01_Kuepper_Varadi.pdf> and also in connection with undemocratic, authoritarian, and totalitarian regimes KATUNINEC, M. Value-based democracy and civic responsibility. Trnava: Dobrá kniha, 2007, pp. 27 and 84 et seq.

⁵⁴ This phenomenon is quite natural in today's society and, despite globalization, also quite paradoxical. See, for example, HEDAYATIFAR, L., BAR-YAM, Y., MORALES, A. Social Fragmentation at Multiple Scales [online]. In *Journal of the Royal Society Interface*. Vol. 16, Iss. 159, 2019 [accessed on 2025-05-02]. Available on: <<http://dx.doi.org/10.1098/rsif.2019.0509>>.

⁵⁵ For more details, see, for example, DASANDI, N. *Selhala demokracie?* Praha: Euromedia Group, Universum, 2018, pp. 106 et seq.

⁵⁶ For solutions to selected traditional ethical dilemmas in law, see DOBROVIČ, E., SMALIK, M. Ethics of business relations in relation with the problems of setting the equitable and justified purchase price (*pretium iustum*). In *Comparative European Research*. Issue II. London: Science Publishing, 2015, pp. 226-227.

⁵⁷ For more details, see BRAMAN, S. Posthuman Law: Information Policy and the Machinic World [online]. In *First Monday*. Vol. 7, No. 12, 2002. [accessed on 2025-05-03]. Available on: <<https://doi.org/10.5210/fm.v7i12.1011>>.

V. FORESIGHT, PREDICTION, AND PREDICTABILITY IN LAW

The purpose of this section of the article is to show that foresight, prediction, and predictability are one of the fundamental pillars of legal thinking and legal practice, and thus how the law works. It also aims to show that the law wants and is capable of having social impacts. In legal theory, predictability is closely linked to the concept of legal certainty. This is one of the fundamental principles of the rule of law. In legal philosophy, such predictions exemplify how legal thinking illuminates the character of law and what counts as definitive knowledge about it. In legal practice, foresight has always been something that helps lawyers and legislators to know and understand the consequences of their decisions. As I will point out, the current, so to speak, common and established understanding of foresight, prediction, and predictability has several dimensions in law.

In this sense, I will distinguish between dogmatic foresight and predictability, which emphasize legal certainty and the prescriptive and prospective nature of law. As dogmatic components of law, they ensure the protection of individual trust in the stability and continuity of law. I will also touch on prediction and predictability, the purpose of which is to understand the law with regard to its application by courts and public authorities in the future. Here, predictions and predictability manifest themselves as an assessment of the behavior of decision-making authorities, i.e., primarily courts and other public authorities. Finally, I will present practical foresight as a professional component and as a component in the regulation of social relations. The ability to anticipate social impacts – and to use the law effectively for that purpose – manifests itself as an essential skill for well-done and effective professional or legislative work.

Foresight, prediction, and predictability thus appear to be multidimensional attributes of law – they are theoretical components, key to understanding the nature of law and its knowledge, as well as practical working tools for lawyers and legislators. Foresight can be understood as the ability to predict the future, to anticipate what will happen or what will have to happen. Prediction manifests itself as knowledge about the future. Predictability is understood as the state or degree to which foresight is applied and, in general, to which it is possible to objectively predict something. However, all three are focused on the future, and their occurrence in law connects law with the future in various ways. Therefore, my goal in this part of the article will be to show that law and the future have been closely related in legal theory, legal philosophy, and legal practice to date.

A potential objection may arise that traditional legal foresight – often limited to short-term predictability – shares little with the long-term horizons of futurology. However, this chapter argues that the two are connected by a continuum of legal logic. To understand how law will function in a fundamentally different world decades from now, we must first master how it manages "the future" within its current dogmatic boundaries. By analyzing how judges already anticipate the consequences of their decisions or how legislators model social impacts, we establish the conceptual legitimacy for extending these existing cognitive processes toward the more distant futurological horizon. Without this "bridge" from current legal theory, legal futurology would remain an isolated discipline; with it, it becomes a natural evolution of legal thinking.

1. Dogmatic foresight and predictability of law as a component of an authoritative and regulatory legal system

At the foundation of law lies its capacity to act upon the future – that is, to prescribe it. Legal norms often employ prescriptive linguistic forms⁵⁸, such as "shall be," which indicate that something, subject to certain prescribed conditions, is to occur, or "ought to be," which expresses what should occur. However, legal norms do not necessarily require prescriptive phrasing; they may also be expressed in the present tense. This does not negate their hypothetical nature nor their attribution of legal consequences that may materialize in the future.⁵⁹ Hans Kelsen described the potential future effect of a legal norm as a purely psychological fact that initiates a causal relationship: the cause being the legal norm itself, the awareness of its existence and binding nature, and the effect being behavior in accordance with it – which occurs in a hypothetical future.⁶⁰

The law applies *pro futuro*.⁶¹ Therefore, the law stipulates that something must happen in the future.⁶² Therefore, retroactivity causes problems in legal theory and practice and generally represents a gross negative interference with the legal certainty of legal subjects.⁶³ The retroactive effect of law is only allowed in very exceptional cases, and, if it occurs, it must be justified in a democratic society and the rule of law.⁶⁴

The American legal philosopher Lon L. Fuller included the prohibition of retroactivity, or predictability of law, among the eight requirements of the internal morality of law.⁶⁵ The essence of his argument is that if the law is to be an effective means of enabling its addressees to behave in the desired manner, it must also be prospective. This means that it must be known in advance so that it can have an effect in the future after its publication.⁶⁶ This can generally have two levels: first, the individual level of law enforcement, and second, the institutional level of law-making and law application. The individual level assumes that legal subjects are rational and autonomous actors who are able to foresee the legal consequences of their actions in the future. To this end, they can adapt or choose appropriate alternatives for their actions. Thus, the possible assumption of potential or actual legal liability presupposes the possibility of considering all the legal consequences of actions that may arise in the future. The behavior of certain subjects is always assessed (with exceptions) according to the law in force at the time it was carried out. The law thus creates a prerequisite for the law addressees who act in good faith at a given time, and therefore are not aware of future legislation that could have a retroactive effect, to be able to rely on the legal consequences of their actions occurring in the present and having an effect in the future.⁶⁷

The institutional level is based not only on the principle of enumerative public law claims, and thus that public authorities can only act based on and within the limits of the law, but also

⁵⁸ Karl Llewellyn refers to this as "*paper rules*," which capture the authoritative and prescriptive dimension of something "ought" to be or something "*ought*" to happen. See LLEWELLYN, K. A Realistic Jurisprudence – The Next Step. In Columbia Law Review. Vol. 30, No. 4, 1930, pp. 447–451.

⁵⁹ For more on this, see KELSEN, H. General Theory of Law and State.^{3rd}printing. Cambridge, MA: Harvard University Press, 1949, p. 45.

⁶⁰ Ibid., p. 43.

⁶¹ See, for example, ONDROVÁ, J. Abstraktná kontrola ústavnosti právnych predpisov pred Ústavným súdom Slovenskej republiky a Ústavným súdom Českej republiky. Banská Bystrica: Belianum Univerzita Mateja Bela, Právnická fakulta, 2016, p. 136.

⁶² BRÖSTL, A. et al. Teória práva. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2013, p. 79.

⁶³ CVRČEK, F., NOVÁK, F. et al. Legislation: Theoretical Foundations and Problems. Plzeň: Aleš Čeněk, 2017, p. 50.

⁶⁴ See PRUSÁK, J. Teória práva. Krásno nad Kysucou: Kalligram/Absynt, 2023, pp. 491–492.

⁶⁵ For more on Fuller's concept of internal morality in law, see FULLER, L. L. Morálka práva. Praha: OIKOYMENH, 1998, pp. 44–46.

⁶⁶ Ibid., p. 54.

