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DEFINITIONS OF LEGAL TERMS IN ENGLISH

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Abstract

The subject of the article is English legal terminology, and its object is the study of the types of definitions used in the legal terminology of the English language. The terminological studies have been topical for decades and they are still relevant as terms do not only denote special notions, but also provide specific information. This information in law is encoded not only in legal texts (theoretical or legislative), but also in definitions which equal the meanings of the terms. Definitions are inseparable units of legal communication and legal discourse, predetermining legal thinking and reasoning. The purpose of the paper is to consider various types of legal definitions in English from the point of view of ways of linguistic representation of legal information and to find out, whether the system of legal definitions in English fits their general typology. The methodology of the paper is based on the descriptive analysis of definitions, which were selected from legal dictionaries and analysed from the point of view of the structural components of the definitions. As a result, all possible variants of definitions found in logic and linguistics were found and described. The conclusion was made about the coincidence of logic in defining the objects in various modern branches of science and art.

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1. Introduction

The problem of definitions in science goes back to Aristotle. His ideas in modern terms can be defined as relating to the construction of scientific systems. Definition, according to Aristotle (n.d.), is a designation of what a given thing is. Gorski (1974) considers definitions to be an essential part of scientific theories, since they are closely related to their content. A definition determines the content characterization of a concept and the place of a term in theoretical taxonomies.

The theory of definitions is closely related to the problem of classification of objects and phenomena of reality. The simplest type of a definition is a sentence that asserts the meaning of a word or a term. Definition is an identifying judgment that provides information about the use of a language unit. Close connections between definitions and classifications may be found in the argumentations of Mill (1882), a logician of 19th century, concerning meanings of names:

It is not unusual, by way of explaining what is meant by a general name, to say that it is the name of a class. But this, though a convenient mode of expression for some purposes, is objectionable as a definition, since it explains the clearer of two things by the more obscure. It would be more logical to reverse the proposition, and turn it into a definition of the word class. A class is the indefinite multitude of individuals denoted by a general name. (p. 28)

Specifics of legal discourse includes definitions as short narrations which are the starting point for further theoretical reasoning, legislative instruments, or the keynotes of debates, substantiation of a standpoint in a legal case, etc. The definition of a term indicates its inclusion in artificially created hierarchical structures of the subsystems of terms and notions. Thus, one may say that the ontological basis of any term, i.e. the main form of its existence, is definition (Akhmanova & Glushko, 1974).

Definitions of science and art are temporary, because they are constantly changing in the process of reality cognition. Thus, the meaning of a term is conventional. This conventionality is twofold: first, because both the plane of expression and the plane of content can be changed, and secondly, the plane of expression and the plane of content can be conventionally accepted.

The question of the essence and structure of a definition has not yet been resolved. Various terms are used to denote this notion: “definition”, “interpretation”, and “description”. Often, experts in the field of logic, law and terminology do not see any differences between descriptions and definitions using these terms interchangeably (Averbukh, 2004).

According to the majority of scholars, these terms should be distinguished. It is argued that the interpretation of a word is a broader concept than a definition. A common concept is that the lexical meaning of a word is found in its interpretation, which is considered as a translation of the word into a special semantic language (Apresian, 1995). The term “interpretation” is often understood broadly, for example, as an explanation of the meaning of the word (Pertsova, 1988). Nida (1962), distinguishing definitions and descriptions, notes that a definition is a minimum amount of information about the subject, while a description contains more than just the meaning of the word. Some authors use the term “description” connecting it to a logical operation of revealing the content of a notion, the definition being

the result of the description of the term (Superanskaya et al., 2012). Sometimes descriptions are considered as incomplete ones (Superanskaya, 1973).

Different semantic properties of terms determine various approaches to the classification of definitions. Gorski (1974) divides them into nominal and re-al, Tolikina (1976) – into linguistic and logical. Real or logical definitions reveal the essence and nature of the relationship of the subject under consideration with other phenomena or objects, while nominal or linguistic definitions are limited to a simple explanation or linguistic description of the meaning of the word, its interpretation through synonyms, and the reference of this word to other words (Gorski, 1974).

Shelov (2001) gives a more detailed classification of terminological definitions, which we will follow later: 1) generic, 2) enumerative, 3) contextual, 4) operational, 5) general, 6) non-specific.

2. Problem Statement

The article presents the results of the analysis of definitions of legal terms reflecting the specifics of theoretical thinking.

3. Research Questions

The subject of the article is English legal terminology, and its object is the study of the types of definitions used in the legal terminology of the English language.

4. Purpose of the Study

The purpose of the paper is to consider various types of legal definitions in English.

5. Research Methods

The methodology of the paper includes the descriptive and component semantic analysis of legal definitions from the point of view of their logical structure manifested in wordings.

6. Findings

The problem of definitions is of both theoretical and practical importance. However, it is also closely connected with the typology of legal texts forming the legal and terminological picture of the world. Defining phenomena is both a linguistic and extra-linguistic procedure based in the end on specifics of thinking.

6.1. Definition as a reflection of legal reality and part of legal discourse

Legal reality is one of the worlds, which is determined by the legal picture of the world, including all legal facts that are fixed in terminology and legal texts. The latter are represented by texts of laws and texts of the legal theory. Each of these two types of texts representing legal discourse forms its own

picture of the world, including the use of terms and definitions. E.g., there are legal terms which are not used in legislation, but only in theoretical legal texts (*legal system, natural law, principles of law*, etc.).

