

## CHAPTER THREE

### KELSENIAN BASES FOR THE INTERPRETATION OF LAW

#### I. PROBLEM STATEMENT AND DELIMITATION

The exhaustion of the classical model of legal positivism, evident towards the end of the 19th century, revealed the inadequacy of a framework that subordinated the judge to the literal meaning of the text or to sovereign mandate. French exegesis, German historicism, and English conceptual refinement offered partial solutions, but all shared a common limitation: conceiving the jurisdictional function as a mechanical activity. As noted at the end of the previous chapter, Kelsen opened a new horizon by conceiving the judgment as an individual norm integrated into the legal order, recognizing interpretation as a necessary element of judicial practice. This chapter is based on this Kelsenian threshold, focusing on the conceptual foundations that allow us to understand his proposal from the perspective of legal interpretation.

The breadth, richness, and longevity of Kelsen's work has been given rise to diverse interpretations. However, for decades, the most widely held view was that derived from his formalist aspect, which generated fallacious ideas about his theory. In this regard, Professor Juan Antonio García Amado points out:

There are three pure falsehoods that have been heard and read about Kelsen on many occasions: (1) that his theory of the interpretation and application of law is linked to the nineteenth-cen-

tury positivism of the school of exegesis or of the jurisprudence of concepts and makes the judicial decision a mere subsumption of the facts under the norm, with complete automatism and without going beyond the conclusion of an elementary syllogism; (2) that he advocates or invites judicial and citizen obedience to unjust law, thus confusing legal obligation with moral obligation and turning into ideological positivism; (3) and that Kelsenian legal theory is imbued with statist authoritarianism, with the effect that the attitude of blind and enthusiastic obedience that so many theoretical jurists of law gave to the aberrant commands of Nazism (2010, p. 385).

These widely held perspectives obscured other aspects of his work and reduced the understanding of his theory to a rigid formalism. In contrast to these simplistic views, the following analysis focuses on the *Pure Theory of Law*, especially its second edition, with the aim of highlighting the concepts that demonstrate how Kelsen did address the interpretive dimension of law.

The chapter is organized around four axes. First, the concept of legal interpretation in Kelsen is presented, with his distinctions between authentic and scientific interpretation. Next, the legal significance of human conduct as a prerequisite for all normativity is examined. Third, the indeterminacy of law, recognized by Kelsen as inevitable in any normative order, is analyzed. Finally, value judgments in the legal system are addressed, which express the tension between facts and norms in the evaluation process. This paves the way for the study of the judicial function in Kelsen's work, which will form the core of the following chapter.

## II. THE CONCEPT OF LEGAL INTERPRETATION IN HANS KELSEN

Hans Kelsen did not dedicate a systematic or exhaustive treatise to the problem of legal interpretation, which led various scholars

to point out the relative marginality of this topic in his work.<sup>1</sup> It is enough to note that the *first edition* of *Pure Theory of Law* does not include a specific section dedicated to legal interpretation, while the *second edition* included a brief chapter that explicitly addressed this issue (Kelsen, 2002, pp. 349-356). This historical difference is significant because it shows that Kelsen's reflection on interpretation was incorporated late and in a limited space, although it was not without theoretical relevance. In this sense, although he didn't develop a complete theory of interpretation, he did contribute fundamental elements for understanding interpretation within his normativism.

From the first pages of his work, Kelsen warned that the *Pure Theory of Law* should not be understood as a commentary on legal norms, but rather as a general doctrine of law. However, he added that its construction also included a theory of interpretation (Kelsen, 2002, p. 15). This warning reveals a key point: Kelsen did not conceive of interpretation as an external or accessory matter, but rather as a necessary element of legal science. Even though methodological purity led him to separate law from disciplines such as sociology or politics, he could not ignore the fact that the application of norms always entails an exercise in interpretation. Thus, although interpretation did not develop in Kelsen as an autonomous field, it became a cross-cutting thread running through several of the problems addressed in his theory.

