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SYMBOLS AS NON-VERBAL MEANS OF THE LAW LANGUAGE

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SUMMARY

The article analyzes legal symbols as a means of non-verbal communication of the law language. It is noted that in the ancient times regulators of the social relations were of the non-linguistic character.

It is proved that legal symbols cannot be considered archaic signs of the ancient legal systems since they are quite widely used in the modern legislative systems. For instance, the coats of arms, flags and anthems still function as symbols of the states.

It is emphasized that when it is necessary to quickly convey the requirements for a large number of subjects, the symbolic form is used to ensure brevity, uniformity, accessibility, economy. Symbolism is a kind of formalization of the legal content in order to give it clarity, certainty and imagery. The role of the legal symbols in the legal science is through the prism of their functions in the society is characterized.

Key words: law language, symbolism, legal symbol, juridical symbol, verbal symbol, non-verbal symbol.

СИМВОЛЫ КАК НЕВЕРБАЛЬНОЕ СРЕДСТВО ЯЗЫКА ПРАВА

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АННОТАЦИЯ

В статье анализируются юридические символы как средство невербального общения в языке права. Отмечается, что в древности регуляторы общественных отношений носили неязыковой характер.

Доказано, что юридические символы нельзя считать архаичными знаками древних правовых систем, поскольку они достаточно широко используются и в современных законодательных системах. Например, гербы, флаги и гимны по-прежнему функционируют как символы государств.

Подчеркивается, что при необходимости быстро передать требования к большому количеству предметов символическая форма используется для обеспечения краткости, целостности, доступности, экономии. Символизм – это своего рода формализация юридического содержания с целью придать ему ясности, определенности и образности. Характеризуется роль правовых символов в юридической науке сквозь призму их функций в обществе.

Ключевые слова: язык права, символизм, правовой символ, юридический символ, вербальный символ, невербальный символ.

Presentation of the problem.

Legal regulation introduces rational principles into public life, establishes and protects some single scale and true rules of conduct that embody higher moral values and ideals. Law always appeals to conscious beings; it argues and denies, it formulates and demands – for people to know what is approved and what is rejected, and to understand the statement that the form is being formulated.

That is why the best ways to express legal orders, permits and prohibitions that meet several requirements at one time are:

- well-known material appearance;
- general use;
- accessibility for visual, clear and concrete perception;
- expectations of a common understanding;
- known degree of conventionality, necessary and sufficient to accurately convey the abstract normative meaning of legal concepts.

These qualities are fully owned by characters – written or other arbitrarily selected characters that have long been used by people to obtain, store and transmit information. Only in the symbolic form are the ideal objects created and the artificial world of law created and existed. It is this form that gives the right objective reality, making it strictly certain, stable and independent from the participants of social regulation.

State of the study. Linguists, philosophers and theorists of law turned to the analysis of the law language and its components in their studies. The works of such researchers as N. Artykutsa, O. Balynska, M. Holiev, S. Zarkhina, I. Onyshchuk, V. Turanin, A. Shepeliev, I. Shchepalin, I. Shutak and others deserve attention. Despite the large number of publications legal symbols as non-verbal means of the law language haven't been fully analyzed and it has led us to choose the topic of our scientific research.

The purpose of the article is to analyze symbols as non-verbal means of the law language and characterize the functions of legal symbols and their role in the legal system of the society.

The main material presentation. In any society law is a symbol of order, equality, justice which in all its manifestations exists in a verbal form. Legal norms, ideas and values can be fixed in two ways:

- 1) by means of verbal symbols, that is, in the form of oral or written natural language signs (words, sentences, texts);
- 2) through non-verbal symbolism, that is, other signs (images, gestures, actions, objects).

At various stages of the legal development of society the correlation between these symbolic forms was uneven. In ancient times non-verbal signs prevailed and words were used only in addition to the elements of the ritual and in the process of legal norms creation



and implementation. Traditionally law is realized in verbal signs but the non-verbal aspect of the law language is represented at the symbolic level which is a set of legal symbols that have developed throughout the history of the development of the society legal system. As C. Lévi-Strauss notes in his work "Structural Anthropology" [4], law is a system of meanings embodied in a symbolic form that includes actions, words, any meaningful objects, all that is used by the individuals for communication. If you analyze the history of law formation, the first stage of the jurisprudence shaping is symbolic, then the verbal stage begins and the final is the written one.

