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Subjective experience and ontological uncertainty of consciousness

This article examines consciousness from a philosophical and legal perspective, treating it as a phenomenon situated between objectively observable cognitive processes and subjective experience that cannot be directly verified from the outside. Developments in neuroscience, cognitive psychology, neurotechnology, and artificial intelligence bring this problem into practical legal theory. Law treats human beings as conscious agents, although their inner experience remains inaccessible to external observers. The aim is to develop an integrative conceptual model of consciousness that accounts for objectively recorded correlates and the phenomenal opacity of subjective experience, and to examine its implications for guilt, intent, legal capacity, mental privacy, and the possible legal personhood of artificial systems. The study uses a qualitative conceptual-analytical approach combining ontological analysis, epistemological reconstruction, thought experiments, and normative-legal reflection. Consciousness is understood as a multilayered phenomenon grounded in biological and cognitive processes, yet not reducible to them. Legal categories presupposing conscious agency therefore operate under epistemic uncertainty. As a normative response, the article proposes the **«presumption of consciousness»** for complex systems. This principle does not entail automatic recognition of AI as a legal subject, but requires caution before dismissing the possibility of subjective experience in highly advanced artificial agents.

Keywords: consciousness, subjective experience, ontological uncertainty, legal personhood, mental privacy, neurolaw, artificial intelligence, presumption of consciousness, mental integrity, epistemic uncertainty.

Introduction

Consciousness remains one of the most difficult problems in philosophy, science, and law. Its difficulty stems from its dual character. On the one hand, consciousness manifests itself through processes that can be observed, measured, and described from an external standpoint. On the other hand, it contains an inner dimension available only to the subject who undergoes the experience. Consciousness is connected with brain activity, cognitive functions, behavior, language, memory, and decision-making. Yet it also includes the subjective «what it is like» character of pain, color, fear, intention, guilt, or choice as these are lived from within.

This distinction generates a central tension in contemporary theories of consciousness. Neuroscience describes the neural correlates of perception and thought. Cognitive psychology models mechanisms of attention and memory. Artificial intelligence can reproduce complex forms of information processing. Still, none of these functional descriptions fully explains why or how experience itself arises. The «explanatory gap» between objective description and subjective experience is commonly known as the Hard Problem of Consciousness. M. Farisco, K. Evers, and J. -P. Changeux define this boundary through the distinction between phenomenology, understood as subjective first-person experience, and physiology, understood as third-person access to consciousness [1; 1].

For law, this problem is not peripheral. Legal systems act on the assumption that human beings are conscious agents. Categories such as guilt, intent, negligence, capacity, sanity, and responsibility all presuppose an internal mental life. Yet law has no direct access to this inner world. It reconstructs it through external signs: conduct, speech, expert testimony, contextual evidence, and interpretation. This gives rise to the central research problem of the present article: if consciousness includes a phenomenal dimension closed to direct external observation, how can law justify the use of categories that presuppose conscious agency? Put differently, how can legal theory account for subjective experience without reducing it either to a legal fiction or to a purely objective fact?

Three contemporary developments make this issue especially acute.

First, the rise of neurotechnology raises the question of the permissible limits of interference in the mental sphere of the individual. If technology can read, predict, or modify brain processes, then the rights to

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mental integrity and mental privacy acquire independent significance. As V. Tesink, T. Douglas, L. Forsberg, S. Ligthart, and G. Meynen observe, a change in the metaphysics of consciousness could significantly expand the scope of the right to mental integrity [2].

Second, the development of artificial intelligence forces legal theory to reconsider the status of complex artificial agents. If a system demonstrates adaptive behavior, autonomous decision-making, and sophisticated communication, is this sufficient for legal personhood? Or does legal subjectivity require not only functional complexity, but also subjective experience? I.V. Ponkin and A.I. Redkina point to a serious lack of normative regulation in this area [3; 91]. By contrast, Yu. M. Baturin and S.V. Polubinskaya take a more cautious position, arguing that, at the present stage, robots and AI should be assigned a specific legal «regime» rather than full legal «status» [4; 143].

Third, legal practice increasingly encounters situations in which a subject's consciousness is altered, impaired, or disputed. These include cases involving mental disorders, neurobiological impairments, addiction, external technological influence, and the future development of human-computer interfaces. In such contexts, the classical model of responsibility, built on the assumption of a transparent and rational subject, becomes insufficient.

