

THE ROLE OF THE TITLES OF LAWS IN THE DEVELOPMENT OF THE STATE LANGUAGE

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Abstract

At the present stage, as the state language and the national legal system continue to develop and legislative activity assumes growing importance, the proper naming of laws has likewise become a matter of particular significance. Laws enacted in a country are binding on all persons living in that society, regardless of their nationality, age, sex, or occupation. When an ordinary person encounters a complex legal issue in everyday life, the first question is usually which law regulates the matter, and the search often begins with the title of the law. If the relevant issue cannot be found in the law selected on the basis of its title, this may create various difficulties. For example, when a citizen seeks information on who may be admitted to citizenship of the Republic of Uzbekistan and under what conditions, many people instinctively turn to the "Fuqarolik kodeksi" (Civil Code). In fact, these matters are regulated not by the Civil Code but by the Law "On Citizenship of the Republic of Uzbekistan." This may diminish citizens' positive attitude toward the law and, to a certain extent, hinder the development of legal awareness.

Introduction

Accordingly, in any society, naming laws clearly, simply, and unambiguously in a manner that accurately reflects their content and substance and takes public interests into account is of considerable importance for the development of the state language. For this reason, developed foreign countries pay particular attention to the naming of laws. In England, as early as 1896, a special law was adopted concerning the assignment of short titles to statutes on the basis of their content. It provided for the official designation of legislative acts by short titles.

Consequently, the titles of most laws accurately reflect their content and substance. For instance, naming the fundamental charter of our independence the “Constitution of the Republic of Uzbekistan” is entirely appropriate in view of Uzbekistan’s integration into the international community, the widespread use of the term “Constitution” in many developed countries, and the fact that “constitution” is an internationally recognized term.

Moreover, today in Uzbekistan, people from the age of seven to seventy clearly understand that the Constitution is the fundamental law of the country and represents the face and pride of the state.

If we trace the historical naming of this law, we can see that in the 1920s–1930s it was referred to as “Asosiy qonun” (Fundamental Law), “Bosh qonun” (Chief Law), and “Qonuni asosiy” (Fundamental Law), while from 1936 onward it came to be called “Konstitutsiya” (Constitution). The term “Konstitutsiya” fully reflects the content and substance of this law.

In general, most of our current laws fully reflect their content and substance in their titles. These include, for example, the Labour Code, the Tax Code, the Housing Code, and the Family Code.

Following independence, a number of positive changes were made in the naming of laws, just as in the legal system as a whole. Certain titles that did not accurately reflect the content of a law and had been translated literally from the titles of Russian-language laws during the former Soviet period were revised and renamed in accordance with the substance of the relevant law. For example, prior to independence, the law specifying the measures of punishment applicable to administrative offenses was titled “Ma’muriy huquqbuzarlik to‘g‘risidagi kodeks” (Code on Administrative Offenses). This title was a literal translation of the Russian phrase “Кодекс об административных правонарушениях” and, in Uzbek, could be understood as referring not to sanctions for administrative offenses but rather to the manner in which such offenses are committed.

Similarly, the law governing the procedure for conducting criminal cases is currently titled “Jinoyat-protsessual kodeksi” (Criminal Procedure Code). This is a literal translation of the Russian phrase “Уголовно-процессуальный кодекс” and does not fully convey the content and substance of the law in Uzbek.

As noted above, until 1922 the word “уголовный” was scarcely used in Russian legislation. Accordingly, before 1922 this law was not called the “Уголовно-процессуальный кодекс” but was instead known as the “Устав уголовного судопроизводства” (Statute of Criminal Judicial Procedure). After the October

Revolution in Russia, the law came to be called the “Уголовно-процессуальный кодекс.” At that time, some Russian legal scholars objected to this designation¹.

When the title of this law was first used in Uzbek in May 1922, it was rendered as “Sud muassasalarida jinoyat ishlarini yurgizuv tartiblari to‘g‘risidagi nizomlar majmuasi” (Collection of Regulations on the Procedure for Conducting Criminal Cases in Judicial Institutions).