⁶⁷ OTTOVÁ, E. Základy teórie práva. Brno: Institut Dalšího vzdělávání, 2002, p. 105.

on the fact that the actions and decisions of state authorities must be within legal limits that are predictable and calculable for citizens⁶⁸. In this context, predictability is derived from the preservation of legal certainty, which in turn is based on a combination of orientational certainty, sociological certainty, and continuity of legal order.⁶⁹ In this sense, it refers to the activities of public authorities that become predictable from a future perspective, and their actions or decisions themselves become expected. Legal certainty also means the ability to foresee the development of legislation.⁷⁰ Although the development of law must respond to the dynamic nature of an ever-changing society, it is also desirable that all these changes reflect the current legal situation and, so to speak, follow on from it to a certain extent in continuity.

In summary, it can be added that law essentially presupposes the future as the sphere of its effect. These effects are based on the foresight derived from the legal dogma. Legal theory and practice are based on the assumption that the legal norms of the present should guide the behavior of individuals and public authorities forward, that is, anticipate and shape future conduct. Although the law is anchored in the present, it is also dogmatically inseparable from the idea of a regulated future.

2. Prediction is the ability to know the law

Up to this point, it might have appeared that the legal norms themselves, backed by legal theory and by reflection of their prescriptive and prospective nature, favored the notion of connecting law with the future. However, legal thinking may also be influenced by considerations that do not take into account only legal norms. It may even concern prediction based on relativizing the significance of legal norms and replacing them with the influence of non-legal factors. A typical example of how such legal thinking works can be found in representatives of American legal realism.⁷¹ Non-legal factors that shape prediction in law include economic, political, ethical, psychological, and other reasons. In summary, Oliver Wendell Holmes's predictive theory can be mentioned to demonstrate this position in law. It was his theory that defined the law as a prediction of how courts will actually decide.⁷² In this sense, a substantial part of lawyer's thinking is shaped as a prediction of future legal decisions in individual cases – not based on a purely textual interpretation of norms, but based on the expected practice of courts, their experience, value attitudes, and social context. This is similar to what Holmes expressed in his famous idea: "The life of the law has not been logic; it has been experience."⁷³

Another representative of American legal realism, Karl Llewellyn, relativizes the significance of written legal norms as "paper rules." Llewellyn preferred the implementation and application dimension in social and professional practice, represented by the so-called "real rules." Real rules are, therefore, statements about how legal norms will be implemented and applied in practice. However, it is important to note that these are not statements in a procedural sense, e.g., about how a court conducts a dispute or what procedural rights and obligations the parties to the dispute have. In contrast, according to Llewellyn, these statements are nothing more than lawyer's predictions about how the court will decide on a given dispute.⁷⁴

⁶⁸ See BRÖSTL, A. O právnom štáte. Krásno nad Kysucou: Kalligram/Absynt, 2024, p. 132.

⁶⁹ See BRÖSTL, A. et al. Základy štátovedy. Košice: Univerzita Pavla Jozefa Šafárika v Košiciach, 2007, pp. 177-178.

⁷⁰ BALOG, B. Umenie tvoriť zákony: Schvaľovanie zákonov v Slovenskej republike. Bratislava: Wolters Kluwer, 2019, p. 52.

⁷¹ HRDINA, I. A., MASOPUST, Z. Chrestomatie ke studiu filozofie práva. Praha: Leges, 2011, p. 387.

⁷² See HOLMES, O. W. The Path of The Law. The Floating Press, 2009, pp. 3, 5, and 17.

⁷³ HOLMES, O. W. The Common Law. Cambridge, MA – London, UK: The Belknap Press of Harvard University Press, 2009, p. 3.

⁷⁴ LLEWELLYN, K. A Realistic Jurisprudence – The Next Step, pp. 448, 450.

Moreover, such an approach not only tells us what law is, i.e., that it is an intellectual activity oriented toward making predictions, but also becomes the key to understanding law. More precisely, the actual normative and regulatory content of the law is understood after the final authoritative decision of the case. This knowledge is, in fact, an *ex post facto* confirmation or refutation of a previously thought or expressed prediction. This means that lawyers are not just "interpreters of the law," but analysts of the likely behavior and decisions of courts or other public authorities.

The ability to predict and the predictability of court decisions were fundamental issues in American legal realism and were one of the topics that shaped its legacy.⁷⁵ However, in general, it led to a split among its representatives into two camps.⁷⁶ The first camp relied on sociological explanations that emphasized the living social context when predicting court decisions. Among these representatives were Karl Llewellyn, Underhill Moor, and Herman Oliphant. They believed in the possibility of using sociological knowledge about social events to reach a final decision in court cases. According to them, significant social events and trends can have a fundamental impact on the conscience of judges and ultimately reflect in court decisions. Since judges are not isolated from current events in society, significant social events are identifiable, and their influence is recognizable; it is possible to successfully predict decisions in these cases. Therefore, case decisions are predictable.

However, American legal realists such as Jerome Frank and Joseph Hutcheson came to the opposite conclusion, emphasizing idiosyncratic explanations. They highlighted the influence of the judge's psychological impulses and personality. In extreme cases, even random and short-term psychological states of the judge can play a role.⁷⁷ Similarly, at this point, we can raise the question of the correctness and quality of a particular judge's decisions, where talent comes into play.⁷⁸ Due to their irrational nature and random occurrence, it is impossible to predict the overall impact on the final form of specific court decisions.⁷⁹

In fact, American legal realism is not the only theory that exploits the potential of predictions in law, although its individual representatives have placed it at the center of their considerations. The law and economics movement and the behavioral economic analysis of law also work with predictions in law.⁸⁰ The law and economics movement explains the predictability of the legal behavior of legal actors with regard to achieving efficiency.⁸¹ It works with the assumption of predictability in the form of which reflects models of rational choice by (neo)classical economics.⁸² In contrary, behavioral economic analysis of law can predict or take into account the effects of cognitive biases⁸³ (e.g., framing, *status quo* bias, loss aversion, sunk cost trap, omission bias, anchoring, etc.) in the decision-making process.⁸⁴ These can correct the

⁷⁵ See also MOSKOWITZ, D. H. The American Legal Realists and an Empirical Science of Law. In Villanova Law Review. Vol. 11, Iss. 3, 1966, pp. 486 et seq.

⁷⁶ LEITER, B. Realism, Legal. In GRAY, CH. B. (ed.) The Philosophy of Law- An Encyclopedia. Volume I-II, A-Z. New York – Oxon: Routledge, 2012, pp. 722-723.

⁷⁷ For a discussion of this topic, see PRIEL, D. Law is What the Judge Had for Breakfast: A Brief History of an Unspeakable Idea. In Buffalo Law Review. Vol. 68, No. 3, 2020, pp. 899-930.

⁷⁸ See TUSHNET, M. American Legal Realism Today: An Idiosyncratic Restatement . In Northwestern Law Journal des Refusés. Vol. 1, Iss. 1, 2024, p. 55.

⁷⁹ See more FRANK, J. What Courts Do in Fact (Part I & Part II). In Illinois Law Review. Vol. 26, 1931-1932, pp. 645-666 and 761-784.

⁸⁰ See more ŠOLTYS, D. Súčasný podoby právnej filozofie: postmoderna, právo a literatúra, právo a ekonómia, kritika liberálneho legalizmu, patriarchy, rasizmu a heterosexizmu v práve. Praha: Leges, 2022, pp. 71-116.

⁸¹ See RILEY, S. Legal Philosophy. Essex: Pearson Education Limited, 2013, p. 239.

⁸² See DOHERTY, M. (ed.). Jurisprudence: The Philosophy of Law.^{2nd} edition. London: Old Bailey Press, 2001, p. 56.

⁸³ For a definition of cognitive biases, see, for example, CHERRY, K. What is Cognitive Bias? [online]. 2020 [accessed on 2025-05-20]. Available on: <<https://www.verywellmind.com/what-is-a-cognitive-bias-2794963/>>.