The objective of this article is to develop a comprehensive philosophical-legal framework in which consciousness is understood as a multilayered phenomenon connecting observable correlates with opaque subjective experience. The study also seeks to determine how this understanding affects the legal categories of responsibility, capacity, mental privacy, and the possible legal personhood of artificial systems.

To achieve this objective, the article addresses the following tasks:

1. To identify the ontological foundations of the problem of consciousness and demonstrate the limitations of both rigid reductionism and radical denial of subjectivity.
2. To examine the epistemological barrier created by the privacy of subjective experience and the «problem of other minds.»
3. To analyze how law compensates for the inaccessibility of the subject's inner world through presumptions and procedural constructs.
4. To determine the significance of subjective experience for the categories of guilt, intent, capacity, and sanity.
5. To justify the «presumption of consciousness» as an instrument of normative caution in relation to complex artificial systems.

The scientific novelty of this research lies in treating consciousness not simply as a philosophical or biological puzzle, but as a foundational condition of legally significant agency. The proposed model connects the observable and phenomenal dimensions of consciousness and leads to the formulation of the «presumption of consciousness» as a principle for the normative evaluation of advanced AI under conditions of epistemic uncertainty.

Materials and methods

This study is conceptual and analytical in nature and does not involve empirical experimentation. Its purpose is not to measure consciousness as such, but to reconstruct the philosophical and legal conditions under which consciousness becomes the basis of legally significant agency.

The methodological framework of the study rests on four interrelated approaches. Ontological analysis is used to identify basic conceptions of the nature of consciousness. It examines whether consciousness can be fully reduced to physical processes, whether it represents a distinct level of reality, or whether it is more accurately understood as a multilayered phenomenon integrating biological, cognitive, and phenomenal dimensions.

Epistemological reconstruction is used to analyze the limits of knowledge concerning consciousness. Particular attention is paid to the distinction between the first-person perspective, in which experience is directly given to the subject, and the third-person perspective, in which the observer has access only to external manifestations, correlates, and descriptions.

Thought experiments, including the «Philosophical Zombie» and «Mary's Room,» are used not as empirical evidence, but as heuristic instruments. They reveal the logical limits of reductionist explanations of consciousness by showing that a functional or physical description of a state is not identical to the experience of that state.

Normative-legal analysis examines how philosophical conceptions of consciousness shape legal categories such as guilt, intent, legal capacity, accountability, mental privacy, and legal personhood. Legal con-

structs are considered not as neutral technical devices, but as models that already contain assumptions about the conscious subject.

The logic of the research is deductive, moving from the general to the specific. The study begins with an analysis of ontological models of consciousness, then turns to the epistemological limits of access to subjective experience, and subsequently considers the legal consequences of recognizing the «phenomenal opacity» of consciousness. The final stage addresses artificial intelligence and formulates the «presumption of consciousness» as a possible normative response to uncertainty surrounding the status of complex systems.

Results and discussion

The fundamental dilemma in the study of consciousness is whether it can be fully explained by objectively describable processes. Materialist and reductionist approaches treat consciousness as a product of complex neural organization. From this perspective, neural processes, cognitive operations, and behavioral responses may eventually be described exhaustively in the language of science. In stricter versions of this approach, subjective experience is regarded either as a secondary by-product of biological processes or as a functional state of the system. Such a model has considerable explanatory power. It links consciousness to the brain, makes it possible to study its correlates, analyze disorders, and develop neurotechnological instruments. It is also attractive for law, since it promises more objective criteria for evaluating the state of the subject. If consciousness could be reduced to neurobiological indicators, legal categories such as guilt, self-control, and capacity could, in principle, be assessed with unprecedented precision.

Yet reductionism has a clear boundary. Even the most complete external description does not explain why a process is accompanied by experience. One may describe wavelengths, activity in the visual cortex, verbal reports, and behavioral reactions; nevertheless, none of these descriptions is identical to the experience itself. To describe the neurophysiology of pain is not the same as to grasp how pain is given to the suffering subject.

This gap is illustrated by Frank Jackson's «Mary's Room» thought experiment [5]. A scientist may know every physical fact about color, vision, and the brain. However, if she has never seen the color red, she acquires something fundamentally new when she experiences it for the first time. This «new knowledge» is not an additional physical fact in the ordinary sense. It concerns the quality of experience — qualia. Objective knowledge of a mechanism, therefore, does not exhaust subjective experience. David Chalmers' «Philosophical Zombie» argument serves a similar function [6]. It is possible to imagine a being identical to a human in behavior, speech, and functional response, yet lacking any inner experience. Although this remains a thought experiment, it points to a crucial difficulty: behavioral and functional identity does not guarantee phenomenal identity. For law, the implication is serious. Legal systems often rely on external markers of consciousness — speech, actions, behavioral consistency, and the ability to articulate motives — but such markers do not provide absolute access to the experience that may underlie them.

