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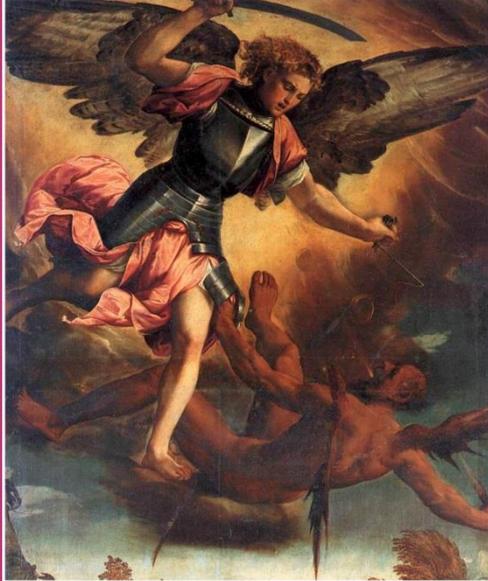
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# Absurdity as One of the Facets of Law in Russia

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## Abstract

This article presents a scientific discussion about such a facet of law as absurdity and outright stupidity of certain legal norms via a complex of philosophical, semiotic, general scientific, theoretical and legal approaches, research principles and special techniques. In result, Law and ideas about law may appear very different matters for a particular person. So, the conclusions and decisions these people make can hardly be called anything else but absurdity and legal nonsense. In conclusion, meaningless, useless and frankly stupid norms exist in many (if not in each) branches of law. Rationality is the antonym of stupidity.

**Keywords:** Jurisprudence, Absurdity, Concept, Law, Characteristic.

## *El absurdo como una de las facetas de la ley en Rusia*

### **Resumen**

Este artículo presenta una discusión científica sobre una faceta de la ley como el absurdo y la estupidez de ciertas normas legales a través de un complejo de enfoques filosóficos, semióticos, científicos generales, teóricos y legales, principios de investigación y técnicas especiales. En consecuencia, la ley y las ideas sobre la ley pueden parecer asuntos muy diferentes para una persona en particular. Por lo tanto, las conclusiones y decisiones que toman estas personas apenas pueden llamarse absurdidad y legalidades sin sentido. En conclusión, existen normas sin sentido, inútiles y francamente estúpidas en muchas (si no en cada una) ramas del derecho. La racionalidad es el antónimo de estupidez.

**Palabras clave:** jurisprudencia, absurdo, concepto, derecho, característico.

### **1. INTRODUCTION**

To consider absurdity as one of the facets of law, one should first define this concept. In the Dictionary of the Russian Language by Ozhegov (1999), the term absurdity is defined as something that does not express any thought or is devoid of meaning. Efremova (2000) defines absurd as something that does not have meaning or content, something unreasonable, ineffective, unnecessary, not expressing an idea, and groundless. Therefore, talking about laws, absurd refers to a law that is not necessary or ridiculous. One should consider whether it is possible to protect the law from absurdity and madness. The history

of any state convincingly shows that it is impossible to do this. Thus, stupidity and absurdity have always been part of the law.

## **2. LITERATURE REVIEW**

A similar problem, as the literature review of this issue shows, has been researched not only by Russian scientists, but there is also an active discussion among international scholars, for instance, in the countries of the Romano-Germanic and Anglo-Saxon legal systems, and this problem remains relevant. For instance, talking about Russian scientists, this problem was considered by Zakhartsev and Salnikov (2013), who explored the legal consciousness of a lawyer and legal nihilism and revealed the origins of the professional deformation of lawyers nowadays. Developing the discussion about the philosophy of law, Kerimov (2015) analyzed absurdity as a facet typical of law. This problem was partly investigated by such scholars as Syrykh (2000), who substantiated the logical basis of the general theory of law, and Chashchin, who considered in detail the modern legal teachings of Russia. As for international researchers, one should mention (Harris, 1980; Hart, 1958).