⁸⁴ See LIPTÁKOVÁ, K. Behaviorálna analýza v ekonómii, politológii a práve. In GÁBRIS, T. et al. (eds.) Nedogmatická právna veda: Od marxizmu po behaviorálnu ekonómiu. Praha: Wolters Kluwer, 2017, p. 161.

assumption of straightforward rational behavior with assumptions about the possible effects of irrational biases.

In conclusion, it should be noted that predictability in law is not based solely on norms but also on the ability to estimate how these norms will be interpreted and applied in specific situations. Such predictability cannot be determined without considering relevant non-legal reasons, which, however, ultimately contribute to the formation of law, or rather to the definitive determination of the content of law when deciding a case. Prediction manifests itself here as the anticipation of an authoritative conclusion of a case that may occur either hypothetically or in reality in the future. The purpose of these predictions is to know the law by anticipating the expected legal consequences. All this is true, but at the same time, it is necessary to remember that the prediction of legal realists is narrowly focused on knowing the currently applicable law. Thus, such predictive ability has the task of providing answers to the question "what is law?" with the help of a decision in a specific case.

3. Practical legal foresight

Another dimension of foresight in law is what I will refer to as practical foresight. This can be individual or social in nature. The individual one is revealed by the example of a lawyer preparing a contract for a client. If a lawyer is to provide a quality legal service, then in preparing and drafting such a contract, he or she must take into account not only the possible text of laws and the decision-making of public authorities, but also all non-legal circumstances, the motives and objectives of the contracting parties, or even possible future amendments to the contract, etc.⁸⁵ The intention here is to provide the client with legal services that solve their problem without creating another problem or a tangle of further problems. The lawyer must anticipate potential problems and take further professional steps accordingly.

Social foresight is particularly evident in lawmaking and legislative activity. If we assume that law-making is a systematic and purposeful process carried out by law-making bodies, resulting in the codification of models of behavior in the form of legal norms⁸⁶, then this process cannot be formally autonomous, random, arbitrary, or purely ideological, but must be based on a thorough analysis of social phenomena⁸⁷, the behavior of individuals and groups, as well as their needs, possible conflicts, and expectations. Thus, law-making represents not only the normative modeling of reality, but also the responsibility for its effective regulation, with an emphasis on anticipating application problems and possible undesirable consequences of legal regulation.⁸⁸ For example, Viktor Knapp distinguished between the purely legal dimension and its social dimension.⁸⁹ It is precisely the social dimension that reflects the future impact of legal norms on social relations, and thus the anticipated impact of legislative intent on society. The anticipated impact of the legislative intent should be as effective as possible. It should come as close as possible to the intended purpose. Therefore, according to him, this activity must be primarily scientifically based⁹⁰ – although Knapp admitted that it is also political. In this regard, it is assumed that legislation will be based on qualified findings, i.e., it will be carried out based

⁸⁵ GÁBRIŠ, T. Úvod – externá a interná právna veda. In GÁBRIŠ, T. et al. (eds.) *Nedogmatická právna veda: Od marxizmu po behaviorálnu ekonómiu*, pp. 12-13.

⁸⁶ JÚDA, V. *Teória práva. 2. doplnené a podstatne prepracované vydanie*. Banská Bystrica: Belianum. Vydavateľstvo Univerzity Mateja Bela v Banskej Bystrici, 2020, p. 91.

⁸⁷ Especially in the case of the threat of new, but poor-quality legislation. A thorough analysis of the proposed new legislation is also necessary due to the threat of juridogenic interventions. These are legal interventions in the existing legal order that may worsen the social situation or bring about a number of other, originally unintended problems as a result of neglecting preliminary preparations and a thorough analysis of the current state of society. For more details, see SMART, C. *Feminism and the Power of Law*. London – New York: Routledge, 1989, p. 161.

⁸⁸ See FÁBRY, B. *Teoretické problémy tvorby práva*. Bratislava: A-medi management, 2018, p. 138.

⁸⁹ See KNAPP, V. *Teorie práva*. Praha: C.H. Beck, 1995, pp. 108-110.

⁹⁰ *Ibid.*, p. 108.

on the collection and evaluation of a large amount of information using scientific procedures and scientific methods by professionally qualified individuals or teams of experts.⁹¹ Knapp saw the strength of cybernetics in law in its ability to evaluate the amount of information needed to create new, effective, and scientifically sound legislation.⁹² He also acknowledged that "cybernetic machines" would be of great importance for processing the necessary information and data.⁹³ The application of cybernetics in law made it possible to plan new legislation and anticipate changes in the legal system that would need to be implemented in the foreseeable future.

A special type of practical foresight is a judge's decision in an individual case. I do not want to address the question of the extent to which a judge creates, shapes, or can rewrite the law. Instead, we will focus on an interesting case of practical foresight on the part of a judge. This is presented by Richard Posner in his analysis of the pragmatic approach to judicial decision-making, which reflects the attitude referred to as "*everyday pragmatism*."⁹⁴ On this occasion, Posner mentions twelve characteristics that characterize pragmatic judicial decision-making.⁹⁵ It is worth combining the impact of the consequences of a future decision and the legal rules in a specific case, which the judge approaches in the process of deciding specific cases.⁹⁶ The judge must therefore consider not only the alternatives of possible ways of deciding in a given case but also the consequences of these decisions. What enriches legal thinking is the judge's ability to anticipate the possible social impacts of his or her decision. In this regard, he or she may modify the text of formal sources of law, which in a sense become secondary.⁹⁷ When deciding whether or not to modify the text of formal sources of law and what impact his decision will have, the judge must draw on current knowledge of the social sciences.⁹⁸ The judge must therefore anticipate the consequences of his decision in the case, which will lead him to the best possible decision with regard to the current and future needs of society. To this end, he chooses the decision in the case that will have the most favorable impact.

The specificity of this foresight lies in the very impact of the decision. These impacts can generally be individual in nature, but if the decided case becomes a precedent or case law, then the judge's decision will have a much broader social impact and should influence social practice until the impact of decisions in the same or similar cases changes fundamentally (e.g., legislation changes, social practice changes, or the social sciences reach a new state of knowledge).

In summary, practical foresight represents the ability of lawyers, legislators, and judges to anticipate the consequences of their professional decisions with regard to the broader social context. Its essence is a focus on the future, analytical thinking, consideration of non-legal factors, and sensitivity to the dynamics of the legal and broader social environment – anticipating possible situations, assessing risks, identifying the degree of expected problems, evaluating social impacts, identifying alternative solutions, etc. All this takes place as if in a hypothetical future in an effort to find answers to the questions: What could happen, and how can undesirable situations be prevented? The application of practical foresight in law raises the question of the appropriate level of responsible performance of professionally qualified

⁹¹ CVRČEK, F., NOVÁK, F. et al. *Legislativa: Teoretická východiska a problémy*, p. 16.

⁹² KNAPP, V. *O možnosti použití kybernetických metod v právu*. Praha: Nakladatelství Československé akademie věd, 1963, pp. 12, 14, 84 et seq.

⁹³ See *ibid.*, pp. 92-102 and KNAPP, V. *Teorie práva*, p. 227.

⁹⁴ For more on this, see ŠOLTYS, D. *Súčasná podoba právnej filozofie: postmoderna, právo a literatúra, právo a ekonómia, kritika liberálneho legalizmu, patriarchátu, rasizmu a heterosexizmu v práve*, pp. 90 et seq.

⁹⁵ See POSNER, R. A. *Law, Pragmatism, and Democracy*. Cambridge, Massachusetts – London, England: Harvard University Press, 2003, pp. 59-85.

⁹⁶ Posner does not speak of judge's total resignation from formal legal rules. Instead, he constructs a so-called constrained pragmatism, which recognizes the judge's binding nature to the text of legal norms. See *ibid.*, p. 254.