The chapter on interpretation in the second edition begins with a definition that encapsulates Kelsen's perspective: "Interpretation is a spiritual procedure that accompanies the process of applying law, in the transition from a higher-level norm to a lower-level norm" (Kelsen, 2002, p. 349). This conception is

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<sup>1</sup> For example, Isabel Lifante states: "It cannot be said that Kelsen's Theory of Law incorporates a theory of legal interpretation. We do not find in his work either an adequate reconstruction of what this activity consists of in legal practice, nor a coherent stipulative proposal". See: Lifante Vidal, I. (2018). *Argumentación e interpretación jurídica: Escepticismo, intencionalismo y constructivismo*. Tirant lo Blanch, pp. 71-90.

embedded in the hierarchical structure of the legal order, where each general norm requires concretization in individual acts to ensure its effectiveness. Interpretation, therefore, does not appear as an independent activity or an act of arbitrary creation, but rather as a necessary operation to ensure the continuity of the normative chain. At this point, we see how Kelsen links interpretation to the very essence of normativity: the staggered relationship between norms.

In the Kelsenian approach, no higher norm can exhaustively determine all the circumstances of its application. There always remains a margin of indeterminacy that requires the intervention of a body to specify the meaning of the norm in a specific case. Hence, interpretation is inevitable: no norm is so detailed that it can dispense with this process. According to Kelsen, this indeterminacy may be intentional, when the legislator deliberately leaves room for discretion, or unintentional, when it derives from ambiguities in language or contradictions between norms (2002, pp. 350-351). In both cases, the interpretative task consists of selecting one of the possibilities provided within the framework of the higher norm and giving it binding force through a specific legal act.

From this basis, Kelsen distinguishes between two clearly distinct types of interpretation: authentic interpretation and scientific interpretation. The former corresponds to the bodies that apply the law, such as judges and administrative authorities, who, when interpreting, create individual norms or lower-ranking general norms. In this sense, authentic interpretation is always productive in establishing the obligatory normative content in a given case, transforming possibilities into a binding decision (Kelsen, 2002, pp. 354-355). The latter, on the other hand, corresponds to legal science, whose task is to expose the possible meanings of norms without claiming that any of them have definitive validity. This interpretation is purely cognitive, not law-creating, and its value lies in clarifying the alternatives that the competent bodies can adopt (Kelsen, 2002, p. 356).

The difference between both types of interpretation expresses a fundamental tension in Kelsenian theory. On the one hand, authentic interpretation transforms the general norm into an individual norm, exercising an act of legal production. On the other hand, scientific interpretation does not produce law, but merely describes it, which is why it cannot claim to provide a single, correct result. From this perspective, Kelsen breaks with the hermeneutic tradition that sought a true interpretation of the norm and maintains, instead, that all legal interpretation operates within a framework of equally valid possibilities, restricted only by the limits of the normative order. The correctness of a decision does not depend on its fidelity to the supposed will of the legislator, but on its conformity with the higher norm that enables that decision.

Kelsen also emphasizes that interpretation does not necessarily lead to a single solution. Within the framework established by the higher standard, several possible responses may be possible, all in accordance with the law, although only one of them will be embodied in the act of the enforcing body. Traditional jurisprudence, by upholding the existence of a single correct judgment, confuses the task of interpretation with a fiction intended to preserve legal certainty. For Kelsen, this fiction may be useful from a political point of view, but it lacks scientific support (2002, p. 356). *Pure theory of Law*, by rejecting it, redefines interpretation as an open process, subject to controlled discretion, and not as a mechanism that guarantees the unique truth of judicial decisions.

Although the explicit treatment of the topic is brief, Kelsen offers a coherent conceptual framework with these ideas. Interpretation appears as the necessary consequence of the indeterminacy of law, structured around the hierarchical relationship between norms and differentiated according to whether it is an applied activity or a scientific endeavor. Even without a full hermeneutic theory, these elements allow us to understand the importance of interpretation in *Pure Theory of law*: far from being a marginal aspect, it constitutes the bridge between law in the

abstract and law in action. Along these lines, the examination of interpretation is linked to other essential points of Kelsenian theory, such as the legal significance of human conduct, normative indeterminacy, and value judgments in the legal system, which will be developed in the following sections of this chapter.