## **3. METHODOLOGY**

The research methodology is based on a complex of philosophical, semiotic, general scientific, theoretical and legal approaches, research principles and special techniques. The author

used an integrated approach combining methods of philosophy and jurisprudence to study the specifics of absurdity and stupidity as one of the facets of law. The philosophical principle of objectivity was used to establish the reliability and completeness of information.

In addition, the author applied the corresponding formal-logical methods of analysis and synthesis, deduction, induction, analogy, comparison and theoretical generalization of the relevant historical and theoretical material. Law is objectively connected with legal consciousness. Otherwise, it would have been abstract. Law determines the choice of a method – hermeneutics, which declares its ability to comprehend real life and what it should be like. The origins of the hermeneutic method can be traced back to the German Romanticism of the Enlightenment, when F. Schleiermacher and later Dilthey developed a special method of understanding what is what through revealing the meaning. A simple understanding is fraught with danger that one may get affected by one of the idols (ghosts) of consciousness. Hermeneutics as a method of philosophy of law specifies under which conditions a person should comprehend the real and desired life.

#### **4. RESULTS**

Unfortunately, the author cannot name serious scientific papers that would evaluate law as an element of human madness or stupidity. Nevertheless, absurdity and stupidity are also a facet of law, a real, actually existing facet. So, when studying law, scientists should not

turn a blind eye to it. Moreover, the phenomenon of law itself does not look objective without this facet. There are claims that the given norms are not law, but certain legislative acts. However, it is not so. First, this legislation contains legal norms. Second, these acts bring about case law. Thirdly, they cannot be considered extrajudicial. Third, they are adopted in accordance with relevant regulations and meet the criteria of the law. Four, in English the word law means both an official rule that people must obey and a set of rules (Hayek, 1979).

This demonstrates that since its inception humanity has never been able to create a system of law without such obvious flaws and omissions. Or, rather, the law is such a multidimensional phenomenon that it cannot exist without stupidity and nonsense. Meaninglessness and absurdity have always been features of the law. Talking about the most characteristic examples from ancient times, one can cite the decree of Emperor Caligula for electing his horse a senator. Such decisions may occur nowadays too. Eventually, the bill was not approved. That is, it never became a legal norm, but objectively it was not too far from its adoption. Law and ideas about the law may appear very different matters for a particular person. So, the conclusions and decisions these people make can hardly be called anything else but absurdity and legal nonsense.

## **5. DISCUSSION**

Strange it may sound, but one can see such examples of absurdity or legal nonsense in legal reality. To confirm the above, let

us cite several current laws that can be found in different countries. In the UK, members of parliament are prohibited from entering the House of Commons in armor. In the same place, a man is allowed to relieve himself in a public place, if it occurs at the rear wheel of his car, while his right hand is on the car. In the same country, in York, it is allowed to shoot a Scotsman with a bow on any day of the week, except Sunday. There are even more interesting laws in the United States. For instance, in Maricopa County, no more than six girls can live in one house. In Blythe, in accordance with the order of the city authorities, a person must own at least two cows before he is allowed to wear cowboy boots. In Lewis, the marriage on a bet is the legal basis for a divorce. In Florida, it is illegal to have sex with a porcupine.

In the same place, housewives are forbidden to break more than three plates a day, or to beat off the edges of more than four mugs or saucers. In Marietta, there is a law that forbids spitting out of a car or bus. However, you are welcome to do this from a truck. In Urbana, law prohibits monsters to enter the city limits. In Indiana, it is against the law to open cans with firearms. In Mac Lefe, it is forbidden to rinse the false jaw in a public drinking fountain. In Wichita, the father does not have the right to threaten his daughter with firearms. In Minnesota, the law prohibits hanging men's and women's underwear on the same rope. In Cresskill, all cats are required to wear three bells to warn birds of their appearance. In New York, it is forbidden to arrest corpses for debt. In Cleveland, women are forbidden to wear patent leather shoes, as men can see the reflection of their underwear in them. In Pennsylvania, a special decree on cleanliness prohibits housewives

from hiding dirt and dust under the carpet in their home (Zakhartsev & Salnikov, 2018; Tejada & Dominguez, 2019).