⁹⁷ See POSNER, R. A. *Pragmatic Adjudication*. In *Cardozo Law Review*. Vol. 18, No. 1, 1996, p. 5.

⁹⁸ See *ibid.*, p. 8.

activities. Practical foresight is more than a technical issue; it represents a form of responsibility in legal practice and in the drafting and enforcement of laws, taking into account their genuine long-term impact.

VI. FUTUROLOGICAL FORESIGHT AND VISIONS IN LAW

The above dimensions of foresight in law, legal thinking, and legal practice are not the only possible representations of considerations about the future in law. In the next section of this article, I will focus on foresight, which is so specific in nature that its application in legal science may indicate the development of a new approach to the law. This way of thinking about law opens up knowledge of future forms of law. That is, the possibilities, development scenarios, and problems that the law will have to deal with in the future. Such foresight, predictions, and predictability are the subjects of legal futurology. In summary, they can be described as futurological foresight, or as predictions about law, or predictions about the development of law in the future.

As I have shown above, legal science to date has worked with the future, foresight, prediction, and predictability of law, but not in the same way as legal futurology. They are derived from existing legal dogma, existing texts of sources of law, existing and possible decisions by public authorities, or current legal and social practice. It is essential to realize that the framework for all the above dimensions of foresight, prediction, and predictability is the stability and function of the legal system. Current law serves as a point of reference for finding answers to questions such as "*What is law?*", "*What applies as law in a given case?*" or "*What social or legal situations may arise?*" Foresight, prediction, and predictability in law are important not only because they link thinking about law and legal problems to the future, but above all because they are intrinsically linked to law and, to a certain extent, enable it and thus the overall functioning of law. Law – whether as theory, social blueprint, professional craft, or legislative project – only has power if it endures. Its very meaning depends on an unbroken line into the future.

However, legal futurology is not entirely about finding answers to these questions, because legal science, legal theory, legal philosophy, and legal practice can answer them. The subject of futurological foresight, and thus its scenarios and predictions, can be much broader if we apply general assumptions about futurology to them. Foresight in law, which is applied in legal futurology, is a prospective activity with respect to the broader social framework and a more abstract or concrete understanding of law. This framework provides incentives for monitoring, identifying, and subsequently evaluating decisive trends, such as technological developments, political directions at the national and global (planetary) levels, the impact of renewable resources, the adaptation of technological innovations in society, etc. However, in this regard, legal futurology may encounter the same stumbling block as futurology. This is the use of its own methods.⁹⁹

Predictions and scenarios about future law are the results of a scientific journey towards legal futures. Legal futurology should be scientific knowledge of future law. In this regard, it must have a scientific methodology that results in predictions about law. In general, the purpose of futurological research is to systematically examine, create, and test possible and probable situations or desirable ideas about the future.¹⁰⁰ In addition to its own methods, futurology can also use methods from other disciplines, such as sociology, economics, political science, and

⁹⁹ POLI, R. A note on the classification of future-related methods [online]. In *European Journal of Futures Research*. Vol. 6, 2018 [accessed on 2025-05-17]. Available on: <<https://doi.org/10.1186/s40309-018-0145-9>>.

¹⁰⁰ GLENN, J. C. *Futures Research Methodology*. In *The 10th Federal Forecasters Conference – 1999*. Washington: U.S. Department of Education, Office of Educational Research and Improvement, 1999, p. 193.

law, which are adapted to predict the future.¹⁰¹ Methods used in futurology include, for example, the Delphi method, forecasting and strategic management, analysis of megatrends and weak signals (or identification of weak signals), scenario analysis, criticism, simulation modeling, backcasting, STEeP/PESTLE analysis, and three horizons (3H) analysis.¹⁰²

To clarify the application of these methods, consider scenario Analysis as a primary tool. Unlike simple linear forecasting, this method involves identifying key drivers of change (e.g., AI autonomy or climate migration) and mapping their interactions to create multiple "plausible futures." For example, in the context of AI, a researcher might construct a scenario where hybrid intelligence becomes the norm for judicial decision-making, then use backcasting to determine what legislative steps (such as defining algorithmic transparency) must be taken in the present to reach a desirable version of that future. This transition from abstract speculation to systematic modeling is what distinguishes legal futurology as a rigorous scientific discipline.

Of course, futurology methods can also be combined in appropriate ways.¹⁰³ Some futurology methods do not have to focus exclusively on the future. They can simultaneously combine the past, present, and future. This approach is also known as the futures triangle. It is a forecasting tool that is used to map probable futures with respect to three key dimensions: the pull of the future, the pressure of the present, and the weight of the past.¹⁰⁴ In fact, the backcasting method, or reverse planning or reverse forecasting, is like a reverse process in futurology, moving from the future to the present. It does not predict the future in the true sense, but rather sets out the future and, to that end, helps to determine the steps that need to be taken in the present in order to achieve the desired state in the future.¹⁰⁵

Following on from these ideas, it is currently necessary to recognize that legal futurology is not a science with a developed methodology or applied and proven methods. In this context, it is possible to consider applying the above-mentioned methods and, at the same time, adapting them to the law. It is also possible to consider combining existing legal methods with futurological methods after their subsequent adaptation. An important aspect of development is to determine and limit the subject of legal futurology research on a specific scale. Here we are faced with the question of what legal futurology should deal with and to what specific extent. Should it focus on the future forms of law in general, the development of a specific area of law or subarea¹⁰⁶, the future form of a specific legal regulation or legal institution¹⁰⁷, or should it also deal, for example, with the prejudicial ruling of a specific socially significant court case¹⁰⁸? At this point, we encounter not only what should be the subject of legal futurology, but also what can be predicted with relative reliability and within what time range. In this sense, legal

¹⁰¹ POLI, R. *Ibid.*

¹⁰² See GLENN, J. C. *Ibid.*; SLAUGHTER, R. A. The Knowledgebase of Future Studies as an Evolving Process. In *Futures*. Vol. 28, No. 9, 1996, p. 804; SCHWARZ, B., SVEDIN, U., WITTROCK, B. *Methods in Futures Studies: Problems and Applications*. London – New York: Routledge (Taylor & Francis Group), 2018, pp. 23-45.

¹⁰³ See LUM, R. Working with Verge. In *Compas: The APF Methods Anthropology*, 2015, p. 5.

¹⁰⁴ For more details, see INAYATULLAH, S. The Futures Triangle: Origins and Iterations. In *World Futures Review*. Vol. 0, No. 0, 2023, pp. 1-10.

¹⁰⁵ For more on the basic characteristics of this method, see DREBORG, K. Essence of Backcasting. In *Futures*. Vol. 28, Iss. 9, 1996, pp. 813-828.

¹⁰⁶ For example, Handrlica, Šarapajev, and Blahoudková argue that in the case of administrative law, futurological approaches focusing on the future development of public law are nothing new. Jozef Balga writes that legal futurology can also be seen as part of asylum law. See HANDRLICA, J., ŠARAPAJEV, V., BLAHOUDKOVÁ, G. "BLACK SWANS" in administrative law. In *The Lawyers Quarterly*. Vol. 11, No. 3, 2021, pp. 479 et seq. and BALGA, J. *Azylové právo*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2012, p. 124.

¹⁰⁷ For example, Artur Kotowski points out that narrower subjects of legal futurology, such as legal institutions, are already primarily the domain of legal science. KOTOWSKI, A. Legal futurology – potential of foresight research in legal sciences: could legal futurology be treated as an independent science in jurisprudence?, p. 101.

¹⁰⁸ See PATE, R. A. The future of harmonization: soft law instruments and the principled advance of International Lawmaking. In *Toronto International Law Review*. Vol. 13, No. 2, 2010, p. 144.

futurology must deal with setting the degree of generality or specificity of the subject of its research, as well as setting the time range of its conclusions and the ability to deliver responsible scientific conclusions.