### III. THE LEGAL SIGNIFICANCE OF HUMAN CONDUCT

In Kelsen's theory, the interpretation of law is essential to its creation and application. This means that the bodies responsible for creating and applying law in a binding manner, before specifying their substantive function, interpret. This assertion leads to a fundamental question: what is interpreted in law?

Legal interpretation cannot be reduced to a simple grammatical exercise or the literal decoding of statements. Its primary object is legal norms, understood as linguistic schemes whose meaning acquires relevance only at the moment of application. An isolated norm lacks effectiveness if it is not applied to a specific case, which is why the interpretative activity becomes the way to transform a normative text into an operational rule within social life. This process reflects the essence of Kelsen's approach: law is configured as a normative system directed toward human conduct, so understanding it requires considering both the linguistic structure of the norms and the context of their application (Kelsen, 2002, pp. 44-45). To this extent, interpretation constitutes the indispensable tool for linking legal language with the social facts to which it is addressed.

From this perspective, the interpretation of legal norms has two dimensions: in the first, norms as linguistic entities express a meaning, which is not always clear due to problems related to grammar; in the second, norms function as a scheme for conceptual explanation. In the second, Kelsen conceives law as a logical system of norms whose purpose is to regulate human conduct, a vision from which the object of legal norms, and therefore of

law, are precisely human conduct: (2002, pp. 18, 45 and 83) "...if we compare with each other the objects that, in the most varied peoples, and at the most different times, were designated as «law», it immediately appears that they all appear as arrangements of human conduct" (Kelsen, 2002, p. 44) Yet not all conduct is of interest to law, but only that which acquires legal significance, a quality attributed to it by the norms themselves.

This second dimension of the interpretation of legal norms recognizes that human life in society is part of a broader natural and empirical plane. On this plane, human life coexists with other realities that are neither legal nor social, but natural; that is, it understands social coexistence as part of nature. In the context of this natural reality to which social coexistence belongs, law is only interested in empirically perceptible human conduct, manifest in specific circumstances of time, place, and mode, and susceptible to legal significance (Kelsen, 2002, p. 16). For Kelsen, without legal norms, acts perceptible in reality would lack a specifically legal meaning, being susceptible only to causal, but not legal, interpretation (Esquivel Pérez, 1980, pp. 122–123). In other words, the legal significance of human conduct derives from the interpretive exercise of legal norms.

In this regard, the Austrian jurist points out: "In an act as an external factual event, it is not possible to simply grasp its legal significance visually or aurally, in the way, for example, we perceive the natural properties of an object, such as color, hardness, or weight" (Kelsen, 2002, p. 16). So, how is the legal significance of conduct captured? By interpreting it. In law, not only are legal norms interpreted at the grammatical level (first dimension), but also human conducts, including their intentionality, as well as values, contexts, and specific situations, which together encompass complex legal meanings and realities (second dimension).

Hans Kelsen recognized the need to interpret human conduct in order to attribute legal meaning to it. What determines whether a specific act is in accordance with or contrary to law lies not in its factuality or intrinsic nature, but in its significance through a norm of the system. In this sense, the legal norm

functions as a framework for explaining human conduct and as the main parameter of legal interpretation (Kelsen, 2002, p. 17). This framework for explaining the normative meaning of human conduct implies an interpretative exercise, since the way to determine whether an act has legal significance or not based on a norm is done through an interpretation of both elements: the conduct or fact given in reality, with all its circumstances, and the legal norm as a linguistic entity and its possible meanings.

