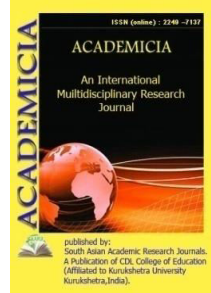




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## FORMATION OF THE CATEGORY OF INTERPRETATION OF LAW, ESSENCE AND CONTENT

**Gulchexra Tastanbekova\***

\* Associate Professor,  
 Department of State and Legal Sciences,  
 Academy of the Ministry of Internal Affairs of the Republic of UZBEKISTAN

### ABSTRACT

*The article analyzes the formation, essence and content of the category of interpretation of law, the concept of interpretation of law, the correct application of the rule of law, the interpretation of law: defining and understanding the meaning of law, explaining the content of the rule of law, the theory of interpretation. In his view, the general content of the rule of law takes on an appropriate form in relation to a particular life situation, on the basis of the interaction of certain persons on specific circumstances and grounds, in a specific place and time. The importance of the concept of "interpretation" for the legal sciences is reflected in the disclosure of the essence of the elements of legal norms. Interpretation is the result of thinking activity. In the social sciences, the term "commentary" is used as a synonym for words such as "interpretation," "interpretation," and "explanation."2 This means that while interpretation applies to all disciplines that use written sources, it has a special place in the legal disciplines.*

**KEYWORDS:** Law Enforcement, Interpretation of Law, Legal System, Interpretation of Laws, Legislation, Object of Interpretation, Subject, Normative Legal Acts.

### INTRODUCTION

Each legal norm regulates a certain type of social relations. Although there are many specific social relations regulated by legal norms, they also have specific aspects. Legal norms are general and abstract in nature, and they apply to a wide range of subjects and different situations. In the application of legal norms, it is necessary to find answers to many questions in understanding and explaining their essence. The answer to them will be possible only by interpreting the norms of law. In the process of interpretation, the general and abstract features of the legal norms, as well as the legal conflict in a particular situation are clarified.

The issue of interpretation of law is one of the most pressing issues in modern jurisprudence. Interpretation of law has its own meaning as a special legal category. It has a special place in the system of legal categories that represent the process of law enforcement. The content of the rule of law is reinforced in the relevant positive source of law. In the exercise of a right, its general meaning is determined by its appropriate application to certain living conditions. This process takes place through the interpretation of law.

Before applying the rule of law to legal relations, it is necessary to correctly understand its meaning and content. Appropriate legal qualifications are required to determine the scope of the applicable legal norm. In order for legal norms to be properly applied in practice, it will be necessary to interpret them.

"Commentary" is the Latin word for "interpretation." It means the interpretation of various material and intangible objects created by mankind. An example of this is the interpretation of works of art that are objects of material culture or the interpretation of the text of written sources. The term commentary on the text of written sources is used as a commentary on the law.<sup>1</sup>

Interpretation can be interpreted in broad and narrow senses. "Interpretation" in the broadest sense refers to any cognitive process aimed at explaining natural or social phenomena, while in the narrower sense it refers to the identification of words, phrases, expressions and symbols, i.e. natural or artificial language signs. In the social sciences, the term "commentary" is used as a synonym for words such as "interpretation," "interpretation," and "explanation."<sup>2</sup> This means that while interpretation applies to all disciplines that use written sources, it has a special place in the legal disciplines. It is important to legally interpret and understand the words and phrases in the text of the law and other legal documents.

In modern jurisprudence, the interpretation of law is interpreted as hermeneutics.<sup>3</sup> Hermeneutics is a Greek word that has many closely related meanings: ancient religious and historical texts, literary

The art of interpreting monuments, teachings on the principles of interpreting texts. The general basis of these meanings is "to make clear", "to convey to the human mind".<sup>4</sup>

Hermeneutics has a long history as the art of interpreting texts. Philosophers, writers, artists, and lawyers have studied the problems of hermeneutics. Hermeneutics originated in antiquity and developed in the middle Ages. It was studied in the XIX-XX centuries by F. Schleiermacher, W. Dilthey, M. Heidegger, H. G. Gadamer, E. Heidegger, P. Ricoeur.

