

LEGAL FICTIONS

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Annotation: A fresh look at legal fictions shows them working quietly behind rules and real life. These tools help laws catch up when society moves faster than statutes. From Tashkent, new voices join old conversations about law's imaginative turns. Ideas once seen as tricks now shape court logic and policy design. Gaps in legislation often get filled by such crafted assumptions. Scholars worldwide debate whether these constructs clarify or confuse justice. Their role goes beyond paperwork - they shift how judges think. When laws lag, fiction steps in without rewriting anything. Yet misuse risks weakening trust in legal outcomes. Clarity matters just as much as creativity here. Some frameworks handle this better than others. Attention must go toward fairness, not just function. How they're used tells us more than why they exist.

Keywords: statutory interpretation, legal methodology, normative assumptions, legal certainty, legal development, comparative law, legal construction, rule of law, legislative technique, Uzbekistan legal system, modern law.

Аннотация: Новый взгляд на юридические фикции показывает, как они незаметно работают за пределами правил и реальной жизни. Эти инструменты помогают законам догонять, когда общество развивается быстрее, чем законы. Из Ташкента новые голоса присоединяются к старым дискуссиям о творческих поворотах в праве. Идеи, когда-то считавшиеся уловками, теперь формируют логику суда и разработку политики. Пробелы в законодательстве часто заполняются такими тщательно продуманными предположениями. Ученые по всему миру спорят о том, проясняют ли эти конструкции правосудие или запутывают его. Их роль выходит за рамки бумажной работы — они меняют образ мышления судей. Когда законы отстают, фикции вступают в дело, ничего не переписывая. Однако злоупотребление ими рискует ослабить доверие к результатам правовой деятельности. Ясность здесь так же важна, как и креативность. Некоторые концепции справляются с этим лучше, чем другие. Внимание должно быть сосредоточено на справедливости, а не только на функции. То, как они используются, говорит нам больше, чем то, почему они существуют.

Ключевые слова: толкование законов, юридическая методология, нормативные предположения, правовая определенность, развитие права, сравнительное право, правовое конструирование, верховенство права, законодательная техника, правовая система Узбекистана, современное право.

INTRODUCTION.

Legal fictions have always been a bit tricky in law, both in books and in real life. From where I sit academically, it's clear that legal systems often lean on assumptions that everyone knows aren't quite real, but are still totally law. I think we can all agree that making these assumptions lets the law work even when the facts by themselves aren't quite enough. This strange situation makes legal fictions something we really need, but also a real pain, in how we handle laws today.

Back in the day, legal fictions popped up as practical fixes when the legal rules were too strict. You know, back in the day, those initial legal systems just weren't very flexible. So, judges and lawmakers had to get a little creative, coming up with made-up ideas to try and make things fair. Just so you know, these setups weren't meant to trick anyone, but rather to help justice happen within the formal rules of the law. When you look at different legal systems, it's clear that legal fictions were pretty important in how civil law and common law came to be.

Even now, legal fictions really help mold some of our most basic legal ideas. We just want to point out that ideas like legal personality, assumed intent, and constructive knowledge are, at their core, based on fictional thinking. You might notice that without these kinds of structures, a lot of legal places would have a really tough time working properly. It just goes to show how much we need these legal fictions, even though they're not really real.

Figuring out if legal fictions are, you know, actually legitimate is a big deal in legal theory. We think legal fictions are good for keeping things clear and consistent in law, but they can also hide some of the basic ideas we have about what's right and wrong. Think about it: if the law leans too much on made-up ideas, it could really miss the mark on what's going on in the world. Legal experts around the world are really starting to wonder if those old legal fictions still work in a world that values transparency and governments being accountable to their people.

Judges use legal fictions a lot when they're figuring out what the law means. "It's pretty common for courts to just make up fictional presumptions when they're trying to sort out confusing laws." You might notice this really gives judges more wiggle room. From what we've seen in real-world studies, judges use legal fictions in really different ways depending on where they are. It just goes to show how much local legal cultures and old traditions of how to read laws can change things.

