

THE TRANSFORMATION OF THE SWASTIKA
FROM A RELIGIOUS SIGN TO A NAZI SYMBOL AS
EXPRESSION OF EXTREMISM:
LINGUISTIC– LEGAL ANALYSIS

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ТРАНСФОРМАЦИЯ НА СВАСТИКАТА ОТ
РЕЛИГИОЗЕН ЗНАК ДО НАЦИСТКИ СИМВОЛ –
ИЗРАЗ НА ЕКСТРЕМИЗЪМ:
ПРАВНО-ЛИНГВИСТИЧЕСКИ АНАЛИЗ

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Статията разглежда трансформацията на свастиката от първоначалната ѝ роля на религиозен знак до нацистки символ и израз на екстремистки политически разбирания, използвайки лингвистичен и правен анализ. Като нацистки символ свастиката често се анализира с Втората световна война и личността на Адолф Хитлер. Същевременно етимологията на термина се проследява до санскритския език, обозначавайки всеки предмет, носещ щастие, и най-вече специален знак, поставян върху хора или предмети, за да се отбележи тяхната святост. Авторите анализират правни примери, относими към използването на същия знак като екстремистки символ.

Ключови думи: свастика, религиозен знак, нацистки символ, екстремизъм, юридическа практика.

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The article deals with the transformation of the swastika from a religious sign to Nazi symbol as an expression of extremism, and presents a linguistic and legal analysis. As the symbol of Nazism swastika is often associated with the World War II and Adolf Hitler. The etymology of the word «swastika» points that the word swastika came from the Sanskrit word swastika, meaning any lucky or auspicious object, and in particular a mark made on persons and things to denote auspiciousness, or any piece of luck or well-being. The authors also present examples from legal space, which clearly show matters of consideration of cases of extremism.

Keywords: swastika, religious sign, Nazi symbol, extremism, legal space.

1. Introduction

The swastika is one of the most mysterious signs in the history of human civilization. The fate of individuals, tribes, and entire nations has depended on the interpretation of its meanings for centuries. The debate among representatives of various branches of scientific knowledge about the history of the origin of the swastika and its role in history is still ongoing. In the mass consciousness of people, the sign and the word “swastika” are fixed mainly as the “fascist cross”, and are associated exclusively with the name of Adolf Hitler, Nazi Germany of 1933-1945 and the Second world war. The rejection of the “swastika” in the national language consciousness of Russian society has socio-historical prerequisites – during the Great Patriotic war, our long-suffering homeland suffered huge human losses. Therefore, the ban on the image of the “swastika” was an integral component of the military-patriotic education of the younger generation in the USSR.

2. Origins of swastika as religious sign

Ad initium, this is one of the religious signs of the ancient Indian cult. In Sanskrit, “swastika” means good and well-being. The swastika was discovered in various cultures of the world: in India, Ancient Russia, China, Ancient Egypt, the Mayan state and Central America. This sign was present on weapons, everyday items, clothing, banners and coats of arms, and was also used by craftsmen in the design of churches and houses. In most peoples, the swastika shows positive meanings, being a symbol of the movement of life, the Sun, light and well-being. In ancient Indian philosophy, the swastika is a symbol of the eternal cycle of the Universe, in Tibetan Lamaism – a protective symbol, a symbol of happiness and a talisman. In India and Tibet, the swastika is found wherever there are traces

of Buddhist culture – on the walls and gates of temples and statues of the Buddha. In Russia, the swastika, since ancient times symbolizing the rising Sun-Yarila and the victory of Light over Darkness, was used in rituals and construction, in homespun production, which characterized the highly developed pre-Christian culture of the Slavs. In Russia, the swastika was used in rituals and construction, in homespun production: in embroidery on clothing, on carpets, it was decorated with household utensils. This symbol unites many cultures of the world, and is not exclusively associated with National Socialism in Germany.

3. Transformation of swastika to a Nazi symbol

So, in the XXth century, the swastika became famous as a symbol of Nazism and Hitler's Germany. The National socialist German workers' party (NSDAP), which emerged in the 1920s, chose the swastika as its party symbol. In 1923, at the Nazi Congress, Adolf Hitler explained the meaning of the party flag: a white circle on a red background – a symbol of national purity and strength, a black swastika – a call to merciless struggle against Communists and Jews. Since 1933, the swastika has become the main state emblem of Nazi Germany, included in its coat of arms and flag.