The novelty in the development of legal hermeneutics is that if previously it was necessary to establish what the legislator meant in the text, now it is more difficult to solve it. Therefore, the law is common to all, it does not provide for each individual case.<sup>5</sup>

The commentator and the text being interpreted are two separate things, and their essence is the same: "Any understanding is, after all, self-explanation."<sup>6</sup>

Many legal scholars are conducting research on the problems of interpretation of legal norms in legal science. There is no consensus in the legal literature on the interpretation of the interpretation of law.<sup>7</sup>

According to Russian lawyers, the interpretation of law means a certain process of thinking aimed at learning the meaning (content) of legal norms.<sup>8</sup>

We think this idea is a bit controversial. As mentioned above, the interpretation of law is not only a process aimed at learning the meaning of legal norms, but also a process of understanding and explaining the content of legal norms. In fact, interpretation is a complex creative process of defining and explaining the content of law, manifested in the unity of both aspects.

According to M. Topor, a professor at the University of Paris, "interpretation" means understanding, and the need for interpretation arises when the meaning is not understood, including when the meaning is denied, the need for interpretation arises.<sup>9</sup>

When he defines the concept of "interpretation," he emphasizes the need to consider two possibilities: interpretation is either to focus on the importance of something or to determine its significance. In this case, firstly, we are talking about the function of understanding the meaning and content of interpretation, and secondly, we are talking about the function that arises from this activity.<sup>10</sup>

Academician Nersesyants V.S. and prof. Xabibulina N.I. interprets the law based on the general nature of the legal rule and the specificity of the situation in which it is applied. In his view, the general content of the rule of law takes on an appropriate form in relation to a particular life situation, on the basis of the interaction of certain persons on specific circumstances and grounds, in a specific place and time. Similarly, the rule of law needs to be interpreted by the law enforcer. The general content of the rule of law is regulated in the process of its implementation to understand and explain the legal meaning of the breaker is to interpret the law.<sup>11</sup>

In this case, understanding is a legal-cognitive process of determining, observing and substantiating the original content of the interpreted norm. Any interpretation involves the process by which the norm is interpreted by the commentator (primarily for himself).

Explanation, on the other hand, refers to forms of external specific expression for the general use of the relevant comprehension results of the norm being interpreted.<sup>12</sup>

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Interpretation arises from the need to apply the most general and abstract legal norms to the particular relations that arise in society. Prof. According to SS Alekseev, the legislature, in formulating the normative instructions, takes into account the changes that are likely to occur in future social life. Thus, there is a need to interpret these norms in their application to the norms of law, especially in a particular case characterized by a high normative generalization. As a result of the interpretation of the law, its content, social function, practical significance are determined, understood and explained.<sup>14</sup>

When law enforcement agencies choose the rule of law, it is necessary to determine the essence of the rule of law. In this case, the interpretation of normative legal acts of various law

enforcement agencies is useful. Understanding and explaining the essence of existing legal norms is, in short, the concept of "interpretation of law."<sup>15</sup>

Professors U.Tajikhanov and A.Saidov "through interpretation the meaning of law is determined, the meaning of law is explained and finally through interpretation the meaning of law is both defined and explained"<sup>16</sup>. - they said. Professor ZM Islamov, in addition to the above views on the interpretation of law, states that the interpretation of law involves only the definition of the meaning of legal norms, denying the special activity of explaining legal norms, and vice versa, if the essence of interpretation is limited to explaining the essence of legal norms concluded that the process of previous thinking is negated.<sup>17</sup>

Interpretation of law is a mental activity consisting of defining and explaining the content of legal norms in order to apply them correctly. Interpretation of law can be thought of as a mental-voluntary activity to determine and explain their meaning in order to make the most correct use of the norms of law.<sup>18</sup>

Interpretation of law is a special activity of state bodies, officials, public organizations and individual citizens aimed at determining the content of legal norms, explaining the content of the will of the state power expressed in them.<sup>19</sup>

We, summarizing the above points, believe that the interpretation of law is a manifestation of two interrelated aspects. It is in the unity of these two aspects that the process of interpreting the law is understood. Interpretation of law is one of the types of understanding and is a complex process of thinking, in which the understanding of the objective world serves to reveal its true picture.

Two aspects of the interpretation of law are: 1) the process of determining and explaining the meaning of law, that is, the process by which a person understands and learns the rule of law. In this case, the person has a first idea of the law, learns about it;

2) Explain the content of the rule of law. This is a special activity of the competent state bodies, officials and citizens aimed at expressing and explaining to other participants of legal relations the state will, embodied in the normative legal acts.<sup>20</sup>. These two aspects are in line with the views of most legal scholars.<sup>21</sup>

The question of the extent to which laws should be interpreted has been the subject of controversy among legal scholars. All scholars support the idea that "all laws must be interpreted". But their views on interpretation are not always consistent.<sup>22</sup>

In the recent past, it has been forbidden to interpret new rules, believing that only laws whose content is abstract should be interpreted.