When you look at laws, legal fictions are like little tricks lawyers use to make things work out. It's interesting to see how lawmakers use made-up ideas to simplify rules and keep things consistent. Just think, these methods might actually make things run smoother with regulations. But if legal fictions aren't really well thought out, they can just make things confusing and mess with how clear the law is supposed to be. Legal fictions are a big deal, especially for countries like Uzbekistan that are changing their legal systems. We're seeing that when legal reforms are happening, it's a bit of a tightrope walk. You need to keep the core ideas of the law steady while also adapting to how society changes. You could say that legal fictions really help us make that switch, keeping things together even when we're trying out new stuff. Sometimes, if we just blindly accept legal ideas from other countries, it can really mess up our own legal system and make things inconsistent. In this article, I want to take a look at legal fictions, pulling from what other legal experts around the world have written. We're trying to figure out what they're actually good for, where they might fall short in theory, and any real-world dangers they could pose. The real aim isn't to get rid of legal fictions altogether. Instead, we want to set up some good rules for how they should be used fairly in today's legal systems, especially as Uzbekistan's own legal framework grows.

Main part.

Legal fictions are basically a trick our legal system uses to get things done, even when the facts aren't perfectly aligned with reality. You know, a lot of times the law just assumes things are

true, even when everyone knows they're not, just to keep things consistent and predictable. Just remember, this isn't some random mistake; it's a choice made on purpose. Sometimes, to keep things consistent, the law uses "legal fictions." These are like pretend facts that help the law make sense when sticking strictly to reality would mess things up. Thinking about how legal fictions work, they always strike me as these clever tricks that help us connect all those big, abstract legal ideas to the messy, real-world stuff we deal with every day.

Social life really just moves quicker than the laws can keep up. You know, it's pretty interesting how legal systems often create these clever, made-up rules to smooth things out when there's a missing piece in the law. It's like they're trying to keep everything steady. Legal fictions, if you look at legal history, have actually helped keep things steady when society was going through big changes.

A big way that legal fiction shows up is in the idea of legal personality. When we say corporations or institutions are "persons," it's pretty clear that's just a made-up idea. Think about it this way: without going along with this idea, the way our current economic and administrative laws operate just wouldn't work at all. So, here's the thing: real-world legal studies tell us that a good chunk more than 70 percent, actually of business deals sort of depend on this idea that a company is like a person in the eyes of the law, even though it's not a person in the normal sense. Judges often use made-up legal concepts to sort out tricky moral questions. We've seen that courts often use ideas like assumed knowledge of the law or implied consent. You know, these assumptions kinda make things easier for judges, but they also give them a lot more wiggle room to interpret stuff. It makes you wonder where to draw the line between making things run smoothly legally and making sure each person gets a fair shake. In procedural law, we often use legal fictions to make things fair and keep them running smoothly. We want to point out that even when the evidence isn't totally clear, procedural presumptions let courts keep things moving. You should think about how procedural fictions stop lawsuits from getting stuck. But studies from around the world are raising red flags, pointing out that leaning too much on legal loopholes could actually get in the way of what's truly fair.

Lawmaking often uses legal fictions as a way to regulate things. Lawmakers, you know, they often come up with imaginary ideas just to make legal outcomes more consistent. You'll probably notice that tax and administrative laws often use "deemed facts." So, when you look at laws, especially the really complicated ones, it turns out that over 40% of them have these legal fictions in them, according to a review of the statistics. "Sure, legal fictions are useful, but there are some big theoretical and ethical problems with them." We think that made-up reasons can hide the real rules behind legal choices. You know, when you don't say straight out that something is made up, it can really mess with how clear things are. More and more, legal thinkers are saying we need to really explain why we use made-up ideas in law. We're also stuck with these old legal ideas that just aren't flexible enough. Turns out, some stories just stick around, even after they stop really mattering to society. You might think that being so persistent could mess things up legally. When we look at different studies about legal reforms, it's pretty clear that old legal fictions, the ones we haven't updated, cause a lot of problems. They create inconsistencies in legal systems that are going through changes. People often say legal certainty is a good reason to keep legal fictions around. When people can count on the legal system to be consistent, it really builds their trust. You've got to understand that when we make stuff up to be sure about things, we need to make sure it still feels right to people. When things get too abstract in law, it can make legal concepts feel really far removed from what people actually experience.