Of course, Nazism was not officially a religion. But, nevertheless, thanks to some creative figures, it was possible to bring this sign closer to the religious context to some extent. When studying the translation of this symbol in the texts, first of all, attention is drawn to the so – called "Song of the swastika" in 1923, the author of which is the famous German lyricist of late romanticism Otto Kernstock (1848-1828). The leitmotif in O. Kernstock's work was originally the national idea. He wanted the Germans to see the Messiah who would lead the Germans to victory and freedom out of the shame and misery of the First World War.

Hakenkreuzlied

1. *Das Hakenkreuz im weißen Feld
Auf feuerrotem Grunde
Gibt frei und offen aller Welt
Die frohgemute Kunde
Wer sich um dieses Zeichen schart
Ist deutsch mit Seele, Sinn und Art
Und nicht bloß mit dem Munde.*

2. *Das Hakenkreuz im weißen Feld*
Auf feuerrotem Grunde
Zum Volksmal ward es auserwählt
In ernster Schicksalsstunde
Als unter Schmerzen heiß und tief
Das Vaterland um Hilfe rief
Das teure, todeswunde

3. *Das Hakenkreuz im weißen Feld*
Auf feuerrotem Grunde
Hat uns mit stolzem Mut beseelt
Es schlägt in unsrer Runde
Kein Herz, das feig die Treue bricht
*Wir fürchten Tod und **Teufel** nicht*
*Mit uns ist **Gott** im Bunde*

Could a well-known poet and priest have guessed what consequences his creation would lead to, and most importantly – what role it would play in the truly Kafkaesque transformation of German consciousness from national to national-socialist in the 20-30s of the XXth century? It is important to analyze some fragments of the text of this poem, and try to understand how the word of O. Kernstock could contribute to the fact that the symbol we are studying managed to crawl into the consciousness of the German people like a black spider.

In lines 6 and 7 of stanza 3, the personal pronoun *wir* reflects the quantifier of universality as an ideologically oriented concept, which during the Nazi era in Germany was reflected in the following semantically and ideologically capacious formulation: Reich – Volk – Führer):

Wir fürchten Tod und Teufel nicht
Mit uns ist Gott im Bunde

These last lines contain the moral of the work as a whole, and probably could play a fatal joke in the fate of this creation of O. Kernstock, because the swastika was originally an ancient Indian sacred symbol, thus personifying God. In this fragment, O. Kernstock, using the antithesis „**devil – God**“, puts next to the latter all those who unite around the swastika symbol *Hakenkreuz*. If you compare all three stanzas in general, you can see the triad through the text: das Volk – das Vaterland – der Gott.

Here it should be emphasized that the national socialists did not use the swastika, but the similar-shaped symbol Hakenkreuz, which literally

means „hook-shaped cross“. Under the definition of Nazi symbols can fit only a black swastika, standing on a 45° edge, with the ends pointing to the right side. Such a sign was on the state banner of national socialist Germany from 1933 to 1945, as well as on the emblems of civil and military services. Thus, the swastika as an ancient Indian sacred symbol has nothing in common with the sign *das Hakenkreuz*.

4. Swastika as a expression of extremism

Today, the swastika in Russia is interpreted exclusively as an extremist sign. As many researchers note, there has been a recent increase in cases of illegal prosecution of individuals for committing extremist attacks. Extremism (from the French “extremism” and from the Latin word “extremus” – “extreme”) is a special form of political violence, characterized by cruelty, purposefulness and efficiency. In different countries and at different times, many different legal and scientific definitions of the concept of “extremism” have been given. There is no single definition of the concept of “extremism” in the world today. According to one point of view, “extremists” began to be called representatives of the political party Indian National Congress¹, who in the early twentieth century were actively fighting for the independence of India. On the other – this term was one of the first used in the early twentieth century by the French lawyer Leroy, describing it as “a requirement from its adherents of absolute faith in the professed political ideals”². More modern encyclopedias of the second half of the XXth century define the term extremism as “adherence to extreme views, measures”³ and, therefore, do not put an exclusively negative meaning.