According to Academician V.S.Nersesyants, it is not necessary to restrict interpretation unless a new rule is established by the commenting subject using commentary, unless it is changed or repealed. The content of the law must be understood before it can be formalized as a law, the content of the law, as well as the specific legal norm, must be determined before it can be applied.<sup>23</sup>

We are acad. In agreement with V.S. Nersesyantsi, we believe that any norm can be interpreted unless a new norm emerges as a result of the interpretation, unless it is changed or supplemented.

The accumulated knowledge of the interpretation of law became the basis for the creation of the theory of interpretation of doctrines. The theory of interpretation of law is an intellectual process that takes place through interpretation, the subject of the commentator reveals the essence of the norms of law on the basis of certain methods and rules of interpretation.

The theory of interpretation has gone through a number of stages during its development. According to E. Vrublevsky, the theory of static interpretation puts before law enforcement agencies the task of ensuring the stability of law. Proponents of the "dynamic interpretation" theory aim to ensure the viability of existing legal norms.

The interpretation of law has been studied independently in the scientific literature, revealing its importance in social life. The object of interpretation is the laws and regulations. The subject of interpretation is the order (will) of the legislator, which is reflected in the law and the normative legal acts.

The need to interpret the rule of law also stems from its external features. A legal norm is an order of the legislature aimed at regulating the behavior of legal entities, which is expressed in words. It is necessary to have special knowledge to correctly understand the words in the normative-legal documents.

Because different professions, different social strata of society have different life experiences and may have different understandings of the rules expressed in normative-legal documents. From this point of view, "the adoption of a new version of the law" On regulatory legal acts ", adopted ten years ago, today requires life itself."<sup>24</sup>

The need to interpret legal norms also stems from the structural nature of legal norms. The norms of law regulate social relations in an interconnected way. The norms of law are logically interconnected, which constitutes the content of the norms of law. This relationship requires the comparison of the interpreted legal norms with other legal norms. The denial of this leads to a misunderstanding of the content of the legal norm being interpreted. The interdependence of legal norms varies.

Interpretation of legal norms is a type of thinking, through which the content of legal norms is revealed. Hence, interpretation is an indirect type of thinking related to language learning. Through interpretation, indirect knowledge is generated and the essence of legal norms is revealed. The interpreter uses the following knowledge in the interpretation of legal norms to understand the true content of legal norms: a) the language in which legal norms are expressed; b) the relationship of the interpreted norms with other norms, the legal system; c) creation of legal norms; d) conditions of application of legal norms. The nature of interpretation as a process of understanding is related to the nature of the object of understanding (the rule of law). Legal norms do not belong to any material objects.<sup>25</sup>

The subjective nature of interpretation determines its creative nature. Interpretation is creative in nature, as it generates new knowledge and reflects the content of legal norms. Had it not been for the formation of new knowledge through interpretation, interpretation would not have had practical and theoretical significance.

Interpretation is based on specific documents that need to be legally resolved. Identifying social activities that require legal regulation is an extremely difficult practical task, and by doing so, it is possible to ensure the effectiveness of law enforcement.<sup>26</sup>

The commentator will need to find answers to a variety of legal issues in order to legally address certain situations that need to be regulated. The answer to these questions is based on the content of the interpreted legal norms.

The importance of the concept of "interpretation" for the legal sciences is reflected in the disclosure of the essence of the elements of legal norms. Interpretation is the result of thinking activity. The interpretation reveals the meanings in the legal text and its individual words and phrases. The meaning of the legal norms in the grammatical text is expressed as a result of interpretation.

In general, interpretation is the comparison or comparison of opinions and considerations in a legal text. Another aspect of the concept of "interpretation" is defined by the phrase explaining the meaning of law. This phrase requires the existence of communicative, informational connections between the two subjects. However, in such an interpretation of the interpretation, the subject explaining the right will have to disclose the difference in expression expressed in formal, informal documents. The normative documents being interpreted do not fully reflect the opinion of its representative.

In our opinion, it is true that interpretation defines and explains the content of law. The view that interpretation only defines or explains the meaning of law is one-sided and does not reflect the multifaceted activity that reveals the content of legal norms.

Interpretation follows the emergence and development of all legal systems as a means of knowing and explaining the content of law. Like the essence of law, it also has a certain socio-political orientation. In a democratic society, the interpretation of law has served to ensure the correct and clear interpretation of legal norms.<sup>27</sup>

The purpose of the interpretation is to express the expression of the legislature embodied in the rule of law, the notions and concepts that are considered to be related to this norm. The main task of the interpretation is to disclose the content of the provision set out in the legislation by the legislature.<sup>28</sup>

Thus, the interpretation of law is an activity aimed at identifying and explaining the content, purpose, social function, practical significance of law.