Symbolism in law has been analyzed by representatives of different science fields not once. However, this problem cannot be considered fully explored as the system of symbols used in the legal regulation of the public relations is constantly changing.

Symbols exist in two forms in the norms of law: in verbal symbols (words, sentences, texts) and in non-verbal symbols (gestures, actions, objects).

Symbols were characteristic of the human behavior regulation when the so-called unwritten law was forming (the search for normative elements in the flight of birds, the position of the stars in the sky, the interpretation of the oracle predictions etc.). Symbols-actions dominated in that time. It was explained by the non-developed legal form, not high level of thinking, language. Numerous examples of the legal symbols can be found in the ancient law. Some of them are also mentioned about in the Old Testament: "First there was such a custom for the ransom, replacement and approval of every deal in Israel: a man put off his boot and gave it to his neighbor, and it was a testimony in Israel" [1].

The symbolic ritual of the property acquisition "copper and scales" was widely known in Ancient Rome. The purchaser touched the acquired property with a hand and simultaneously beat with a piece of copper or coin at the scales and then he immediately handed over the copper to the property alienator (seller) in the presence of five adult full rights and one more who held the scales [2, p. 9].

In the ancient Greek cities-states, the highest official – the archon, who

had to proclaim the new law, became the center of the ship, because the "golden mean" meant the wisdom and impartiality of the legislator. According to the ancient Greeks, the goddess Diche, who embodies justice and justice, held a sword in her hand to chase the perpetrator and pierce him.

A peculiar ritual of definition of grain for a killed dog existed in Anglo-Saxon peasants. If a dog was killed, it had to be hung by its tail so that it touched the ground with its nose, and poured wheat on it until the grain completely covered the dog [2]. During the birth of the landed property, a block of land was brought to court, and the plaintiff and defendant fought for it.

The Eastern Slavs, for example, believed that the sword protects order and cuts off anything wrong with a symbolic duel. The stroke of the blunt side of the sword was regarded as a grave image of honor. The Truth, which fixed customary law, held that when a victim of such a blow responds to this image, he was considered innocent [2].

However, legal symbols can not be considered archaic and a sign of ancient legal systems. Legal symbols are quite widely used in modern legal systems. An example would be the use of the coat of arms, flag and anthem as state symbols, road signs and road marking. A symbol of respect for the judges is the appearance of those present in the courtroom when the court appears. It is symbolic of the President of Ukraine to take the oath of office on the Constitution and Peresopnytsya Gospel.

In a situation where the requirements for a large number of subjects need to be quickly conveyed, the symbolic form is used to ensure brevity, uniformity, accessibility, economy. Symbolism is a kind of formalization of legal content in order to give it clarity, certainty, lapidity and imagery.

Symbols as a variety of artificial signs have a number of features. They are often material, tangible objects, although they express abstract content. However, the symbols should be clear to those who use them. And finally, the characters are usually designed for sensory, emotional perception.

The role of legal symbols in legal science should, in our view, be viewed through the lens of the functions they

perform in society. In our opinion, the analysis of the functions of legal symbols by I. Shutak and I. Onyshchuk is quite successful [5, p. 318–320]. First of all, researchers highlight a regulatory function whereby a legal symbol is a specific form of expression of a legal order, which is important in a situation where a large number of subjects need to be communicated quickly and clearly. In addition, the symbolic form serves to ensure the conciseness, uniformity, accessibility, cost-effectiveness of linguistic means and, therefore, the effectiveness of legal action. For example, road signs, regulator gestures, sound and light signals on water and rail carry specific power requirements that are mandatory, that is, regulate social relations.

The next is the legal function of legal symbols, which is due to the fact that a large part of them is given the value of legal facts. Even those characters that do not come from a powerful subject and do not carry a direct attribution, often serve as the basis for the emergence, change or termination of relationships. For example, a signature, a seal, the issuance of a certificate of state registration, the declaration of a court decision – all these legal symbols entail specific legal consequences, ensure the movement of legal relations.