Despite the above, we can say that legal futurology will deal with ideas about future law. In this sense, it will capture the dynamics of law towards the future, because the result is answers to the question "*what will law be like?*" or "*what will law have to become in the future?*". Currently, due to its embryonic nature, legal futurology is clearly not that part of legal science with a constructed, proven, and developed methodology ready to be used. But the question is whether it has this potential. In terms of the specificity of the subject of study, the need for a special methodology, and the potential of its conclusions or contributions, I would argue that it does. Legal-futurological foresight will form a separate component of legal consciousness. Legal consciousness includes ideas about law at the levels of *de lege lata* and *de lege ferenda*.¹⁰⁹ Ideas about "*what law is*" belong to the level of *de lege lata*. In contrast, ideas about "*what the law should be*" belong to the *de lege ferenda* level.¹¹⁰ Thanks to legal futurology, this classification can be extended to the *de lege futura* level, that is, the level of "*what the law will be*" or "*what the law have to become in the future.*" The scientific methodology and methodology of legal futurology – and thus its scientific nature – is intended to prevent the results of its anticipatory ideas from falling solely within the realm of *de lege imaginata*, that is, the level of artistic reflections on law, the application of imagination in legal science¹¹¹, and purely ideal thinking as in the case of utopian constructs¹¹².

In view of the above, it is particularly necessary to define the nature, place, and role of visions in legal futurology and, in general, their meaning and significance for the law. By vision, I mean shared ideas that convincingly present a description and the goal of the desired future.¹¹³ However, visions must be approached with caution. Not all futurological research produces visions – and the same can be said of legal science; indeed, visions need not be the sole domain of futurology, and their origin need not be scientific at all. Clem Bezold draws attention to the distinction between visions as "futures for the heart" and trends and scenarios that are "futures for the head."¹¹⁴ In other words, there is an analytical difference between predictions of the future and visions of it.

The attractive aspect of a vision is that it serves as a light at the end of the tunnel.¹¹⁵ Anticipation gives way (or is complemented?) by an aspirational character. Until it is realized or it fails, a vision dispels the absurdity of being. Visions are therefore accorded a privileged status, because having a vision is understood as having a certain advantage. Vision is an incentive for mobilization.¹¹⁶ Of course, at this point, I am not concerned with a thorough analysis of the concept of vision and its subsequent application to the needs of law. Rather, I

¹⁰⁹ See, for example, HENCOVSKÁ, M., JESENKO, M. Teória práva pre študijný program „verejná správa“. Košice: Univerzita Pavla Jozefa Šafárika v Košiciach, 2010, pp. 46-47.

¹¹⁰ For more details, see VEČEŘA, M., URBANOVÁ, M. Základy sociologie práva. Brno: Masarykova univerzita, 1994, p. 141.

¹¹¹ In connection with this, see, for example, ROBSON, R. Lesbian (Out)Law: Survival Under the Rule of Law. New York: Firebrand Books, 1992, pp. 24 and 88; BROOKS, K. Feminists, Angels, Poets, and Revolutionaries: What I've Learned from Ruthann Robson and Nicole Brossard on What it Means to Be a Law Teacher. In City University of New York Law Review. Vol. 8, Iss. 2, 2006, pp. 638 et seq., and also WHITE, J. B. The Legal Imagination. The Abridged Edition. Chicago – London: The University of Chicago Press 1985, pp. 207-295.

¹¹² See the following section of this article.

¹¹³ Compare BEZOLD, C. Aspirational Futures. In Journal of Futures Studies. Vol. 13, Iss. 4, 2009, p. 84; INAYATULLAH, S. Six pillars: futures thinking for transforming. In Foresight. Vol. 10, No. 1, 2008, pp. 6 et seq.;

¹¹⁴ See BEZOLD, C. Ibid.

¹¹⁵ PAPULA, J., PAPULOVÁ, Z. Stratégia a strategický manažment: ako nástroje, ktoré umožňujú súperenie i spolužitie Dávida s Goliášom. Bratislava: Iura Edition, 2013, p. 105.

¹¹⁶ See GODET, M. Creating Futures: Scenario Planning as a Strategic Management Tool. 2nd edition. London – Paris – Geneva: Economica, 2006, p. 304.

am trying to show why it is appropriate – and perhaps even advantageous – to think about the theoretical incorporation and elaboration of the concept of visions in legal science. If legal visions existed, they would most likely fulfill the same role. I will briefly point out that history shows that visions in law have existed and have fundamentally influenced contemporary and current thinking about law and its theoretical and practical construction. Mobilization and the vision of something hopeful significantly accelerate development in a given area. An example of this is the belief in the codification of law and the resulting vision of rationality, completeness, consistency, and hierarchical organization of the legal order.¹¹⁷ This is, apart from political and ideological factors, another important factor that led to the development and dominance of legal positivism.

However, I will return to predictions about law as legal-futurological foresight. In connection with this, it can be argued that the conclusions of legal futurology do not necessarily have a uniform form. If we look at futurology, it suggests a diversity of predictions that can easily be applied to the law. In particular, it is possible to distinguish between different predictions about the law. These predictions can be categorized in terms of the future they will be concerned with:¹¹⁸

- possible futures, i.e., conditions and situations that may arise in the future in the law,
- probable futures, i.e., conditions and situations that are likely to occur in law unless there are unexpected changes or interventions in current trends,
- preferred futures, that is, potential or probable forms of law in the future that we are deliberately trying to achieve because they focus on a set goal, needs, values, and opportunities.

In addition to the above, it is also possible to consider a further classification of predictions in legal futurology – for example, according to the methods used, the time range, or the degree of descriptiveness or normativity.¹¹⁹ Legal futurology will likely adapt these types of predictions to its own needs and purpose. This is especially true when the subject of interest in legal futurology is not only the future itself, but above all, the future of law as a regulatory and socially anchored system.

VII. THE FUTURE BETWEEN FUTUROLOGY AND UTOPIA

The legal futurology serves to connect the law with the future. This naturally raises the question of how this happens. In other words, how does it formulate its conclusions, i.e., predictions of law? Is (legal) futurology utopian? Can we therefore dismiss futurological thoughts about law as utopian daydreaming? Can we refute the claim that it falsely presents itself as a science in a new guise? In the following text, I will attempt to refute the frequent criticism and trivialization of futurology as modern utopianism.

The future has various aspects. These include, for example, philosophical, cultural, psychological, and scientific aspects. However, at the center of discussions about the future, the time aspect is decisive. In this sense, the future is something that has not happened, does not exist, but will certainly happen one day. The assumption of the future presupposes the

¹¹⁷ HOLLÄNDER, P. *Filosofie práva*. 2. rozšířené vydání. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, s.r.o., 2012, pp. 275 et seq.

¹¹⁸ VESELÝ, A., NEKOLA, M. (eds.) *Analýza a tvorba veřejných politik: přístupy, metody a praxe*, p. 274.

¹¹⁹ For more details, see, for example, VESELÝ, A., NEKOLA, M. (eds.) *Analýza a tvorba veřejných politik: přístupy, metody a praxe*, pp. 274 et seq.; BÖRJESON, L., HÖJER, M., DREBORG, K.-H., EKVALL, T., FINNVEDEN, G. Scenario types and techniques: Towards a user's guide. In *Futures*. Vol. 38, Iss. 7, 2006, pp. 723-739; BERGMAN, A., KARLSSON, J. CH., AXELSSON, J. Truth claims and explanatory claims - An ontological typology of futures studies. In *Futures*. Vol. 42, Iss. 8, 2010, pp. 857-865.

movement, flow, and development of everything in time. This brings us certainty that something will happen after all.¹²⁰

This time aspect naturally connects itself with space, meaning that something will occur not only in certain time or time range but also in a certain place. Time and space are two basic categories of historical consciousness and science.¹²¹ Moreover, the law connects its justification not only in time and space. It is necessarily shaped by historical conditions because it is linked to the social context.¹²² The social context can be understood quite generally as the condition for the existence of an organized functioning of society.¹²³ The law has functioned in this way in the past and continues to do so in the present. But will the law, therefore, also exist in the future?