Alternative theories do not remove the difficulty. Panpsychism holds that elements of consciousness are embedded in the fabric of the universe. Its strength lies in refusing to derive subjectivity from wholly unconscious matter. At the same time, it faces the «combination problem»: how do elementary forms of experience combine into a single, unified subject? In a legal context, panpsychism also risks extending the boundaries of personhood too widely, leaving unclear which entities or systems should possess moral or legal standing. Eliminativism moves in the opposite direction. It attempts to bypass the problem by denying the reality of consciousness and treating it as an illusion produced by the brain or language. Yet this position creates an internal difficulty: if consciousness is an illusion, to whom is the illusion presented? The denial of subjectivity does not eliminate the phenomenon of experience; it merely changes the vocabulary used to describe it. For law, this is especially problematic, since legal responsibility presupposes a subject capable of understanding, choosing, and acting.

A more productive approach is the multilayered model of consciousness proposed in this study. According to this model, consciousness is connected with biological and cognitive processes, but it cannot be reduced to them. It includes both objectively observable correlates and a phenomenal dimension. The biological side explains the conditions under which consciousness arises and manifests itself functionally, while the phenomenal side captures what makes consciousness a lived experience.

This model does not require a return to rigid Cartesian dualism. It does not claim that consciousness is entirely separate from the brain. At the same time, it refuses to dissolve subjectivity into physiology. Consciousness appears as a frontier phenomenon: rooted in objective reality, yet containing a dimension that cannot be fully translated into the language of external observation. For philosophical-legal theory, this

means that law cannot be built either on the total dismissal of subjective experience or on the illusion of its complete objectification. Consciousness must be recognized both as a prerequisite of legal agency and as something fundamentally inaccessible to the direct gaze of law. G. Meynen demonstrates the inherent limitations of using neurotechnology to access subjective thoughts and states [7; 5-6].

If the ontological problem of consciousness asks what consciousness is, the epistemological problem asks how another's consciousness can be known. The distinction between immediate experience and external description is decisive here. Subjective experience is primarily accessible to its bearer. A person does not infer their pain, fear, or intention from external signs; these states are directly given. The observer has no such access. The observer may see behavior, hear words, or examine brain scans, but all of these remain indirect indicators.

D.I. Dubrovsky defines subjective reality as a specific and inherent quality of consciousness [8; 187]. This means that consciousness forms a particular kind of reality — one given from the inside. This reality is not public in the same way physical objects are public. It may be expressed through language or metaphor, but it cannot be fully transferred.

This leads to the problem of other minds. We cannot prove with absolute certainty that another subject experiences the world in the same way we do. We assume this on the basis of biological similarity, behavior, and communication. In everyday life, such an assumption is necessary for trust, morality, education, and social coordination. Philosophically, however, it remains an inference rather than direct knowledge. Language partially bridges this isolation, but it does not eliminate it. When someone says that they are in pain, they report their state; the listener does not receive the pain itself, but relates the report to their own experience of pain. Communication works because human beings share similar biological and cultural structures, but it does not guarantee complete coincidence of experience.

Modern technology does not dissolve the boundary between observer and observed. Neuroimaging may reveal activity in brain regions associated with pain, fear, decision-making, or memory, but it captures only neural correlates of experience, not the experience itself. Even when these methods become technically more precise, the divide between third-person data and first-person experience remains bridgeable only by inference. Technology may map the structure of an experience, but it does not become that experience.

For the legal system, this epistemological gap is not an abstract difficulty. It is a practical condition of legal operation. Courts regularly assess internal states without direct access to them. They must ask whether there was intent; whether the subject understood the social danger of the act; whether the person was capable of self-control; whether a party understood the consequences of a contract; and whether the act expressed free will or resulted from a distorted state of consciousness.

Although these questions concern the subject's inner world, answers to them are reconstructed through external markers. S.V. Polubinskaya emphasizes the difficulties of integrating neuroscientific data into criminal law doctrines and judicial practice [9; 9-10].