The legislative consolidation of a term in a legislative text determines the generally accepted and binding nature of its form and content. However, there are also theoretical legal texts, in which legislative definitions are not only used, but can also be modified. A text of legal theory may contribute to the variation of the signifier and the signified, but it does not lead to the fact that these changes become generally binding. The text of the law can fixate such modifications by adopting theoretical recommendations, or it can reject them. In any case, both types of texts are the environment for the formation of the terminological character of a language sign.

The role of context in the legal terminology formation is the dialectical interdependence of the implementation of linguistic and extra-linguistic links between the units of the language. Legal discourse is influenced by other types of discourse (common and institutional). The relationship of legal discourse with everyday life leads to the adoption of words from the general literary language. This process is quite active and determines one of the features of the terminological character of language signs used in legal discourse (*carelessness, guilt, negligence*, etc.). The interaction of legal discourse with other types of institutional discourse contributes to the penetration of fragments of various branches of knowledge into it.

6.2. Types of legal definitions

The purpose of the discussion is to consider definitions of English legal terms from the point of view of Shelov's (2001) classification to find out the degree of universality of legal thinking as compared to thinking and reasoning in other spheres of human knowledge.

1. Generic definitions interpret the meaning of the term within the linguistic phenomenon of hyponymy. Such definitions are considered to be systemic and reflecting the classification grounds, because the integral seme is supplemented with differential ones, e.g.: **bailee** – n. a person, also called a custodian, with whom some article is left, usually pursuant to a contract (called a "contract of bailment"), who is responsible for the safe return of the article to the owner when the contract is fulfilled (Legal Dictionary, 2021).

In this case, the integral seme of the sub-system of legal notions 'person' is supplemented with differentiating semes. Such integral semes are most general ones for legal terminology. However, an integral seme may connect a species term with even more specific ones. E.g. in the following example the integral seme is represented not with the seme 'crime', but with one of its kinds: **theft** – n. the generic term for all crimes in which a person intentionally and fraudulently takes personal property of another without permission or consent and with the intent to convert it to the taker's use (including potential sale). In many states, if the value of the property taken is low (for example, less than \$500) the crime is "petty theft", but it is "grand theft" for larger amounts, designated misdemeanour or felony, respectively. Theft is synonymous with "larceny". Although robbery (taking by force), burglary (taken by entering unlawfully) and embezzlement (stealing from an employer) are all commonly thought of as theft, they are distinguished by the means and methods used and are separately designated as those types of crimes in criminal charges and statutory punishments (Legal Dictionary, 2021).

2. Enumerative definitions are usually characteristic of terms adopted from common discourse. They are represented by the lists of specific terms, for example: “**family** – n. 1) husband, wife and children. 2) all blood relations. 3) all who live in the same household including servants and relatives, with some person or persons directing this economic and social unit” (Legal Dictionary, 2021).

3. Contextual definitions are represented by descriptions of objects or phenomena and mention specific differences without referring to a given class: “**abeyance** – n. when the ownership of property has not been determined. Examples include title to real property in the estate of a person who has died and there is no obvious party to receive title or there appears to be no legal owner of the property, a shipwreck while it is being determined who has the right to salvage the ship and its cargo, or a bankrupt person’s property before the bankruptcy court has decided what property is available to creditors or alleged heirs” (Legal Dictionary, 2021).

4. Operational definitions are also descriptive, however they represent only descriptions of actions required to obtain a certain result: “**barratry** – n. creating legal business by stirring up disputes and quarrels, generally for the benefit of the lawyer who sees fees in the matter. Barratry is illegal in all states and subject to criminal punishment and/or discipline by the state bar, but there must be a showing that the resulting lawsuit was totally groundless. There is a lot of border-line barratry in which attorneys, in the name of being tough or protecting the client, fail to seek avenues for settlement of disputes or will not tell the client he/she has no legitimate claim” (Legal Dictionary, 2021).

5. General definitions are formulated without referring to legal terms proper, i.e.: “**structure** – n. anything built by man/woman, from a shed to a high rise or a bridge” (Legal Dictionary, 2021). Such definitions are characteristic of terms used in various spheres of knowledge (general scientific terms).

6. Non-specific (synonymic) definitions may contain terms. In their language expression, there is an indication of a generic trait, but no specific signs are noted, e.g.: “**bulk transfer** - bulk sale” (Legal Dictionary, 2021).

7. Conclusion

Definitions in any science or art are the result of the thinking process. Legal thinking follows universal rules that emerged in science and art and has a stepwise character. First, it involves perception of the existing reality (perceptive thinking). Then it turns to the process of legal reality cognition based on the analysis of the existing classifications and definitions created in the legislative and theoretical legal texts. The third type of thinking may be characterised as productive (formation of an ideal model of the legal picture of the world matching certain terms with the notions they denote with concrete fragments of legal reality). The latter type of thinking is also characterised as creative (Rosenblatt, 2001; Shamis, 2006).

Creative thinking results in the final defining of legal phenomena. The psychological process underlying creative thinking involves the analysis of typical legal situations, their intersections and differences between them to provide adequate wordings of definitions.

A definition is a kind of a meta-text, which possesses certain structural features. The plane of content of terms must be an effective means of conveying a legal idea. The study showed that the types of legal definitions vary greatly. However, they fit the general classification of definitions used in various

spheres of knowledge. This fact proves that law follows the universal approaches to definitions of terms and conveying legal information. The character of theoretical thinking and possibilities of explanation of legal ideas determine these universal approaches. Even a short interpretation of a notion can be regarded as a sufficient definition, allowing carrying out efficient communication.

As a prerequisite for communication in the professional legal sphere, the definition fixes the state of legal knowledge at a given time. Besides, definitions reflect the existing forms of intellectual activity and the rules of forming legal discourse.

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