In sum, the legal significance of human conduct does not depend on the nature of the act itself, but on the norm that incorporates it into the legal system. The same action, such as the transfer of property or the use of force, may lack legal connotation or be transformed into a lawful or unlawful act depending on the applicable regulatory framework. Therefore, law does not describe reality as a natural science would but rather structures it through normative categories capable of giving meaning to human acts. The norm functions as an instrument that delimits the boundaries between what is legally relevant and irrelevant, between what is permitted and prohibited, and between what is valuable and what is not. In this sense, interpretation is not limited to decoding words from a legal text, but is projected onto concrete social conduct, attributing meanings beyond its empirical factuality and inserting it into a normative framework. From this we understand the inseparability between legal practice and attribution of meaning, since without this process, conduct would remain a bare fact, lacking relevance to the law.

This recognition of the interpretive dimension naturally leads to the problem of indeterminacy. If all conduct obtains its legal value through the norm, the question arises of how the limits of that meaning are set when normative language is ambiguous or when several provisions can be applied to the same case. The attribution of meaning is not always linear or univocal. This opens up spaces of controlled discretion for the bodies charged with applying the law. This tension marks the transition to the next section, dedicated to normative indeterminacy, where we will examine how Kelsen identifies the causes of this openness

and how he understands that, despite it, the legal order retains its character as a system.

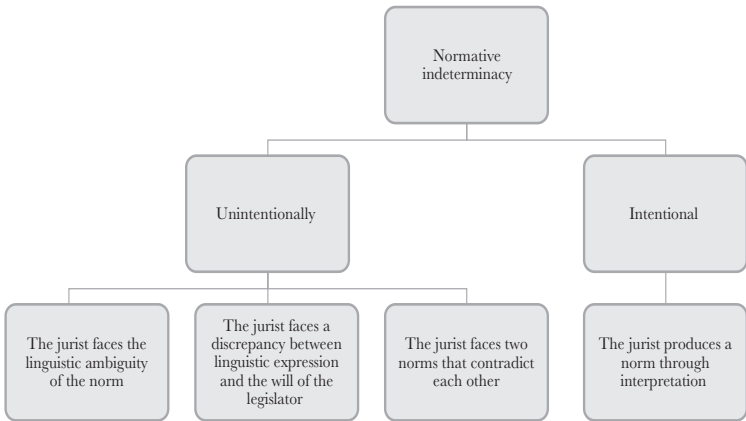
#### IV. THE INDETERMINACY OF LAW

When serving as a frame of reference, before establishing the legal meaning, or lack thereof, of conducts occurring in social interaction, it is necessary to determine the grammatical meaning of the expression of the legal norm. If we speak of the need to determine the meaning of norms, it is because they, in and of themselves, are indeterminate, lacking a unique, universal, and/or predetermined meaning. When trying to attribute meaning to a norm from its grammatical expression, the applying body, who also acts as interpreter, encounters several problems, such as syntactical, semantic, and pragmatic ones. Hans Kelsen acknowledges this and recognizes the indeterminacy of law, attributing it to the very nature of legal norms, namely their linguistic form (2002, p. 350).

Legal norms, from a linguistic perspective, are prescriptive propositions aimed as a whole at influencing people's conduct within their social life, with the intention of directing it (Bobbio, 2007b, pp. 44-45). This is what Kelsen refers to when he states that the causes of the indeterminacy of norms lie in their nature, since a proposition is the set of words that configure a meaning, not in isolation, but in their aggregate. Thus, one of the causes of the indeterminacy of law occurs when one of the words, or group of words comprising the norm, is ambiguous. The ambiguity of language refers to the possibility of understanding a word, even an action, in more than one possible way. Another cause of the indeterminacy of law lies in the possibility of applying two contradictory norms, whether totally or partially, and with simultaneous claims to validity. These are the causes of the so-called unintentional indeterminacy of law, in which the body that created the norms has no intention of generating normative conflicts and/or polysemous expressions, consisting basically of technical failures of said bodies (Lifante Vidal, 2018, pp. 82-83).