When the law was adopted for the first time in 1926, it was titled “Jazo-yo‘ruq tuzugi” (Code of Penal Instructions), and most of the legal terms used in it were based on the terminology of Amir Temur’s treatise “Temur tuzuklari” (The Code of Temur).

In June 1929, the law was adopted for the second time and was titled “Jinoyat muhokama kodeksi” (Code of Criminal Adjudication). It should be particularly emphasized that both of these earlier titles, in comparison with the current title “Jinoyat-protsessual kodeksi,” more accurately reflected the content and substance of the law and were understandable to the general public.

Unfortunately, the Code, which had been published under that title until 1936, was renamed by the People’s Commissariat of Justice and, from 1939 onward, was published under the title “Jinoyat-protsessual kodeksi.” As G‘. A. Abdumajidov wrote, “Such a change was made without any decision of the legislative authority and, one might say, was the result of an excessive preference for international terms”². Indeed, while Turkic, Arabic, and Persian words and terms predominated in Uzbek legislation during 1922–1937, the share of Russian-European vocabulary was artificially and sharply increased from 1938–1939 onward.

The law was adopted anew in May 1959 and was again published under the title “Jinoyat-protsessual kodeksi.” In Russian, this title generally conveys the content and substance of the law correctly. The term “уголовный” means “relating to crime,” while the word “protsess” has the meanings of: (1) the process by which a phenomenon develops; and (2) the procedure for the judicial consideration of cases. Thus, in Russian, the phrase “Уголовно-процессуальный кодекс” is understood as referring to the judicial procedure applicable to criminal cases.

In Uzbek, however, the expression “Jinoyat-protsessual kodeksi” functions differently. First, the word “jinoyat,” unlike the Russian form “уголовно,” does not mean “relating to crime” but denotes the concept of “crime” itself. Second, the word “protsessual” in the title conveys only the first meaning of the Russian word “процесс,” namely “process,” and does not express its second meaning, that is, the procedure for the judicial consideration of cases. Therefore, in Uzbek, “Jinoyat-protsessual kodeksi” may

¹ Polyanskiy, N. N. O terminologii sovetskogo zakona [On the Terminology of Soviet Law], pp. 122–124.

² Abdumajidov, G‘. A. “Qonun tili o‘zbekchalashmoqda” [The Language of Law Is Becoming Uzbek], Huquq, 1997, p. 24.

literally be understood as a “Code on the Criminal Process.” The title does not clearly indicate that the law establishes the procedure for considering criminal cases or the rules identifying the state bodies competent to deal with such cases.

In general, this law is referred to as “Уголовно-процессуальный кодекс” only in Russia. In other countries, it is known under different titles, including: in France, the “Code of Penal Procedure”; in Germany, the “Law on the Procedure for Penal Proceedings”; in the United States, the “Federal Rules for the Judicial Consideration of Criminal Cases”; in Poland, the “Sentencing Code”; in Bulgaria, the “Code of Penal Proceedings”; and in certain Eastern countries, such as Turkey and Afghanistan, the “Code of Criminal Adjudication.”

Following independence, when a draft of this law was being prepared in 1993, the working group proposed naming it “Jinoyat muhokama kodeksi” (Code of Criminal Adjudication) in order to give the law a title that accurately reflected its content and substance. However, the proposal was not accepted on the ground that “most practicing lawyers had already become accustomed to the expression ‘Jinoyat-protsessual kodeksi.’

It should be particularly noted that there are differing approaches in general literary language, on the one hand, and in Uzbek legal scholarship and practice, on the other, to the understanding of the words “jinoyat” and “protsessual.” Because lawyers frequently use the term “jinoyat protsessi” in their professional activities, and also due to the influence of Russian, many of them understand the Uzbek expression “jinoyat protsessi,” by analogy with the Russian phrase “уголовный процесс,” as referring to the procedure for considering criminal cases.