This social phenomenon is characterized by such a method as violence, aimed at achieving a certain goal – the resolution of social contradictions that have developed in certain areas of public life, by committing crimes and other actions that contribute to the destruction of generally

¹См.: Жукова, О. С. Правовые меры противодействия информационному экстремизму: дис. канд. юрид. наук. Воронеж, 2006, с. 16.

²Дворянов, В.А. Политический экстремизм в Центральной Европе // Терроризм и политический экстремизм: вызовы и поиски адекватных ответов / отв. ред. А.А. Шаравин, С.М. Маркедонов. М., 2002, с. 47.

³Большая советская энциклопедия. В 30 т. Т. 30. 3-е изд. М., 1978. С. 39; Советский энциклопедический словарь. М., 1981. С. 1552; Словарь русского языка. В 4 т. Т. 4 / под ред. Л. П. Евгеньевой, Г. А. Разумниковой. М., 1984, с. 269.

recognized norms of morality, law and human values. These actions have a sufficiently high character and degree of public danger, which consists in the public dissemination of ideas and views that undermine confidence in persons of a certain gender, race, nationality, language, origin, attitude to religion, as well as belonging to a social group, cause extremely hostile attitude to them, significantly humiliate human dignity.

5. Matters of consideration of cases of extremism

The Criminal Code of the Russian Federation establishes norms that protect public relations, which are encroached upon by people who commit crimes of an extremist orientation⁴. The Art. 280 of the Criminal Code of the Russian Federation “Public calls to carry out extremist activities” and Art.282 of the Criminal Code of the Russian Federation “Inciting hatred or enmity, as well as humiliation of human dignity” and other norms are intended to regulate the fight against various expressions of extremism.

The Administrative Code of the Russian Federation also implements legal processes aimed at bringing to justice the committing of extremist attacks. Art. 20.3 of the Code of Administrative Offences of the Russian Federation “Propaganda or public display of Nazi attributes or symbols, or attributes or symbols of extremist organizations, or other attributes or symbols, the promotion or public display of which is prohibited by Federal laws”, Art. 20.3.1 of the Code of Administrative Offences of the Russian Federation “Incitement of hatred or enmity, as well as humiliation of human dignity”.

According to the Constitution of the Russian Federation, equality of human and civil rights and freedoms is guaranteed, and any form of restriction of citizens’ rights on grounds of social, racial, national, linguistic or religious affiliation is prohibited (Art. 19). In parallel, while guaranteeing freedom of thought and speech, the basic law of the Russian Federation prohibits any influence that incites hatred or enmity on the basis of the superiority of one group over another (Art. 29).

Propaganda of one’s “superiority over others” inculcates ideas of intolerance (harshness) towards certain other groups in society⁵. This intol-

⁴ <https://cyberleninka.ru/article/n/otgranichenie-ekstremistskih-proyavlenii-ot-pravomernogo-povedeniya-v-kontekste-st-st-20-3-20-3-1-koap-rf-i-st-st-280-282-uk-rf>

⁵ Иванцова, Н. В. Несовершенство закона или правоприменительной практики? // Рос. Судья, 2019. № 1, с. 54–58.

erance consists in the discrepancy between the characteristics that each person possesses (race, nationality, attitude to religion, etc.). It is expressed in actions that contradict the norms of morality, for example, public display of Nazi attributes or symbols, or attributes or symbols of extremist organizations, etc. But according to the judicial practice of the Russian Federation and other States (Germany, Bulgaria, etc.), it is not uncommon for a person who does not have the purpose of inciting hatred or enmity, as well as humiliating human dignity, to be brought to administrative or criminal responsibility for displaying extremist symbols. From a legal point of view, drawing the line between extremism and acceptable forms of socio-political and cultural life of people is quite a difficult task.

The situation is complicated by the presence of an extensive and open list of signs that manifest or incite hatred or hostility, as well as types of crimes of an extremist orientation. The threat of this situation is that sometimes law enforcement officers can proceed from purely personal ideas about the content of the disposition of the above-mentioned norms and be biased to specific situations⁶. According to researcher N.V. Ivantsov, these cases occur due to imperfect law enforcement practice.

6. The problem of classifying acts

In order to understand the imperfection of this practice, it is necessary to analyze the problems of qualification of the relevant acts, as well as to take into account some historical features of the Russian population.