In *Pure Legal Theory*, in addition to unintentional indeterminacy, another type of indeterminacy of norms is also recognized: intentional and rational (Núñez Vaquero, 2014, p. 426). Unlike the first type, this type of indeterminacy is caused, even desired, by the body that created the norm and is generally embodied in norms of a general nature, the promulgation of which is carried out under the assumption that the individual norm arising from its application in court will continue the process of determining the legal act and, therefore, the law itself (Kelsen, 2002, p. 350). The basis of this indeterminacy lies in the inability of law, understood under the Kelsenian conception as a system of legal norms regulating human conduct, to exhaust all the events of social life that arise in reality, in which human conduct will be susceptible to legal significance and considered valuable or not for the law.

FIGURE 1. NORMATIVE INDETERMINACY THAT MOTIVATES JUDICIAL INTERPRETATION



SOURCE: Prepared by the author based on Kelsen, 2002, p. 350.

In conclusion, indeterminacy, whether intentional or unintentional, is always present in law, although never absolutely, but rather partially and gradually. Its causes have been precisely

pointed out by Álvaro Núñez Vaquero on three fundamental levels: “i) the possibility of attributing different meanings and the absence of legal metacriteria for choosing between them; ii) the possible contradiction between the will of the person who created the text, and the objective will expressed in the text; iii. the possible contradiction between norms” (2014, p. 427). These circumstances reveal that the norm does not offer a closed, univocal meaning, but rather a framework within which possible alternatives for its application must be chosen.

The inevitable presence of these causes should not be confused with an invitation to arbitrariness. Indeterminacy opens up spaces for discretion, but always within a hierarchical framework delimiting valid options. In Kelsen’s work, the judge or enforcing body does not choose without restrictions; instead, they select among the meanings contained in the higher norm. In this sense, the difference between indeterminacy and arbitrariness is essential: the former describes the inevitable openness of normative language and legislative design, while the latter would imply acting without any normative basis. Interpretation, therefore, does not eliminate indeterminacy, but rather channels it toward normatively justified solutions (Kelsen, 2002, p. 351).

The following examples clearly illustrate this point. When two criminal provisions appear to be applicable to the same offense with different penalties, the uncertainty arises from normative contradiction. Or when a term such as “public order” is incorporated into a civil legislation without a precise definition, the uncertainty appears in the form of linguistic ambiguity. In both cases, legal practitioners must interpret to provide certainty to the system, but they cannot do so without reference to the normative hierarchy of the legal order. The margin for decision exists, although it is controlled by the superior validity of the norms that set objective limits on the choice.

Thus, the indeterminacy of law does not invalidate Kelsenian positivism’s claim to certainty; instead, it explains why interpretation becomes an indispensable practice for maintaining

the system's continuity. The general norm establishes an open framework, and concrete application closes it in each decision. This tension forms the bridge to the next section, which examines how value judgments in the legal system more clearly express the interaction between the normative dimension and social reality.

## V. VALUE JUDGMENTS IN THE LEGAL SYSTEM

By determining the legal significance of a conduct based on a norm, it is established whether that specific conduct is good or not, whether it is valuable or not. That is, once the legal significance of conduct is established considering one of the possible meanings of the norm, it can be assessed as positive or negative. Kelsen calls this judgment of the meaning of conduct a value judgment, and its meaning, positive or negative, depends on the correspondence between the conduct and the content of the norm. Therefore: "Conduct that corresponds to the norm has a positive value; conduct that contradicts the norm has a negative value. The norm considered objectively valid functions as a evaluative standard for factual conduct" (2002, p. 30). Regardless of the meaning of the value of conduct, both are considered legal values, as they are based on previously legally relevant conducts. Regarding value judgment, we are faced with a central topic in Kelsen's moral philosophy, fundamental to the interpretation of law.<sup>2</sup>

These types of judgments about conduct considering normative content reveal the deontic nature of law. Empirical judgments, in describing what is, are distinguished from value judgments, since the latter describe what *should be*, specifically what *should be* in light of what is considered valuable by law. "The actual conduct referred to in the value judgment, which constitutes the object of assessment, and which has a positive or negative value, is a real

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<sup>2</sup> For a deeper understanding of the role of value judgments in Kelsen's moral philosophy, see: Sendin Mateos, J. A. (2017). *La filosofía moral de Hans Kelsen*. Marcial Pons, pp. 143-266.

fact existing in time and space, a part of reality. Only a real fact can be judged, when compared to a standard, as valuable or worthless... what is valued is reality" (Kelsen, 2002, p. 31).

