INFERENCE TO THE BEST EXPLANATION IN THE LEGAL UNIVERSE: TWO CHALLENGES AND ONE OPPORTUNITY

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I. Introduction

The concept of "*Inference to the Best Explanation*" (IBE) is still in the focus of the theory of scientific methodology[1] – also and especially in the realm of legal science. Amalia Amaya[2] and others have written quite impressive papers on IBE in the legal universe. In her just mentioned article Amaya offers a coherentist approach to IBE and the aim of my paper is to give some new support to this approach. This means, that in this paper I will neither reproduce the arguments for incorporation of IBE into the legal universe, nor discuss any special legal aspects, but I try something different: The coherentist approach is not (fully) accepted in the "IBE community", but has to stand against two quite serious challenges: Bas van Fraassen's fundamental critique of IBE in general[3] and Peter Lipton's concept of IBE as "explanation to the loveliest explanation" – not the "likeliest".[4] So, if IBE should be used for legal purposes, the coherentist approach looks promising but needs support. I will try to contribute to this project. Therefore the paper consists of four parts: (1) I will speak about the concept of IBE in general. (2) I address van Fraassen's famous critique. (3) I discuss Peter Lipton's just mentioned interpretation of IBE. (4) I explain the coherentist approach and try to add a small detail, which is, that the coherentist view of IBE in the realm of law is supported directly by the occidental concept of rationality itself.

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[1] For the best overview cf. *Peter Lipton*, Inference to the best explanation, 2nd ed., London/New York 2004 [1st edition London/New York 1991].

[2] *Amalia Amaya*, Inference to the best legal explanation, in: Hendrik Kaptein/Henry Prakken/Bart Verheij (Eds.), Legal Evidence and Proof: Statistics, Stories, Logic, Aldershot 2009, pp. 135–159.

[3] *Bart Van Fraassen,* Laws and symmetry, Oxford et al. 1989.

[4] Cf. *Lipton* (note 1) and *Peter Lipton,* Inference to the best explanation, in: William H. Newton-Smith (Ed.), A Companion to the Philosophy of Science, Malden (MA)/Oxford 2000.