

THE CHARACTERISTICS OF LEGAL LANGUAGE TAKING THE PSYCHOLOGICAL ASPECT

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Abstract: The authors study the features of the of legal language use in the conditions of socio-political transformations. The use of various legal terms in the revolutionary periods of the formation of the Russian state and law from the beginning to the end of the twentieth century is analyzed. It is noted that a whole layer of terms reflecting new realities appeared in the legal language after the October Revolution; this fact allowed legal drafters to use them as a political tool, to formulate legal norms in such a way that they fit into the overall political agenda. In turn, the collapse of the Soviet Union also led to a radical change in social and political relations, the total destruction of the established legal system. Significant changes occurred in the legal language. The authors make the conclusion that the legal language is a kind of a conductor of political will and in some case the tool for manipulating the content of legal norms. Legal language is an indicator of social and political transformations. Emerging new words reflect the emerging social relations, demonstrate a new political course, chosen in one or another period of state development.

Keywords: legal language, legal terminology, social and political transformation, political will, legal acts, legal norms.

1. INTRODUCTION

The subject of the research is various aspects of legal language use in the context of socio-political transformations. The hypothesis of the study lies in the assumption that legal language in the context of socio-political transformations is used in a triune perspective: as a conductor of political will, as a tool for manipulating the content of legal norms, as an indicator of socio-political transformations. Legal language is a convenient and effective tool with which the policy of any state is enforced. H.-G. Gadamer rightly notes that “the world manifests itself in language” [2]. At the same time, in those countries where political processes are more acute, legal language and terminology change more actively, and often permanently. This is reflected in legal sources and, above all, in the regulatory legal acts of a particular country. The main (basic) element of the legal language is legal terminology. It is

with the help of legal terms that the essence of regulatory prescriptions is translated in various legal sources and, thereby, the state will be expressed indirectly. The use of a term in the text of a legal act is often an important segment of the formation of a political agenda for the long term.

2. METHODS

In the process of writing the article, various general scientific techniques and methods of logical cognition were used. Methods of analysis and synthesis were used in order to study the essence of the legal language in a political context. The use of formal legal and comparative legal methods made it possible to determine the peculiarities of the formation of a legal language in the revolutionary periods of development of the Russian state and law, as well as to identify specific features of legal terms in the conditions of transformation of the socio-political paradigm. System-structural, functional and formal-logical approaches were used when considering the mechanism of manipulating legal terms, introducing terminological innovations into the modern legal language.

3. DISCUSSION AND RESULTS

Law and politics are closely intertwined, which cannot but reflect on the legal language. Many words used in law exist in a political paradigm. For example, D. Miller exploring such concepts as “justice”, “freedom”, “democracy”, comes to the well-founded conclusion that they cannot function outside the political context [6]. Features of the use of legal language in the conditions of socio-political transformations can be traced through the prism of a system of normative legal acts at various stages of development of Russia. Most clearly, they can be seen in the revolutionary periods of the formation of the Russian state and law, from the beginning to the end of the twentieth century.

The October Revolution of 1917 introduced fundamental changes in the livelihoods of Russian society, predetermined the formation of a new statehood, and, accordingly, triggered the formation of previously unknown legal institutions and norms. The trends of the coming epoch could not but affect the legal language that underwent significant changes, especially in the early years of the formation of Soviet power. V.I. Lenin noted that “social democrats should be able to speak in a simple and clear, accessible language with the masses, dropping resolutely away the heavy artillery of sophisticated terms, foreign words, memorized, ready, but incomprehensible to the masses, unfamiliar slogans, definitions, conclusions” [4]. Lenin's words reflected the political agenda of the time, but, at the same time, they fit into the general context of the problem of forming an accessible legal language. W.-L. Montesquieu wrote that “laws in no way should be sophisticated: they are designed for people with mediocre mental abilities” [8].

V.I. Lenin's point of view was projected in the first legal acts of the new era. For example, the Decree of the All-Russian Central Executive Committee and the Council of People's Commissars of the RSFSR “On the work on codification of the legislation of the RSFSR” dated July 29, 1929, in particular, stated: “to propose to the People's Commissariat of Justice and other RSFSR departments bills of law were submitted to the Council of People's Commissars only when a new law was actually prompted by the requirements of life, so that the newly introduced bills would be coordinated with the existing legislation, and especially to pay attention to the fact that the laws were set out understandable to the broad working masses language” [11].