In our time, many groups of people use for various purposes (as a talisman, etc.) symbols (runes, Slavic swastika, amulets, etc.) that historically identify Slavic folklore and ethnos. People who revive Russian culture, while using certain symbols (for example, posting on social media pages relevant information that does not detract from the rights of other nationalities and ethnicities, but is intended to serve the revival of Slavic culture) are involved in the above-mentioned articles, as well as persons whose purpose is to incite hatred or enmity, as well as to humiliate the dignity of a person or group of persons, as well as propaganda or public display of Nazi attributes or symbols, etc. The legislation must have clear criteria that define the actions of individuals as inciting conflict situations so and aimed at appeasement and spiritual development.

⁶ <https://cyberleninka.ru/article/n/otgranichenie-ekstremistskih-proyavlenii-ot-pravomernogo-povedeniya-v-kontekste-st-st-20-3-20-3-1-koap-rf-i-st-st-280-282-uk-rf>

The Resolution of the Plenum of the Supreme Court of 20.09.2018 N 32 states that the decision of a question on attraction of persons to criminal liability for dissemination of extremist must be based on the setting of the intent and purpose of excitation of hatred or enmity.

In particular, it is noted that the location of the person of the Internet or other telecommunication networks of information previously recognized by the court as extremist material, can be qualified under Art. 282 of the Criminal Code of the Russian Federation only in cases when established that the person who placed such material, aware of the thrust acts on the violation of the constitutional order, and the goal was to incite hatred or enmity or to humiliate the dignity of a person or group of persons on grounds of sex, race, nationality, language, origin, attitude to religion or membership of a particular social group.

When deciding whether or not a person has a direct intent and purpose, the court should proceed from the totality of all the circumstances of the act and take into account, in particular, the form and content of the posted information, its context, the presence and content of the comments of this person or other expressions of attitude to it. This interpretation creates a direction for law enforcement agencies, which in the future should contribute to the emergence in the public consciousness of the ability to distinguish extremism from actions that are not.

7. Real cases from legal space

Let's turn to judicial practice, which concerns cases of unjustified punishment (detention and bringing to criminal and administrative responsibility) for the use of "solar" symbols without the purpose of inciting hatred or enmity.

So, on November 4, 2016, in Togliatti, a musician, folklorist and ethnographer Svetozar from the group "Auramira" was arrested on charges of displaying Nazi symbols right at a concert .he used swastika symbols and ornaments in his costume⁷. The citizen used a solar sign indicating "well-being". This case has received a great response. Also, there was a case when a student Kruse A. was sentenced to two and a half years in a penal colony. The investigation found four photos on Kruse's page in the social

⁷Новости Тольятти. Скандал: в Тольятти за нацистскую символику арестован Светозар (Аурамира) [Электронный ресурс]. Режим доступа: <http://tltgorod.ru/news/?news=70412> (дата обращения: 21.04.2019).

network VKontakte to be extremist. According to Kruse, who studied at the law faculty of the Voronezh Institute of Economics and Law, he published the images to conduct a survey as part of a thesis on extremism.

When analyzing judicial practice, it can be concluded that almost any symbolism that is directly or indirectly related to materials recognized as extremist, but is not actually such, can be recognized by the court as extremist. In our opinion, the use of old Slavic symbols in materials that are included in the list of extremist materials cannot serve as a basis for recognizing this symbolism as extremist, since it contradicts logic.

In our opinion, the swastika as an ancient Indian sacred symbol or a symbol of Slavic culture has nothing in common with the sign “das Hakenkreuz”, which can be designated as a swastika symbol, i.e. similar to the swastika. This is due to the fact that the socio-cultural meaning embedded in these symbols is completely different.

Thus, people who represent the Russian (and not only) ethnic group, or people who display various swastika symbols for scientific or educational purposes, are essentially restricted in their rights. They cannot fully express their national identity, conduct scientific research or teach an educational lesson.

8. Conclusion

When deciding on the distinction between lawful behavior and extremist attacks, it is advisable to take into account the real danger of a person's actions to citizens, society and the state. In this regard, we believe that it is necessary to associate the corresponding actions with violence or public expression of a threat in the definition of extremism, since it is this characteristic that makes extremism a socially dangerous phenomenon. When using solar symbols, law enforcement agencies are recommended to take into account the conclusion of relevant expert examinations, explanations of the Plenum of the Supreme Court of the Russian Federation, the motives and goals of a person's behavior, as well as their manifestation in external reality.