Law therefore operates under conditions of structural uncertainty. The assessment of consciousness cannot be abandoned, because without it the categories of responsibility and legal capacity would collapse. At the same time, law cannot claim complete transparency of the mind. To navigate this tension, legal systems rely on presumptions, standards of proof, expert procedures, and procedural safeguards. These are not merely technical rules. They are normative responses to the inherent limits of knowing «other minds.» M.S. Pardo and D. Patterson have analyzed these conceptual foundations connecting brain, mind, and law [10; 5-7].

Traditionally, law treats the subject as an agent capable of understanding the factual and normative significance of their actions. This premise is central to criminal, civil, and administrative liability. When a subject is unable to perceive or control their actions, the legal assessment changes accordingly. H. L.A. Hart connects criminal responsibility directly with the conditions of *mens rea* and the subject's capacity for responsible conduct [11; 36-38].

In criminal law, the distinction between intent and negligence depends on the subject's internal attitude toward their actions. The same objective harm may receive very different legal qualifications depending on whether the subject desired the outcome, consciously allowed it, or failed to foresee it because of recklessness or overconfidence. As R.A. Duff notes, intention is inseparable from agency and responsibility [12; 192-193]. Since intent is not a physical object, the court must reconstruct it through circumstantial evidence: the nature of the act, the defendant's words, prior preparation, and expert testimony. The legal assessment of consciousness, then, always involves interpretation. A. Bigenwald and V. Chambon also examine the limits of using neuroscience to explain this type of criminal responsibility [13; 6-7].

The presumption of sanity functions as a procedural anchor. It assumes that a person is capable of governing their actions unless evidence of mental disorder proves otherwise. Similarly, the presumption of innocence prevents the premature attribution of a «guilty mind» — *mens rea* — without sufficient proof. These presumptions provide procedural stability while acknowledging that the inner world of the subject is never fully transparent.

In civil law, legal capacity requires more than a binary distinction between consciousness and unconsciousness. It requires an assessment of the meta-level of consciousness: the ability not only to experience a state, but also to reflect on it, relate it to norms, and adjust behavior accordingly [14]. S.J. Morse emphasizes that full responsibility depends on this reflexive control, which distinguishes conscious action from merely automatic functioning [15; 316-317].

The rise of neurotechnology has intensified the legal significance of subjective experience. Law is moving beyond the protection of information in the ordinary sense of data privacy and toward the protection of the mental sphere itself. Mental privacy concerns not only what a person discloses to the outside world, but also the inner domain of thoughts, intentions, and emotional reactions.

If subjective experience is legally significant, interference with it cannot be treated as a simple data breach. It affects cognitive liberty and the internal autonomy of the person. Mental privacy must therefore be understood as the right to control access to one's own mental life [16; 4]. In parallel, the right to mental integrity protects against interventions capable of altering the very structure of experience, memory, or decision-making capacity [17; 273-274].

This also carries profound implications for the framework of responsibility. If human behavior is shaped by technologies that alter an individual's capacity to comprehend and control their actions, the classical model of culpability demands reconsideration. This raises a fundamental question: where lies the boundary between the subject's autonomous decision-making and a technologically modified state? Who bears liability for an action if volitional control has been partially impaired by external neurotechnological intervention? Ultimately, how can a free choice be distinguished from a decision engineered through interference with the mental domain?

The AI revolution makes these questions even more radical. In the case of human beings, conscious agency is presumed on the basis of biological similarity, social cues, and shared embodied experience. AI lacks this foundation. Modern artificial systems can simulate reasoning, adapt to context, and make complex decisions, but functional complexity does not prove the presence of phenomenal experience.

This explains why traditional criteria of legal personhood — rationality, communication, autonomy, and goal-setting — are insufficient when applied to artificial intelligence. These traits may indicate a high level of functional complexity, but they do not answer the question of phenomenal consciousness. E.S. Tyutcheva describes the «electronic person» as a category close to that of a quasi-subject [18; 50], while J. Doomen emphasizes the inherent ambiguity surrounding the status of «personhood» [19; 283]. These positions show that legal theory still lacks a stable model for integrating artificial agents into the sphere of subjectivity.

A more cautious approach distinguishes between a legal regime and legal personhood. A legal regime for AI can be established today: it defines rules for development, use, and liability of owners, operators, and manufacturers. Legal personhood, however, implies a deeper level of recognition — the capacity to hold rights and duties not merely as an object of regulation, but as a subject of legal relations. Functional efficiency alone is insufficient for such a transition. L.B. Solum examines AI personhood through the categories of consciousness, intentionality, and personal status [20; 1281].