However, in fairness, we note that the methods by which the legal language of the new era was formed were very different. Often, in a fit of revolutionary passion, lawmakers dismissed everything that they thought was outdated and unclaimed at the moment. For example, Y. Yavorsky harshly criticized the use in the Civil Code of the RSFSR of 1922, such terms as “property”, “purchase and sale”, “rent”, considering them outdated and not reflecting new

realities [3]. Of course, these innovations were due to the revolutionary approaches to the construction of a new state, to the creation of a new format of legal relations, and, accordingly, to the formation of the Soviet legal language. It was a kind of “foam of revolution”, mediated by words from the text of the Internationale: “we will destroy the whole world of violence to the ground, and then we will build ours, we will build a new world ...”. However, the change in the political structure of the state, which occurred in the early twentieth century, led to the formation of a whole layer of new terms that were actively used in the legal language for quite a long time: “worker-peasant state”, “socialist state”, “Soviet state”, “working people”, “municipalized enterprises”, “revolutionary order”, “counter-revolutionary crimes”, “communist property system”, “unearned incomes”.

The appearance of data and many other terms reflecting new realities allowed the developers of legal acts to use them as a political tool: to formulate legal norms in such a way that they fit into the overall political agenda. For example, in part 1 of article 58.1 of chapter 1 “Counter-Revolutionary Crimes” of the Criminal Code of the RSFSR of 1926 it was stated: S.F.S.R. Workers 'and Peasants' Government, as well as actions in the direction of assistance to that part of the international bourgeoisie, which does not recognize the equality of the communist property system replacing capitalism and seeks to overthrow it by intervention or blockade, espionage, financing the press, etc.” [12]. It is easy to see that this article uses quite a few terms included in the legal language along with the revolution: “counter-revolutionary crimes”, “international bourgeoisie”, “capitalism”, “communist property system” etc. It is with their help that the political component of this legal norm. Or take, for example, clause 5 of the Resolution of the All-Russian Central Executive Committee of 11.11.1922 “On the Enactment of the Civil Code of the RSFSR”, which stated that “the propagation interpretation of the Civil Code of the RSFSR is permitted only when it is required by the interests of the workers 'and peasants' state and the working masses” [13]. On the one hand, one can argue about the legal or extra-legal nature of this norm, but, on the other hand, it is quite obvious that its language structure was dictated by the political situation in the state.

No less significant political changes occurred in our country at the end of the twentieth century. The collapse of the Soviet Union led to a radical change in social relations, the total destruction of the established legal system. As in 1917, the previously existing regulatory acts were dropped from the “ship of modernity”, many of the achievements of Soviet jurisprudence were rejected. Significant changes have occurred in the legal language. The most vivid terms of the Soviet era, such as “workers 'and peasants' state”, “socialist economy”, “working people” and others, have been replaced by words reflecting the meanings of the new socio-political formation. There were political terms that were not used (or practically not used) in the Soviet era: for example, “national minorities”, “counter-terrorist operation”, “illegal gangs”.

There was a “fashion” for foreign language, the texts of legal acts filled in terms borrowed from other languages: “aval”, “letter of credit”, “acceptance”, “beneficiary”, “broker”, “dealer”, “innovation”, “mortgage”, “condominium”, “contract”, “license”, “nanotechnology”, “offer”, “privatization”, “servitude”, etc [10]. Most of them are currently used in civil law. True, in fairness, we note that the problem of borrowing is characteristic not only of Russian law. D. Mellinkov, analyzing the written legal language in the United States, comes to the conclusion that “it is characterized by the use of a multitude of words and phrases of foreign (Latin and French) origin, incomprehensible to most English speakers, since the same concepts are expressed in it in other words” [5].

At the same time, we note that the ideas about a simple and accessible legal language, unfortunately, have remained unfulfilled. The texts of most modern Russian regulatory legal acts began to be distinguished by an even greater complexity of perception. The political component of the legal language can also be traced when analyzing the Constitution of the

Russian Federation. Thus, in part 1 of article 13 of the Constitution it is stated that “ideological diversity is recognized in the Russian Federation”. In the political aspect, the term “ideological diversity” is of great interest and is one of the keys from the point of view of perception of the vector of development of the country. Or, for example, another important term used in part 5 of article 29 of the Constitution of the Russian Federation is “freedom of the media”: “freedom of the media is guaranteed. Censorship is prohibited.” And there are plenty of such examples. It is clear that the development and adoption of regulatory legal acts are carried out in the context of the existing political agenda, which determines the movement of the state in the intended direction. In turn, legal language is a very plastic material for the promotion of specific views and ideas in the context of the implementation of lawmaking activity.