However, not all reality is of interest to law, but only those aspects of it with legal consequences established in the norms. Value judgment refers to a purely legal assessment; therefore, although any given fact can be the subject of judgment, only those conducts that have been previously legally defined can be categorized as positive or negative. Conduct without legal significance, that is, conduct not previously contemplated in a norm, cannot be the subject of value judgment, at least in administrative and judicial level.

Such conduct or fact could only be subject to value judgment in the legislative body, with the precise intention of legislating it, based on its being considered valuable in light of the constitutional principles in force in a given legal system. An example of this is the way in which aeronautical law was born: From a value judgment regarding the previously unlegislated event in which man managed to fly for the first time in a hot-air balloon over the city of Paris. This human conduct was considered valuable to the community because of its implications for the safety of Parisian citizens, and it was decided to endow it with legal significance through the creation of a specific norm, thereby endowing it with legal value.

The example of aeronautical law demonstrates how norms established and applied based on value judgments are products of human will (Kelsen, 2002, p. 31). Positive law, not having its origin in nature, is a cultural, dynamic, and spiritual product whose origin lies in the will of its creator (Espinoza Gómez, 2005, p. 147). In this same sense, but from the Kelsenian perspective, the person who creates and applies law through value judgments is a human authority empowered to do so. "Hence, the norms established by men... constitute only relative values" (Kelsen, 2002, p. 31). These values, although relative, are legal, and are found in both general and individual norms.

This implies the recognition of different wills in each of the different norms and, consequently, the configuration of different values in the legal system. This situation can lead to normative conflicts due to a clash of values, because when a conduct is established as due, that is, when it is signified by a norm, the value constituted through it does not exclude the possibility of the validity of another norm in which an opposite conduct is signified, and, therefore, an opposite value (Kelsen, 2002, pp. 31-32). The conflict as such is not the existence of opposing norms and values within the same legal system, because as long as a norm is not applied, it says nothing and therefore has no impact on reality; it is merely a text on paper. The conflict is configured in its application to specific situations, since two formally valid, contradictory norms cannot be satisfied simultaneously in the same situation. In these cases, the role of the judges and their interpretive power are decisive, as they are the ones who decide the norm and, therefore, the prevailing value in each specific situation.<sup>3</sup>

Another way of producing a multiplicity of values is the subjectivity of judgments. Let me explain: for Kelsen, value judgments can be objective or subjective, depending on the objects involved. An objective judgment relates human conduct to a specific legal norm, while a subjective judgment relates human conduct to the desire or will of the person performing it (Rodríguez Manzanera, 2005, p. 620). Evidently, the author is more interested in objective judgments because they relate the *being* of actual conduct to the *ought to be* prescribed by law, establishing certain conducts as proper and positive. It could be said that objective value judgments are judgments about the legality of conducts, and subjective judgments are judgments about their moral value, each configuring general legal values and individual moral

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<sup>3</sup> In this regard, Carla Huerta recognizes the need to interpret law by conceiving it as a system of legal norms at diverse levels, in which these are interrelated, so that their meaning is systematically dependent. In this way, interpretation plays a harmonizing and integrating role in the legal system: (Huerta, 2017, p. 176).

values, respectively (Kelsen, 2002, pp. 33-34); (Sendín Mateos, 2019, pp. 221-222).

The multiplicity of moral values is linked to the individuality of conduct; therefore, there can be as many values as there are acts evaluated by the subjective judgments of each person. These values are not always of interest to law, although the bodies responsible for applying them maintain a constant dialogue with them during the performance of their functions. In contrast, the objective value judgment, central to the Kelsenian perspective, constitutes a legal statement that expresses the relationship between a conduct and a valid norm within the system, establishing an *ought to be* and configuring the normative parameter of legal assessment (Kelsen, 2002, pp.33-37).