From the perspective of legal futurology, the answer is clearly yes. In this context, Barton Beebe notes with a certain amount of humor that legal futurists have often presented and will continue to present various – perhaps even mutually incompatible – predictions about the law. However, according to him, they all clearly agree only on the general conclusion that law will certainly continue to exist in future societies.¹²⁴ This conclusion is not without significance as it serves as a distinguishing feature between futuristic and utopian thinking about law. From the utopian point of view, there is no reason for the existence of law¹²⁵, or the role of law in a utopian society is highly relativized. For example, it can be relativized by a significant reduction in the authoritative and coercive aspects of law, although law continues to exist in an ideal and harmonious society.¹²⁶ In the case of utopias, arguments in favor of a more developed legal system were, indeed, only an exception.¹²⁷

¹²⁰ See, for example, ANTIPIN, N. A. Budušeje kak predmet filozofskogo osmyslenija v klassičeskoj, neklassičeskoj i postneklassičeskoj nauke. In *Voprosy sovremennoj nauki i praktiki*. Universitet im. V. I. Vernadskogo. Vol. 47, No. 3, 2013, pp. 86-97.

¹²¹ See, for example, TRESOVÁ, M. Čas v historickej vede a čas v mentalitách naprieč dejinami. In *ACTA HISTORICA ET ORIENTALIA NEOSOLIENSIA: Študentský historický časopis ACHERON*. Vol. 17, 2021, pp. 6.

¹²² See more MARŠÁLEK, P. Příběh moderního práva. Praha: Auditorium, 2018, pp. 28-30.

¹²³ This organized existence of society can be achieved either organically or artificially. However, this idea can be understood in general terms as implied in the classical sense by the statement "*ubi societas, ibi ius*," or "where there is society, there is law," which is attributed to Marcus Tullius Cicero. This idea emphasizes the inseparable connection between the existence of law and the condition of an orderly society, which testifies to the presence of a certain form of justice. For more details, see CICERO, M. T. *O věcech veřejných*. Praha OIKOYMENH, 2009, p. 139.

¹²⁴ See BEEBE, B. Fair Use and Legal Futurism, p. 5.

¹²⁵ A typical example of the nonexistence of law in an ideal social state is Marxism-Leninism, where, in addition to the thesis of the withering away of the state, the thesis of the withering away of law was also developed. Lenin foreshadowed the idea of the withering away of law with the following statement: "[...] people will become accustomed to observing the elementary rules of social life, known since ancient times, repeated for thousands of years in all the rules of social co-existence, until they become accustomed to observing them without violence, without coercion, without subjugation, without a special coercive apparatus called the state." This statement was subsequently developed by Soviet legal theorists of the time. For more details, see LENIN, V. I. *Stát a revoluce*. Praha: Svoboda, 1949, pp. 91 and 85, and also BRÖSTL, A. *Právne myslenie 19. – 20. storočia*. Košice: Univerzita Pavla Jozefa Šafárika v Košiciach, 2011, pp. 44-51.

¹²⁶ Thomas More admitted the existence of law in an ideal society, but in a very minimal and simplified form so that people would be able to understand it themselves and behave accordingly. According to him, lawyers should be banned because they only complicate matters unnecessarily. Tommaso Campanella had similar ideas, envisioning the transformation of law into a concise set of laws whose content and meaning would be sufficiently clear to everyone. In the *City of the Sun*, there is no judicial system and probably no lawyers, as Campanella only mentions judges who are experts in their field. Francis Bacon, in his utopian concept of New Atlantis (also referred to as Bensalem), also envisions law, but it has neither a coercive nor a decisive role in the organization of society. In Bensalem, law is understood as a moral bond within society, and, in addition to being simple, fair, humane, and based on scientific knowledge, it is noncoercive and rarely necessary in practice. Compare MORE, T. *Utópia*. Bratislava: Vydavateľstvo Spolku slovenských spisovateľov, 2017, p. 90; CAMPANELLA, T. *Sľnečný štát*. Bratislava: Vydavateľstvo Spolku slovenských spisovateľov, 2020, pp. 55-57; BACON, F. *Nová Atlantida a Eseje*. 3. vydání. Praha: Mladá fronta, 1980, pp. 9-41;

¹²⁷ Among such exceptions is James Harrington and his concept of the Republic of Oceania, which has a developed legal system anchored in its constitution. Moreover, his concept of the legal system of the Republic of Oceania is based on written sources of law, a systemic nature, periodic lawmaking, and well-functioning independent courts. Thus, it represents a concept of the state (an ideal republic) that is very close to modern republics. Compared to Thomas More, they share the

Moreover, if we look at the original meaning of the term "utopia," the difference between utopian and futurological thinking becomes very clear. Utopia can be understood as an *a priori* construction of a certain model of a perfect society and/or a perfect state.¹²⁸ The word "utopia" is artificial. It was created from the prefix "*ou*" ("ου"), which means "no," and the word "*topos*" ("τοπος"), which can be translated from classical Greek into English as "place." In other words, a place that does not exist.¹²⁹ Utopias lack the support of experience: all utopian works contemplated something that did not exist. Utopian thinking, therefore, appears to be detached from historical reality. For this reason, it is not a way of thinking that works with historical experience, and it cannot be said unequivocally that it predicts the future, because its conclusions are not reasonably derived from reality. In contrast, futurological thinking about law is based on real trends and data that are supported by the historical form of society and law. Therefore, the nature of utopias is ideal. They are only ideal constructs without a real background.¹³⁰ It is also true that utopian thinking is a normative one. Its main task is to show the desired form of society, state, law, interpersonal relationships, etc. Perhaps the only thing in which the conclusions of utopians converge with reality is the fact that most of them were critical reactions to the social conditions of their time.

The term utopia may also be the result of combining two words from classical Greek: "*eu*" ("ευ") meaning good and "*topos*" (τοπος) meaning place. In this sense, we are talking about normative considerations that aim to present a "good place."¹³¹ Legal futurology, on the other hand, is analytical and predictive in nature. It is based on a scientific and systematic approach to thinking about the future, taking into account demographic, technological, economic, political, security, environmental, and other relevant data in order to predict possible developments in law in the future. Therefore, the main objective of legal futurology will be to anticipate, model, and thus potentially influence future scenarios of legal development.

The goal of utopian thinking, on the other hand, is to describe an ideal social order and, possibly, the place of law within it. Utopian concepts are therefore static in nature. They are (pre)images of a perfect society for which development in the sense of improvement has stopped, as they have achieved their own perfect form. It can be said that utopias are pseudofacts that are not based on the real world and are not empirically verifiable. However, descriptions of utopian societies and the framework of their normative form strive to appear credible. Utopians indeed presented these pseudofacts consciously and with productive intent: they

idea that laws should be clearly written and understandable to the majority. We also encounter the idea of a utopian society or state with a well-functioning legal system in the work of the Czech mathematician, logician, and philosopher Bernard Bolzano. However, in general, the ideas he develops reveal the basic features of a constitutional state. See and compare HARRINGTON, J. *Republika Oceána*. Praha: Mladá fronta, 1985, e.g. pp. 23 et seq. and pp. 111-116, and BOLZANO, B. *O nejlepším státě*. Praha: Mladá fronta, 1981, e.g. pp. 23-29.

¹²⁸ KRAUS, J., PETRÁČKOVÁ, V. et al. *Slovník cudzích slov*. Bratislava: Slovenské pedagogické nakladateľstvo, 1997, p. 950.