On this basis, this study proposes the Principle of the Presumption of Consciousness for highly advanced artificial systems. This principle does not claim that current AI systems are conscious. Nor does it require the automatic granting of legal status to them. Its purpose lies elsewhere: in the management of epistemic uncertainty. Law should not prematurely or categorically exclude the possibility of subjective experience in complex systems if their organization, behavior, and capacity for self-reference eventually reach a level that gives rise to reasonable doubt.

The Presumption of Consciousness functions as a tool of normative caution. It is designed to prevent two fundamental errors. First, it prevents premature anthropomorphization: the attribution of consciousness to a system merely because it convincingly imitates human speech or behavior. This error leads to an unjustified expansion of legal recognition.

Second, it prevents premature exclusion: the denial of the possibility of subjective experience solely because a system is artificial in origin. This error may lead to moral blindness if systems with genuine forms of experience eventually emerge.

The Presumption of Consciousness does not provide a final solution. Rather, it establishes a legally sound strategy. It cautions against recognizing subjectivity without sufficient grounds, while also refusing to close the discussion dogmatically. In this sense, it is not proof of consciousness, but a rule for the prudent management of uncertainty.

Conclusion

The analysis conducted in this study leads to several interconnected conclusions. First, consciousness exceeds objective description. It cannot be adequately characterized solely as a set of observable processes. Biological, neural, and cognitive correlates are essential for explaining the conditions under which consciousness emerges, but they do not exhaust subjective experience. The explanatory gap between third-person description and first-person lived experience remains a fundamental boundary.

Second, subjective experience possesses epistemic privacy. It is directly accessible only to the subject. For any external observer, it remains mediated through language, behavior, physiological reactions, expert data, and social interpretation. Knowledge of «other minds» is therefore inherently probabilistic and reconstructive.

Third, law operates as a response to this uncertainty. Legal systems inevitably function within conditions of structural uncertainty. Categories such as guilt, intent, capacity, and sanity require an assessment of the subject's internal state, but such assessment can never be based on direct observation. Law compensates for this epistemic deficit through presumptions, procedural standards, evidentiary protocols, and expert mechanisms.

Fourth, the multilayered nature of consciousness requires a differentiated approach to responsibility. The subject can no longer be viewed as an abstract rational unit isolated from mental, neurobiological, or technological context. Impairments of consciousness, diminished self-control, distorted perception, and external influence on the mental sphere must be incorporated into the assessment of liability, without being transformed into a universal excuse.

Fifth, neurotechnology requires an expansion of the objects of legal protection. Mental privacy and mental integrity should be recognized as independent pillars of legal theory, since interventions into brain processes threaten not only personal data, but also the structure of internal autonomy itself.

Sixth, artificial intelligence reveals the insufficiency of traditional criteria of legal personhood. Rationality, communication, and adaptability are significant, but they do not prove conscious agency. They may indicate functional complexity, yet they do not establish the presence of phenomenal experience.

Seventh, the Principle of the Presumption of Consciousness serves as a strategic instrument of normative caution in relation to advanced artificial systems. Its purpose is not to grant AI immediate legal status, but to provide a conceptual framework for future evaluation that avoids both dogmatic denial and naive anthropomorphism.

The theoretical significance of this research lies in connecting the Hard Problem of Consciousness with legal categories that are often treated as self-evident. Guilt, intent, capacity, and personhood are shown to depend deeply on philosophical assumptions about the nature of the subject and subjective experience.

The practical significance of the proposed model lies in its possible application to the development of legal frameworks for neurotechnology and AI, the assessment of altered states of consciousness, and the protection of mental autonomy.

At the same time, the study has certain limitations. It remains conceptual and does not include empirical verification. In addition, the analysis is primarily situated within a Western philosophical and legal framework. Further development of this topic requires the inclusion of comparative legal material, specific neuro-legal case studies, and a broader cross-cultural analysis of subjectivity.

Ultimately, the problem of consciousness is no longer merely a philosophical puzzle. It has become the basis for a necessary revision of legal concepts concerning the subject, responsibility, autonomy, and recognition. Future legal theory must take into account both external behavior and the inherent limits of knowledge concerning subjective experience. At this intersection, the philosophy of mind and law form a unified research horizon.