A large number of legal symbols do not contain in their content certain powers, but at the same time they exert an emotional, psychological influence on the subject, conveying to their content the "spirit" of law, bringing to the addressee of the rule of law elements of official state ideology. In this aspect, legal symbols are related to such a variety of regulations as legal declarations. It is this declarative role that is primarily played by official state symbols, symbols of state bodies and other symbols that express values related to state power (judicial mantle, state awards). In this context, state-legal symbols are the means of legitimizing public authority.

Researchers distinguish the information function separately, since symbols often serve as a means of communication not only domestically but also internationally. Using symbols as a convenient source of information for a wide range of subjects, separated by linguistic and territorial boundaries,



is inherent in such qualities as comprehensibility and publicity. At the same time, thanks to legal symbols, this information not only effectively accumulates and is broadcast, but also becomes official.

Another function that legal symbols possess is the function of social and political-legal orientation, which is the widespread use of those signs which are given the meaning of legal symbols. The role of legal symbols is to make the environment (including legal) more understandable to the addressees of legal orders. Legal symbols provide a link between the general and legal culture, convey images that are close and clear to people. The world of law is not perceived by the public consciousness as isolated, detached from social reality. It integrates into social life, into mass culture and, as a consequence, is not perceived by others as alien or dangerous.

Closely related to the previous, is the identification function of symbols, which is that with the help of legal symbols, legal entities can not only navigate the world of legal phenomena, but also get the opportunity to identify themselves, belong to a particular social group, determine your own place in the circle of these phenomena. Legal entities use legal symbols to demonstrate their legal status and identify themselves in the legal field. Examples of these phenomena include a passport or a business license, a driver's license, a military or police uniform, and the certification of documents by the organization's seals. State symbols, which are attributes of state sovereignty, also possess such features.

The legal symbol is also endowed with the function of saving linguistic and legal means. This function reveals itself through the use of forms, documents, forms, official details, which allows to rationalize legal activity, to achieve accuracy and compact presentation of information.

Also, I. Shutak notes that the legal symbol itself does not establish legal liability in the absolute majority of cases, so it should be included in the regulatory requirements. It is also often used in practice as evidence of protection for a particular legal phenomenon or institute. For example, having a seal or seal on a premises does not mean that it cannot be physically opened, but states that it will give rise to legal liability.

Although the functions we have listed cannot be generally attributed to all legal characters, as each of them has its own purpose and functional specialization. These functions more show us the role played by legal symbols (not only in the normative but also in their broad sense) in the legal system of modern society.

Legal symbols usually retain their meaning for a long time, so the symbol can be attributed to the dogmas of law. The essence of the legal symbol lies in the fact that a certain form is given a certain, seemingly in no way related to this form itself [3, p. 297].

Some symbols that express universal moral values may be regarded as axioms. For example, Themis' blindfold symbolizes the axiomatic claim of impartiality in court. The same requirement can be expressed in proverbs ("the law is one for all", "no one can be a judge in their own case", etc.).

Among the legal symbols is a large number of those that do not express a specific normative order or legal fact, but are intended only to influence the emotional sphere of perception, to convey to the subject information about any values. The most important place among them is the official state symbols (emblem, flag, state awards, passport, honors, certificates of public servants, etc.).

The similarity of such legal symbols with such a specific type of legal axiom as a legal declaration is quite evident. Indeed, without having a clearly expressed regulatory importance, they are oriented, first of all, to the legal consciousness of the subject exercising the right, aimed at forming a certain attitude towards the subject of legal regulation, corresponding to the official state ideology.

Thus, we can identify the characteristic common features of legal symbols, namely:

1) lack of specific rules of conduct. The purpose of a legal symbol is not to establish a mandatory behavior, but to state a particular idea or value that is of national importance. However, there are some exceptions in this aspect. For example, such exceptions are road signs and road markings, which regulate the behavior of road users;

2) orientation to emotional perception of relevant provisions;

3) the use of artistic images, sensuous formations when communicating information to the addressee;

4) ideological saturation is peculiar to legal phenomena, because the ideas that they are intended to express are not only recognized by the state, but are, for the most part, part of the official state ideology.