Summarizing the above, we can give the following definition: the interpretation of legal norms is a multifaceted and complex creative-analytical process aimed at understanding and explaining the content of the normative regulatory will of the subjects of law-making expressed in the legal norm.

#### REFERENCES:

1. Karang: Problems of the theory of state and law / Ed. S. S. Alekseeva. - M., Yurid. lit., 1987. -S. 394-395.
2. See Theory of State and Law. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2009. - P.44. Hermes, according to ancient Greek mythology, is the name of a

- god who is entrusted with the task of explaining the divine instructions to man and being a mediator between God and man.
3. Karang: Ionin L.G. Understanding Sociology. - M., 1979; Kuznetsov V.G. Hermeneutics and humanitarian knowledge. - M., 1991; Suslov V.A. Hermeneutic aspect of legislative interpretation // Jurisprudence. - 1997. - No. 1; wa boshk.
  4. Karang: A.I. Ovchinnikov Legal hermeneutics as legal thinking // Theory of law and state. – S.160; Suslov V.A. Hermeneutics of Law // Jurisprudence. - 2001. - No. 5. - P.5
  5. 5. Karang: Gadamer H.G. Truth and Method: Fundamentals of Philosophical Hermenetics. - M., 1988 .-- p. 594.
  6. Specified source. - P.312.
  7. Karang: Problems of the General Theory of Law and State / Ed. V.S. Nersesyants. - M., 2008 .-- S. 444-445.
  8. Karang: Khabibulina N.I. Political and legal problems of semiotic analysis of the language of law (Theoretical and methodological research) Author's abstract. dis. Doctor of Law - St. Petersburg, 2001. –S. 12; General theory of state and law. Academic course in 2 volumes / Ed. Prof. M.K. Marchenko. T.2. The theory of law. - M.: Zertsalo, 1998 .-- S. 323.
  9. Karang: Michelle T. The problem of interpretation and the theory of the supremacy of the Constitution // Comparative constitutional review. - M., 2005. - No. 4. - P.171.
  10. Karang: Michelle T. Realistic interpretation // Comparative constitutional review. - M., 2006. - No. 1. - P.136.
  11. Nersesyants VS General theory of law and state. Textbook for law schools and faculties. - M .: Publishing group NORMA-INFRA-M, 1999. –S.493; Khabibulina N.I. Political and legal problems of semiotic analysis of the language of law (Theoretical and methodological research): Author's abstract. dis .... Doctor of Law. - St. Petersburg, 2001. –S. 12.
  12. Asha Asar. - C. 493.
  13. Theory of state and law. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2009. - B. 425.
  14. GS Tastanbekova. Interpretation of law. Study guide. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2016. - B. 6-8.
  15. Karang: Theory of Law and State / Ed. prof. V.V. Lazareva. - M .: Law and Law, 1996 .-- P. 202.
  16. See: Saidov A., Tozhikhonov U. Theory of law. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2001. - B. 220.
  17. See: Islamov ZM Society. State. Right. □ T .: Adolat, 2001. - P.595.
  18. See: Islamov ZM Theory of state and law. □ T., 2007. - B. 682.
  19. See Theory of State and Law. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2009. - B. 425.

20. See Theory of State and Law. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2009. - B. 424-425.
21. Karang: Sirozhov G. Interpretation by the Constitutional Court of the Republic of Uzbekistan of the Constitution and Laws: Concept, Purpose, Necessity // TDYuI Akhborotnomasi. - 2007. - No. 6. - P.14-17.
22. GS Tastanbekova. Interpretation of law. Study guide. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2016. - B. 9-10 ..
23. Problems of the general theory of law and state. - M .: NORMA-INFRA, 2008 .-- P.444.
24. Karimov IA The concept of further deepening democratic reforms and development of civil society in our country. - T .: Uzbekistan, 2010. - P.24.
25. General theory of state and law. Academic course in 2 volumes / Ed. Prof. M.K. Marchenko. T.2. The theory of law. - M .: Zertsalo, 1998 .-- S. 324.
26. Karang: Theory of Law and State / Ed. prof. V.V. Lazareva. - M .: Law and Law, 1996 .-- S. 113.
27. Saidov A., Tozhikhonov U. State and legal theory. 2 years. Theory of law. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2001. - B. 221.
28. See Theory of State and Law. - T .: Academy of Internal Affairs of the Republic of Uzbekistan, 2009. - P.426.