Unfortunately, in modern lawmaking there are cases of manipulation of the content of legal norms (intentional or unintentional) using legal language. At the same time, the key sign of manipulation is the distortion of the meaning of legal concepts. Indicative in this context is the statement of B. Danet that “the concepts of “life” and “death” did not receive a clear legal content, and this creates space for free and conscious manipulation of the concept of “murder” [1]. Analyzing the Russian legislation, we can recall the use of the term “secondary schools” instead of the term “educational institutions” in the text of the Federal Law of December 26, 2005 No. 189-Federal Law “On the federal budget for 2006”. Because of this more than 80 thousand teachers who worked in special (correctional) educational institutions for students, pupils with developmental disabilities, institutions for orphans and children left without parental care (legal representatives) and other educational institutions that go beyond The scope of the concept, expressed by the term “comprehensive school”, did not receive appropriate supplements for classroom management. This caused a wide political resonance and negative public reaction, therefore, the State Duma of the Russian Federation had to urgently make changes to the adopted normative act and correct the terminology used. In this regard, M. Edelman rightly notes that “it is the uncertainty of the law language that gives lawyers, judges and officials their political and social functions, since clear rules – by definition – would not require special procedures for establishing their meaning” [9].

More recently, the text of the Criminal Code of the Russian Federation introduced such terms as “head (leader) of the criminal community” (Article 210 of the Criminal Code of the Russian Federation), “Highest position in the criminal hierarchy” (Article 210.1 of the Criminal Code of the Russian Federation). The political agenda dictates such language innovations in the Russian legislation. The appearance of the word “leader” in the specified context is especially interesting. Who really is such a leader? O.R. Mizhit-Ool, I.A. Suvorova and N.K. Semenova analyzed the existing definitions of this term: according to F. Kotler, “the leader is the reference point for other people”, M. Meskon notes that “a leader is one who is able to raise human vision to a broader level of vision, to bring the effectiveness of human activity to a level of higher standards, as well as the ability to form a personality, going beyond the usual, limiting it “In the S.I. Ozhegov's Dictionary, the leader is” the principal, the head of a political party, a socio-political organization or a group of people in general; a person enjoying authority and influence in any team” [7]. The leader in our consciousness (until recently) has always been associated with the person leading the masses, the collectives, the groups in order to achieve some high (or, in any case, positive) goal. Changes in the Criminal Code of the Russian Federation transform the understanding of the word “leader”, adding a negative semantic component (Turanin et al., 2019).

The new political realities reflect the term “import substitution” that is actively used at present. The terms “sovereign Runet”, “fake” have not been used in the texts of legal acts, but, as we see it, are very close to this. Of course, the question arises: how are these terms ready for long-term functioning? Or is it a kind of linguistic “splash” caused by the current

political situation in the country? This question can be answered only after the time has expired and, again, in the context of the development of the political situation.

4. CONCLUSION

Taking into account the above, we can identify some features of the use of legal language in the conditions of social and political transformations. First, legal language is a very convenient conductor of political will, with its help it is possible to express the essence of a political regime. If the political regime changes, different elements of the legal language (first of all, legal terms used for political purposes) may also change. Secondly, legal language is a tool for manipulating the content of legal norms. In the texts of legal acts there are cases of substitution of concepts, are used (intentionally or unintentionally) such language constructions that allow certain subjects to violate legal norms and escape from the necessary responsibility, new terms are introduced that change the established perception of certain words. Thirdly, legal language is an indicator of social and political transformations. Emerging new words reflect the emerging social relations; demonstrate a new political course, chosen in one or another period of development of our state. Thus, the policy, in certain cases, dictates the need to change the legal language. In this case, of course, it should be noted that law, by its deep nature, is quite conservative and routine. In the absence of political “whirlwinds” that periodically sweep away some established legal institutions, Russian law is characterized by a vector of progressive development based, on the one hand, on continuity, and on the other, on reception. Therefore, in modern legal texts, along with politicized vocabulary, the regular words and terms “out of politics” (“contract”, “property”, “obligation”, “crime”) are consistently and frequently used, which make up the solid foundation of the legal language.

5. CONFLICT OF INTEREST

The authors confirm that the information provided in the article does not contain a conflict of interest.

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