¹²⁹ Note No. 33 in HRUŠOVSKÝ, I. (ed.) *Humanizmus a renesancia: antológia z diel filozofov*. Bratislava: IRIS, 2006, p. 540.

¹³⁰ In this regard, the possible feasibility or infeasibility of utopias is not important. For example, Herbert Marcuse understood changeability in the possibilities of realizing utopias. He argued that what was understood in the past as an unfeasible utopia is now feasible thanks to the release of capitalist productive forces towards a radical transformation of society into a free and egalitarian form without the need for coercion. In contemporary discourse, the terms "utopia" or "utopian" serve as an excuse for unwillingness to implement something that has long been possible to implement. The Russian philosopher of personalism, Nikolai Alexandrovich Berdyaev, on the other hand, admitted the practical feasibility of utopias but at a high price for human freedom. See MARCUSE, H. *Konec utopie*. In *Psychoanalýza a politika*. Praha: Nakladatelství Svoboda, 1969, pp. 65-71; BERDYAEV, N. A. *O otroctví a svobodě člověka*. Praha: OIKOYMENH, 1997, p. 164 and also BERDYAEV, N. *The End of our Time: together with an essay on the General Line of Soviet Philosophy*. New York: Sheed & Ward Inc., 1933, pp. 187-188.

¹³¹ KASINEC, R., JENČÍK, J. *Dystópia - teoretické vymedzenie pojmu* [online]. *Projustice: Vedecko-odborný recenzovaný časopis pre právo a bezpečnostné vedy*, 30 December 2018 [accessed on 22 May 2025]. Available online: <<https://www.projustice.sk/teoria-prava/dystopia-teoreticke-vymedzenie-pojmu>>.

understood them either as a laboratory development of certain ideals or as a mirror of the times and society, critically pointing out the shortcomings of the real world.¹³² Utopias thus describe the hypothetical present of a certain imagined organization of the state and society, which is supposed to inspire the current real social order. It does so to allow us to reevaluate their current form in the future. For this reason, utopias manipulate human nature and assume the possibility of a simple and uniform form of individuals.¹³³ Utopian thinking assumes that people are naturally willing to accept and submit to a given social order because they consider it to be generally good, thereby simplistically constructing human nature as uniformly rational or submissive. Therefore, it is possible to completely simplify or reduce the law and its application to sporadic exceptions that deviate from the almost automatic ability to submit to the social good. Futurology does not work with such a philosophical assumption. If it is interested in human nature (or rather, the variants of its manifestations in human thought and action), it states changes in it as a fact or reflects them under the influence of external social circumstances.¹³⁴

It is also necessary to address the potential criticism regarding the illusoriness of descriptive legal futurology. While utopia deals with "non-existent places" based on idealization, descriptive futurology deals with "non-existent times" based on data-driven probability. The risk of illusoriness is mitigated by the continuous updating of predictions through the monitoring of weak signals – small, seemingly insignificant events today that may indicate a paradigm shift tomorrow. Furthermore, by incorporating dystopian scenarios (e.g., the complete dehumanization of the penal system through algorithmic bias), legal futurology proves it is not a visionary "wish-list" but a rigorous stress-test for the law, identifying where current legal principles might fail under the pressure of future transformations.

The conclusions of futurology present an open and dynamic future, which, despite predictions, may change, become more precise, and yet remain open to further development. It therefore understands law as a dynamic system of social rules that plays a certain role in development and/or is subject to adaptation in response to trends (e.g., technological law that adapts to machine learning, natural language processing, etc.). Moreover, legal futurology, within its analytical and predictive nature, seeks to work with facts. These are framed by megatrends, weak signals, pressing issues, and unexpected but highly effective phenomena. Rather, it is concerned with presenting possibilities and scenarios for the further development of law. Thus, the result of legal futurology will be possible, realistic futures for law under the influence of trends such as the further development of globalization, planetarization, climate change, and the threat of ecological disasters, or the increasing influence of technology on the functioning of law and the practice of legal professions. The number of these scenarios will generally exceed one.

Another difference is that in utopias, law is an ideal construct that, although it may have some characteristics of contemporary law, can be reduced or even abolished because it is no longer necessary. Legal futurology may also work with ideal law (natural law, cybernetic law, technological law, etc.). At the same time, it will inevitably have to deal with the harmonization of law as a system of formal sources of law and the real functioning of law under the decision-making of state authorities and law as social practice.¹³⁵ Thus, futurology, in its view of the

¹³² See PERNÝ, L. *Utopisti. Vizionári sveta budúcnosti: Dejiny utópií a utopizmu*. Martin: Matica Slovenská, 2020, p. 81.

¹³³ For example, Gabriel Bonnot de Mably assumes the development of a certain type of modesty as a virtue. See MABLY, G. B. *Výbor z díla*. Praha: Státní nakladatelství politické literatury, 1958, p. 17.

¹³⁴ An example of this approach can be found in Donna J. Haraway's posthuman concept of humans as cyborgs. See HARAWAY, D. J. *A Cyborg Manifesto: Science, Technology, and Socialist-Feminism in the Late Twentieth Century* [online]. University of Minnesota Press, ProQuest Ebook Central, 2016, p. 5 [accessed on 2025-05-21]. Available on: <<http://ebookcentral.proquest.com/lib/warw/detail.action?docID=4392065/>>.

¹³⁵ VASILEVIČ, G. A. *Juridičeskaja nauka: otryazhenie dejstvitel'nosti i formirovanie obraza buduščego*, p. 73.

future, tries to avoid simplifications and examines the law in all the complexity of the circumstances surrounding it.

Last but not least, utopias often take into account the specifics of public life and the private lives of individuals in a holistic framework. This serves to underline their importance in maintaining the ideal functioning of society and the state as a whole. For example, Tommaso Campanella deals with such trivialities as the procreation of future ideal citizens of the City of the Sun¹³⁶, and Thomas More with the simple clothing of the citizens of Utopia¹³⁷. These details logically fit into the broader functioning of society and the state. Legal futurology may not be interested in such details and may not use them to justify future forms of law. For example, when Richard Susskind predicted in the 1990s that the computer would be the main communication tool and working tool for lawyers in the digital age¹³⁸, or that email would be the main means of communication between lawyers and their clients¹³⁹, he did not attempt to justify how this method would affect the law as a whole and how much it would depend on it. Rather, it was meant to be a statement of one of the manifestations of the intersection of technology and law. This means that legal futurology is more open to the plurality of futures and can be more general in its predictions of future developments in law.

In summary, it can therefore be argued that legal futurology is not utopian one and its intention is not to hypothetically model the conditions of a perfect society or the possible form of law in it. It is by no means the intention to justify one form of future society, which it presents as a normative ideal for the desired form of society.

Nevertheless, the question remains unanswered as to whether legal futurology can have anything in common with utopian thinking. After all, both offer a glimpse into other worlds, utopian thinking into an imaginary ideal world, while legal futurology into the world of the future. Ultimately, however, they can use imagination to anticipate different scenarios for the future. Futurology and utopian thinking alike use creativity and imagination, albeit to varying degrees and for different purposes. Futurology can also be understood as an approach that combines the artistic and scientific nature of knowledge in order to predict possible futures.¹⁴⁰ The possibility of applying creativity and imagination here is not only based on facts processed using scientific methods, but above all on the ability of futurology to get as close as possible to the real shape of the future.¹⁴¹ Creativity is thus not only the ability to imagine all possible alternatives for the future, but also becomes an incentive to anticipate social changes. Various methods focused on scenario building are the product of creative exploration of how the future should be understood, analyzed, and studied.¹⁴²

Another similarity between futurology and utopian thinking is their interdisciplinarity.¹⁴³ Futurology and utopias creatively incorporate knowledge from various scientific disciplines,

¹³⁶ CAMPANELLA, T. *Slnčný štát*, pp. 16 and 27-30.