Conclusions. Our analysis allows us to draw the following conclusions. The existence of law is impossible outside the language environment. Legal symbols, like any social phenomena, exist and can exist exclusively in the linguistic environment, since the basis of any symbolic representation of law is the natural language. The specific non-verbal form of the existence of legal symbols attracts the attention of researchers, which determines their special position in the system of the legal technology.

In the legal literature legal symbols are regarded as normative means. This is due to the fact that symbols that have been enshrined in law play a crucial role in the legal process. But despite its legal entrenchment, the cultural, social, and social components of the symbol remain crucial in its nature. However, the form of fixing and the mechanism of action of regulatory symbols are not unified.

Therefore, the world of legal symbols is a kind of the additional information about the legal regulation in the sense that it cannot replace the basic one which is expressed in the rules of law. Their purpose is to attract the attention of the subjects, to warn them about the legal consequences, to ascertain the legal significance of the actions. The use of symbolism in the legislation frees from the need to give or repeat the description of the certain legal phenomena, gives the legislation along with conciseness the certain imagery.

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СООТНОШЕНИЕ ПРИНЦИПА ЭСТОППЕЛЬ И ПРИНЦИПА ДОБРОСОВЕЩНОСТИ

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АННОТАЦИЯ

Сравнивая принцип добросовестности с ситуацией эстоппель, следует констатировать его двойную роль. Во-первых, он обеспечивает защиту правомерных интересов государства, поскольку на его основе устанавливается доверие к заявлениям и поведению противоположной стороны. Во-вторых, принцип добросовестности требует от государства, противоречивыми заявлениями и поведением которого создана ситуация эстоппель, придерживаться последовательности в своих действиях и тем самым (строго на основе данного принципа) придерживаться своей позиции в отношениях с другими государствами. Таким образом, принцип добросовестности представляет собой основу ситуации эстоппель.

Ключевые слова: принцип эстоппель, принцип добросовестности, добросовестное исполнение обязательств, мировой правопорядок.

RELATIONSHIPS OF THE PRINCIPLE OF ESTOPEL AND THE PRINCIPLE OF GOOD FAITH

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SUMMARY

Comparing the principle of good faith and the situation estoppel, it should be noted its dual role. Firstly, it ensures the protection of the legitimate interests of the state, on the basis of this principle trusting the statements and behaviour of the opposite side. Secondly, the principle of good faith requires the state, in contradictory statements and the behaviour that created the estoppel situation, to adhere to a sequence in its actions and thereby (strictly based on this principle) to adhere to its position in relations with other states. Thus, the principle of good faith is the basis of the estoppel situation.

Key words: principle of estoppel, principle of good faith, faithful fulfilment of obligations, global rule of law.

Постановка проблемы. Построение мирового порядка на основе верховенства права предполагает определенный уровень взаимного доверия государств и предсказуемость их поведения. Доверительный характер отношений поддерживается с помощью правового обеспечения (через Международный суд и арбитраж) определенного уровня выполнения государствами своих международных обязательств на основе принципа добросовестности. Уже сам факт добросовестного (*ex bona fide*) выполнения международных обязательств исключает случаи злоупотребления правом, создает основания для проявления доверия. Предсказуемость поведения государств поддерживается как результат последовательности международно-правовой позиции по отношению к данной фактической или

юридической ситуации через обязательную нотификацию предполагаемых в ней изменений, которые могут каким-то образом затронуть законные права и интересы других государств. При этом принцип добросовестности также играет определенную роль, поскольку именно он обеспечивает последовательность в поведении государств, приписывает обязательства уведомления предполагаемых изменений в международной и внутренней позиции данного государства при обязательствах, которые непосредственно касаются прав и законных интересов другого члена мирового сообщества. Нарушение данного принципа в поведении одного субъекта международного права, как следствие его непоследовательности, которая влечет за собой нанесение ущерба законным правам