In general, literary usage, however, the expression conveys the meaning of “criminal process,” and ordinary speakers tend to understand it literally. As a result, such a title may create certain difficulties for non-specialists. If they are asked what legal norms are established by the “Jinoyat-protsessual kodeksi,” many people may be unable to provide a precise answer.

In general, legal awareness and legal culture in society begin with the way laws are named. Therefore, laws should not be named solely from the perspective of the interests of legal professionals; rather, giving them titles that are understandable to everyone can only benefit society. If this law were called the “Jinoyat muhokama kodeksi” (Code of Criminal Adjudication), any person would be able to understand quickly and easily that the Code concerns the procedure for conducting criminal cases. From this perspective, it would be appropriate to reconsider the title of the law.

Another issue requiring consideration in the naming of our laws concerns the title of the “Jinoyat-ijroiya kodeksi.” Judging from the title alone, it may appear that this Code

deals with the execution of a crime or, more specifically, with rules governing how a criminal group carries out a crime. In fact, the principal purpose of this law is to ensure the enforcement of criminal punishments imposed by a court and the lawful execution of such punishments. A person unfamiliar with the field cannot, naturally, infer this meaning from the title of the law. This may hinder the development of citizens' legal awareness and legal culture in social life. The title of this law was translated literally from the Russian “Уголовно-исполнительный кодекс.” Accordingly, it would be appropriate to rename it “Jazoni ijro etish kodeksi” (Code on the Enforcement of Punishment).

Another problematic aspect of the naming of our laws is the title of the “Fuqarolik kodeksi” (Civil Code). It is well known that the Civil Code regulates relations arising from interaction among people living in society. However, because the Uzbek word “fuqarolik” can also denote “citizenship,” the title “Fuqarolik kodeksi” may be understood as referring to who may become a citizen of the Republic and to the conditions and procedures of citizenship. As noted above, these legal norms are contained in the Law “On Citizenship of the Republic of Uzbekistan,” adopted in 1992. In general, in many countries of the world the Civil Code is called the “Sivil kodeksi” (Civil Code), while in some countries it is referred to as the “Madaniyat kodeksi” (Culture Code). In Russia, this law is titled “Гражданский кодекс.” In Uzbek, it was translated literally from Russian and came to be called the “Fuqarolik kodeksi.”

If we examine the history of the title of this law, we can see that in the 1930s it was known as the “Fuqarolik muomala kodeksi” (Code of Civil Transactions). This title was somewhat more justified than the expression “Fuqarolik kodeksi.”

In general, legal scholars should develop formal requirements for the naming of laws, and these principles should be observed strictly when titles are assigned to legislation.

In our view, the following principles should guide the naming of laws:

First, the title of a law should fully and accurately reflect the content and substance of that law.

Second, the title of a law should be highly precise and clear.

Third, the title of a law should be concise and simple.

Fourth, the title of a law should be close to the language used by the people.

Fifth, every word in the title of a law should convey one and only one meaning; polysemous words and homonyms should not be used.

Sixth, the title of a law should fully comply with all grammatical norms and rules of the Uzbek literary language.

Seventh, it is appropriate to name a law from the perspective of the interests of all ordinary people living in society. Everyone—from workers and farmers to members of

the intelligentsia—should be able, upon hearing the title of a law, to understand immediately what the law is about and what social relations it regulates. Only then can citizens' legal awareness and legal culture be enhanced and the rule of law be ensured. It is therefore evident that the naming of laws plays an important role in raising citizens' legal awareness and legal culture, as well as in ensuring legality and legal order in society. Accordingly, drawing on the experience of foreign countries, it would be appropriate to introduce a separate legal provision concerning the naming of normative legal acts into the legislation of the Republic of Uzbekistan "On Normative Legal Acts." We believe that such a legal provision should incorporate the above-mentioned requirements for the naming of laws.

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