¹³⁷ MORE, T. *Utópia*, p. 56.

¹³⁸ SUSSKIND, R. E. *The Future of Law*. Oxford: Clarendon Press, 1998, pp. 55, 129-137, 242.

¹³⁹ BAXTER, R., SUSSKIND, R. E. Richard Susskind – How Technology Will Change Justice [online]. [accessed on 2025-05-26]. Available on: <https://legaltalknetwork.com/podcasts/law-technology-now/2020/01/richard-susskind-how-technology-will-change-justice/?utm_source=chatgpt.com>.

¹⁴⁰ MOTTI, V. V. Future Studies. In GLÁVEANU, V. P. (eds.) *The Palgrave Encyclopedia of the Possible*. Cham: Palgrave Macmillan, 2023, p. 609

¹⁴¹ VIDA, C. Application of futurology for the analysis of the security environment (is it possible to determine the future?). In GUBAŠ, F. (ed.) *National and International Security 2023: Proceedings of the 14th International Scientific Conference*. Liptovský Mikuláš: General Milan Rastislav Štefánik Armed Forces Academy, 2023, p. 447.

¹⁴² JONES, CH. B. Creativity: The flawed forge of tomorrows [online]. In *Futures*. Vol. 150, June, 2023. [accessed on 2024-10-22]. Available on: <<https://doi.org/10.1016/j.futures.2023.103159>>.

¹⁴³ Compare SUNDARAM, A. Theory and Practice of Interdisciplinarity in Futures Studies. In CHANDRAMOHAN, B., FALLOWS, S. (eds.) *Interdisciplinary Learning and Teaching in Higher Education: Theory and Practice*. London: Routledge 2008, pp. 44-57 and LEVITAS, R. *Concept of Utopia*. Oxfordshire: Lang AG International Academic Publishers, Peter, 2011, pp. 179 et seq.

from which they formulate their conclusions. Of course, as I have shown above, each does so in its own way and for its own purposes. A certain degree of similarity between futurology and utopias stems from the fact that both refer to the future. In the case of utopias, we sometimes encounter direct references to the future.¹⁴⁴ In summary, however, it can be said that, in the strict sense of the word, this is a misunderstanding. Utopias represent a vision, but they do not provide any reason why the development of society should/must move in that direction. They lack the basic assumption of causality, i.e., an explanation of the reasons that will bring about such a society and shape it into this complex form. What connects them to the future is what Ernst Bloch noticed in their critical and inspirational role. Utopias can give people the determination to change the existing imperfections in society. Thus, utopian ideas and concepts are the impetus for the future realization of what has not yet been achieved.¹⁴⁵ In this sense, utopia can also be directed by its nature towards the future.¹⁴⁶

VIII. CONCLUSIONS

The future will show the validity of legal futurology as a scientific discipline. The reason for this assertion is primarily a pragmatic approach to it. By this I mean, in particular, how legal futurology can produce truly effective predictions and, above all, how these predictions can help society prepare for certain problems or, better said, how it can prevent them through timely intervention.

Given the relatively young age of legal futurology – and especially its short history in legal science and the small number of scientists dedicated to its development – it is necessary to improve its methodology and methods and wait for it to develop the ability to function effectively and produce valid scientific findings. Therefore, despite its growing importance, legal futurology remains largely a theoretical field that requires further development, particularly in terms of methodological consistency, practical applicability, and value anchoring.

The biggest obstacle to legal futurology may be, as in the case of futurology in general, skeptical views regarding its ability to produce credible and usable predictions. After all, the first rule of prediction is: "Predictions are always wrong." The question is whether it is reasonable to engage in a fundamentally flawed activity. However, what is questionable in this regard is not the absolute precision of the predictions, but how far they deviate from the reality they previously attempted to foresee.¹⁴⁷ Therefore, the entire range of predictions or scenarios may have practical relevance, not just one prediction that appears to be certain. Legal futurology must also take this deviation into account and incorporate it into its planning and strategies. Additionally, the entire range of predictions and scenarios collects and expresses a wealth of information that can be used in other ways. In this respect, the original purpose of futurology remains unchanged, that is, to prepare for the future, not for what will definitely happen in the future, but for what could happen with varying degrees of probability.¹⁴⁸

The analysis of large amounts of data in legal futurology can also be aided by the application of the latest technological innovations that take advantage of the potential of artificial intelligence, machine learning, and natural language processing. Paradoxically, this leads to the

¹⁴⁴ See, for example, MORGAN, D. R. The Dialectic of Utopian Images of the Future within the Idea of Progress. In *Futures*. Vol. 66, 2015, pp. 106, et seq.

¹⁴⁵ BLOCH, E. *Geist der Utopie*. Munich – Leipzig: Duncker & Humbolt, 1918. 145 p.

¹⁴⁶ For more details, see GROGAN, A. *Blueprint for a New Utopia*. In *Engineering & Technology*. Vol. 8, Iss. 3, 2013, pp. 46-49.

¹⁴⁷ See *Laws of Forecasting* [online]. [accessed on 2025-05-30] Available on: <<http://www.practicalforecasting.com/laws-of-forecasting.html>>.

¹⁴⁸ SCHWOCHOW, J., RAMGE, T., GARCIA-LANDA, A. *The Global Economy as You've Never Seen It: 99 Ingenious Infographics that Put it All Together*. New York: The Experiment, 2018, p. 162.

question of whether legal futurology will be carried out by technology rather than flesh-and-blood experts. In some predictions, such as the ability to anticipate decisions from constitutional and supreme courts, artificial intelligence may be more successful than human experts in legal theory and practice.¹⁴⁹ The development of legal futurology also takes into account the optimistic rhetoric of the currently promising application and usefulness of artificial intelligence in practice.¹⁵⁰ In connection with the strengthened cognitive component and information processing in combination with normative and value orientation, it is more appropriate to assume the future application of hybrid intelligence, which combines the potential of technology with human potential.

The original contribution of this study lies in the systematic categorization of legal futurology within the framework of legal science, specifically through the introduction of the *de lege futura* level of legal consciousness. By synthesizing traditional legal foresight with interdisciplinary futurological methods, this article provides a novel methodological foundation for researching the future of law. It moves beyond mere description of technologies, offering instead a theoretical justification for legal futurology as an essential, non-utopian component of responsible legal thinking in the 21st century. Moreover, the primary scientific contribution of this article consists of a methodological synthesis that bridges general futurology with traditional legal theory. Specifically, it introduces the concept of *de lege futura* as a distinct level of legal consciousness, providing a theoretical framework for research that is neither purely dogmatic (*de lege lata*) nor merely reformist (*de lege ferenda*). Through the analytical separation of legal futurology from utopianism and the categorization of its methodology and thematic areas, this study provides a foundational taxonomy for a discipline that has, until now, been explored only fragmentarily in Central European legal scholarship.

Above all, legal futurology faces a more pressing need for scientific anchoring and methodological development. The aim of its long-term development should be to show that it is not a secondary speculative branch of legal science but a clear manifestation of responsible legal thinking in times of change, which, in terms of its subject matter, is reserved for the future of law.

KEYWORDS

Legal Futurism, Legal Futurology, Law and the Future, Prediction

KLÚČOVÉ SLOVÁ

Právny futurizmus, právna futuroológia, právo a budúcnosť, predpoved'

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¹⁴⁹ See KERIKMÄE, T., HAMULÁK, O., GÁBRIŠ, T. Frontiers in AI Judiciary: A Contribution to Legal Futurology. In *Acta Baltica Historiae et Philosophiae Scientiarum*. Vol. 11, No. 2, 2023, p. 68.

¹⁵⁰ See How is AI used in legal forecasting? [online]. 26 November, 2023 [accessed on 2025-05-18]. Available on: <<https://www.b12.io/resource-center/ai-how-to-guides/how-is-ai-used-in-legal-forecasting.html>>.

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