A similar explanation was given by the Supreme Arbitration Court of the Russian Federation regarding decisions of general meetings of shareholders, paragraph 26 of the Resolution of the Plenum of the Supreme Arbitration Court of the Russian Federation No. 19 of November 18, 2003. It may be concluded that this approach is not determined by the specifics of business, and therefore, it can be extended to decisions of the general meeting of premises owners, as well as other management decisions, such as orders and instructions of the employer.

At the same time, the fact that such an approach is not enshrined in law or explanations of higher courts leads to the situation when the right to appeal to court with a clearly unlawful management decision, to entertain the court with a demonstration of legal curiosity, actually becomes a duty, considering the threat of being affected by consequences of such a decision. Then, at what point does law become absurd and insane? A number of studies have explored this issue of absurdity and madness of law. The analysis made it possible to single out several conditional types of the absurdity of law regarding the reasons for absurdity and inanity (Zakhartsev, 2012; de Almeida Cruz & de Azevedo Silva, 2017).

1. Absurdity and inanity supplied by the Anglo-Saxon legal system. This system creates amazing law precedents. Some of them were mentioned above.

2. Unreasonable religious restrictions, for example, in Saudi Arabia, male doctors are prohibited from examining women.

3. The tyranny of the rulers and other persons who may be in charge of creating legal norms. There are numerous examples of this in Russia, and each of them, probably, can compete with Caligula's decisions. It is a well-known fact that once Empress Elizabeth of Russia issued a decree obliging all court ladies to shave their hair off and wear wigs of the established design until it grew back.

4. Madness and absurdity caused by political reasons. For example, in 1991, due to the fundamental change in Russian politics, many streets were renamed and old (pre-Soviet) names became popular. During this time in St. Petersburg, by the decision of the city authorities, Gogol and Herzen streets (the latter is believed to be the first Democrat in Russia) were renamed as Bolshaya and Malaya Morskaya Streets in a hurry, although their former names appealed to the residents.

5. Stupidity and meaninglessness of legal norms issued by an official who does not have sufficient competence for his position. Unfortunately, in Russia, there are many examples of this. Every adult Russian can remember certain facts of how incompetent people were appointed to head large ministries, industries and even the country and, willing to improve it, made frankly stupid or pointless decisions.

6. Technical errors. There have been quite many such errors over the last twenty years. Laws were adopted which norms contradicting or sometimes mutually excluding each other. It was even funnier when the norms of the same law did not comply (Yang et al., 2019; Soo et al., 2019; Karimi Zarchi et al., 2016).

Talking about the agencies issuing absurd legal norms, one can propose the following classification: 1) proposed by the first person of the state; 2) coming from state officials authorized to issue norms; 3) coming from the parliament; 4) developed by the court. According to the possibility of practical implementation, absurd legal norms can be divided into 1) absurd, but realistic (for example, a ban on opening cans with firearms); 2) unrealistic (monsters are forbidden to enter the borders of the town of Urbana). Finally, according to the source of the creation of meaningless legal norms, they can be divided into 1) driven by the legal system (the Anglo-Saxon system of law, the religious system in the state); 2) coming from a specific person (the head of state, officials) and the parliament. As it turns out, life is full of not only surprises but also absurdities.

What else, if not absurdity, can one call what happened, for example, in the city of Kemerovo? The retired lady went to court and complained that her neighbors in the communal apartment were too concerned about their hygiene and spent too much time in the bathroom. The justice of the peace listened to the arguments of the offended lady and issued his lawful and grounded verdict stating that the maximum time for washing should not exceed twenty minutes. Control over the execution of the judgment was entrusted to the bailiffs, who were completely at a loss. They had no choice but to turn to the magistrate for clarification since they did not understand how they should monitor the execution of the court decision if they would have to stay overnight in the communal apartment. As a result, the decision came into force, while the retired lady still suffers from her neighbors' excessive love for cleanliness.