Value judgments show that law is not limited to describing conducts; they also assign each act a meaning within the normative order. This assessment transforms social facts into legal realities, since by integrating them into a framework of what should be, it elevates them to the category of conducts relevant to the system. In doing so, it confirms that interpretation not only consists of unraveling the legal text, but also in determining the scope of these assessments, always within the limits of normative validity. This tension between fact, norm, and assessment opens the way to a decisive terrain: the way in which law, through its bodies, transforms possibilities into binding decisions.

## VI. FINAL REFLECTION

Hans Kelsen's *Pure Theory of Law* reveals a structured normative order whose meaning can only be fully grasped by examining the conditions of its application. The concepts presented in this chapter—the legal significance of human conduct, the indeterminacy of law, and value judgments—demonstrate the relevance of interpretation as an inevitable operation within the system. No norm becomes effective without being projected onto a concrete fact, so the legal meaning of conduct always depends on its incorpo-

ration into the normative framework. Thus, a first conclusion is established: interpretation is not an external addition, but a necessary operation that transforms normative language into effective regulation.

The idea that human conduct lacks intrinsic legal meaning and acquires it only through norms leads to the recognition of interpretation as a cornerstone of Kelsen's vision. Law does not merely describe natural facts; it organizes them through normative categories. The attribution of meaning to an action, such as the transfer of property or the use of force, depends on its place within the system. This perspective highlights the role of the interpreter, whose task is to articulate the relationship between norm and conduct, ensuring coherence in the legal system. Interpretation thus appears as a condition for the law to function as a technique of social regulation.

Normative indeterminacy further magnifies the importance of interpretation. The language of regulations never exhaustively exhausts the conditions for application. Ambiguities, contradictions, or divergences between linguistic expression and legislative intent create spaces where adjudicating bodies must choose among several alternatives. Such openness does not imply arbitrariness, since the hierarchical framework of the system imposes limits on decisions. At this point, the permanent tension between predictability and flexibility is evident, which is resolved through the interpretative function.

Value judgments complete this picture. Once the significance of the conduct is determined, its correspondence with the norm is assessed as positive or negative. At this point, it becomes clear that the law is not limited to describing but rather introduces normative criteria for evaluation. Conduct becomes valuable or irrelevant according to its conformity with what is prescribed. This evaluative dimension demonstrates that all interpretation involves, in addition to a technical exercise, the adoption of a normative position. Even when conceived as a formal system, law depends on the interpreter's capacity to connect facts and legal values.

From this basis, interpretation cannot be reduced to a single, objective method. Kelsen insists that the system opens several decision-making possibilities, and no interpretive technique has the power to exclude another. The choice between possible meanings shifts from the strictly legal plane to the political realm, because the general rule offers alternatives that the judge must specify in the ruling. The political nature of this selection does not imply arbitrariness, but rather the recognition that positive law operates within a margin of inevitable indeterminacy.

This recognition introduces a direct link to democracy. If law left open only one valid response, a univocal principle prevailing over any other consideration would be established, closing off the space for deliberation. The possibility of interpretation thus becomes a prerequisite for a democratic order, where judges and courts discuss and decide in cases of ambiguity or the absence of a norm. As Kelsen asserts, without deliberation there is no democracy (2024, p. 107). Thus, the openness of the normative system strengthens the legitimacy of law and ensures that the judicial function is not limited to blind formalism but rather is linked to the dynamics of a pluralistic society.

In this way, the three concepts analyzed converge on a single core: interpretation in Kelsen's thought. The legal significance of conduct, normative indeterminacy, and value judgments are not isolated topics, but rather pieces of a mechanism that paves the way for understanding the judicial function. In jurisdictional application, we clearly observe how the judge transforms general norms into individual decisions, selects meanings, and defines conflicting values. The final reflection invites us to consider interpretation as a bridge between system and practice, and it finds its most complex expression in the judicial function. The following chapter will precisely explore this dimension, showing how jurisdiction becomes a privileged setting for verifying the creative force of law.