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Субъективті тәжірибе және сананың онтологиялық белгісіздігі

Мақала сананы объективті сипатталатын когнитивті процестер мен тікелей сыртқы верификацияға (айғақтауға) келмейтін субъективті тәжірибе арасындағы шекарада орналасқан феномен ретінде философиялық-құқықтық тұрғыдан талдауға арналған. Зерттеудің өзектілігі нейроғылымдардың, когнитивті психологияның, нейротехнологиялардың және жасанды интеллектінің дамуы сана мәселесін абстрактілі метафизика аясынан практикалық құқықтық теория саласына көшіруімен түсіндіріледі. Құқық дәстүрлі түрде адамды саналы агент ретінде қарастыратын болжамға сүйенеді, алайда мінез-құлықтың ішкі жағын сот, тергеу немесе өзге де сыртқы субъект тікелей бақылай алмайды. Мақаланың мақсаты — объективті тіркелетін корреляттарды да, субъективті тәжірибенің феноменалды бұлыңғыр еместігін де ескеретін сананың интегративті тұжырымдамалық моделін әзірлеу, сондай-ақ бұл модельдің кінә, қасақаналық, әрекет қабілеттілігі, ментальды құпиялылық және жасанды жүйелердің ықтимал құқық субъектілігін түсіну үшін салдарларын анықтау. Зерттеудің методологиялық негізін онтологиялық талдауды, эпистемологиялық реконструкцияны, ойша

эксперименттерді және нормативтік-құқықтық рефлексияны қамтитын сапалы тұжырымдамалық-талдамалық тәсіл құрайды. Мақалада сананы көпқабатты феномен ретінде қарастыру қажеттілігі туралы тезис негізделеді. Ол биологиялық және когнитивті процестермен байланысты, бірақ олармен ғана шектелмейді. Бұдан саналы субъектілік туралы болжамға негізделген құқықтық категориялардың эпистемикалық белгісіздік жағдайында еріксіз жұмыс істейтіні туындайды. Нормативтік жауап ретінде күрделі жүйелерге қатысты сана презумпциясы принципі ұсынылады. Бұл принцип жасанды интеллектің құқық субъектісі ретінде автоматты түрде тануды білдірмейді, бірақ жоғары дамыған жасанды агенттерде субъективті тәжірибенің болу мүмкіндігін жоққа шығаруда ерекше сақтық танытуды талап етеді.

Кілт сөздер: сана, субъективтік тәжірибе, онтологиялық белгісіздік, құқық субъектілігі, менталды құпиялылық, нейроқұқық, жасанды интеллект, сана презумпциясы, ментальды тұтастық, эпистемикалық белгісіздік.

Д.К. Кусбеков

Субъективный опыт и онтологическая неопределенность сознания

Статья посвящена философско-правовому анализу сознания как феномена, находящегося на границе между объективно описываемыми когнитивными процессами и субъективным опытом, недоступным прямой внешней верификации. Развитие нейронаук, когнитивной психологии, нейротехнологий и искусственного интеллекта переводит проблему сознания из области абстрактной метафизики в сферу практической юридической теории. Право традиционно исходит из предположения о человеке как сознательном агенте, однако внутренняя сторона поведения не может быть непосредственно наблюдаема судом, следствием или внешним субъектом. Цель статьи состоит в разработке интегративной концептуальной модели сознания, учитывающей как объективно фиксируемые корреляты, так и феноменальную непрозрачность субъективного опыта, а также в выявлении последствий данной модели для понимания вины, умысла, дееспособности, ментальной приватности и возможной правосубъектности искусственных систем. Методологическую основу исследования составляет качественный концептуально-аналитический подход, включающий онтологический анализ, эпистемологическую реконструкцию, мысленные эксперименты и нормативно-правовую рефлексию. Обосновывается тезис о том, что сознание должно рассматриваться как многослойный феномен. Оно связано с биологическими и когнитивными процессами, но не исчерпывается ими. Из этого следует, что юридические категории, основанные на предположении о сознательной субъектности, неизбежно функционируют в условиях эпистемической неопределённости. В качестве нормативного ответа предлагается принцип презумпции сознания применительно к сложным системам. Принцип не означает автоматического признания искусственного интеллекта субъектом права, но требует осторожности при исключении возможности субъективного опыта у высокоразвитых искусственных агентов.

Ключевые слова: сознание, субъективный опыт, онтологическая неопределённость, правосубъектность, ментальная приватность, нейроправо, искусственный интеллект, презумпция сознания, ментальная целостность, эпистемическая неопределённость.

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