Another example is a court decision on the complaint of a relative of the deceased, who wanted a refund for the incomplete service, and it is very difficult to say what is the most absurd in this situation, but there was an appeal to the court. The person paid the amount specified in the price list for an individual funeral service for the deceased relative (as it was stated in the will of the deceased), but in his opinion, the service was of poor quality. The priest performed the funeral service not only for the deceased but also for those who had died the day before. The offended relative, to whom the service was rendered appealed to court and asked to consider the service provided not in full and get a refund (Indriastuti, 2019).

The priest said that according to the law, only the immediate client could file a complaint. For obvious reasons, it was impossible, and therefore, the claim of the relative of the deceased was not satisfied. However, court decisions can be absurd and inane not in Russia alone. For example, according to a verdict of the court in Los Angeles, dog owners whose pets bark for more than ten minutes will be fine, and the fine is fairly big. Each subsequent minute of barking (after the free barking limit) may cost a thousand dollars to the family budget. One can name numerous absurdity cases like this, because they occur in life almost daily, and not only in the judicial system. What is more, such stupidity can be found in lawmaking, both when laws are applied or not applied. It is the same for everyday life: at work or on the roads. Albert Einstein once said: Two things are infinite: the universe and human stupidity.

When such decisions are made, it is completely illegal, as it is not stated in any code. Then, what are we impounding? In theory, no one can forbid a company to increase its share capital, but this immediately devalues the shares, says Kutris. The immediate performers – bailiffs –are also dissatisfied with this legal norm. We have two problems: how to find property and what to do with it. This is so because when we receive a writ of execution, nothing can be found. Maybe it is just the share of unpaid capital or an old heavy Nokia. We carefully hand it over to the State Revenue Service, where it is placed on the shelf because the law does not clearly state what to do with property that cannot be turned into money.

It is even impossible to evaluate the effectiveness of our actions because the State Revenue Service does not have information about what funds it receives from confiscation, said Andris Spore, a member of the Council of Jury Bailiffs. The Latvian Ministry of Justice is working on amendments to criminal law that will restrict the confiscation of property in criminal cases. This will allow many citizens to save legally acquired assets from Themis. The representative of the Ministry of Justice of Latvia, Sigmund Dundurs spoke about the plans to make amendments to the law: Confiscation as a type of punishment will not be excluded from the code. But according to the decision of the Constitutional Court, we will compile a list of property that can be impounded, making the norm more effective and bringing it in line with the citizens' right to property let us hope that this positive innovation will be implemented soon.

## **6. CONCLUSION**

Recent monographs proposed a humorous idea of uniting all meaningless and insane norms into a single interdisciplinary legal institute of absurd law. Of course, regarding the theory of law, not all meaningless norms can claim the status of intersectoral ones. More often, such norms refer to only one branch of law. However, earlier studies conducted by the author and the idea of collecting stupid legal norms appealed to many experts. The monographs received positive reviews from prominent Russian scientists. Moreover, they began sending to the author examples of meaningless legal norms that used to exist in Russia and are in force now. Their analysis made it possible to confirm the conclusion that, paradoxically, absurdity is one of the facets of law. At the same time, meaningless, useless and frankly stupid norms exist in many (if not in each) branches of law. Rationality is the antonym of stupidity.

Naturally, all people want the law to be rational. Rationality is also an important facet of law, which is, of course, more frequent than insanity. Law mostly exists for reasonable and fair regulation of social relations. This truth does not require proving. But speaking of the rationality of law, one should not forget about its other facet called absurdity, because the law does not exist without it either. The author of the article firmly believes that only impartiality and objectivity of research can be the basis for obtaining complete and true knowledge.

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