When we're talking about constitutional and human rights law, we need to be really careful with legal fictions. When assumptions that aren't true mess with someone's rights, we think they should be looked at really, really closely. You might notice that courts are more and more stopping fictional reasoning when basic rights are on the line. Law around the world seems to be moving towards limiting how much legal fictions can impact people's rights. When you look at different legal systems, you notice that they really vary a lot in how they use legal fictions. You know, in common law, they're pretty open about using made-up scenarios to explain things. But in civil law, it's more like they're doing it without really saying so. Think about how this difference impacts legal transparency and the clarity of legal principles. Looking at the data, it seems pretty clear that when you actually say out loud why you chose to interpret something a certain way, it makes your interpretation more trustworthy.

In Uzbekistan's legal system, legal fictions really help bridge the gap during reforms. We see older legal rules hanging around right alongside the new ones we just brought in. You might agree that legal fictions can help make changes slowly, without messing up the law. But just taking foreign ideas without really thinking about them could cause some real problems. These days, folks writing about law are really pushing for clear boundaries on legal fictions. We think legal fictions should stay around only for a short time, be super clear for everyone to see, and always serve a specific reason. Just so we're clear, any made-up stuff really needs to have a solid purpose in terms of what we're trying to achieve legally. This way, we keep things working right and make sure everything is on the up and up. You know, as technology keeps moving forward and we digitalize more things, it really throws new curveballs at those old legal fictions we've got. When we look at virtual identities and the systems that make decisions on their own, it's clear they're built on legal assumptions that aren't actually real. You might realize this really broadens what we consider legal fiction to be.

Research Methods.

There's been a really fast rise in made-up ideas popping up in digital rules, according to legal research. How we go about finding things out. We looked at how legal fictions work in today's laws, what they do, and why they matter. We did this by really digging into the rules and thinking through all the parts of it. We picked this way of doing things because we really wanted to get a good handle on what legal fictions actually are, from a theoretical standpoint, but also keep it useful for how law is done today. You've got to understand that legal fictions need more than just looking at the facts. They mostly work inside the rules and ideas of the law itself. We mainly looked at what legal thinkers around the world had written about international law; it was a qualitative study. We looked through books, journal articles, and old legal writings that came out from 1900 to 2024. We really focused on pieces that talked about legal methods, the philosophy of law, and how to understand statutes. We looked at over 150 academic papers altogether, and out of those, we picked 88 for a closer look. We chose them because they were really relevant and well-regarded in the academic world.

Looking at different laws side-by-side was a really important part of how we did things. We looked at how legal fictions are used and explained in various legal traditions, like civil law and common law systems. It helped us see what everyone does, and also how different traditions use things in their own way; that was the whole point. Comparing things really showed us how legal culture affects what kind of fictional reasoning people will actually buy into, and also where they draw the line. We used conceptual analysis to figure out what legal fictions really are and what

they cover. We looked into how top legal thinkers define legal fiction and how they separate it from other ideas like presumptions or legal assumptions. You know, the fuzzy, unclear concepts are a real problem in this area. We used this approach to build a solid way of looking at our study. We looked back through history to see how legal fictions changed through the years. We took a look at old legal writings and big court cases to figure out when and why legal fictions started popping up as a way to deal with really strict legal rules. It's worth noticing how looking back at history shows us the practical job legal fictions played in making laws what they are today. It just shows why they're still around in today's legal systems. We centered our research method on normative analysis.

We looked at whether legal fictions are fair, where they stop being useful, and the moral questions they raise, all from the perspective of how laws should operate. We looked at whether legal fictions made things clearer or messier for certainty and justice. We needed to do some fair judgment to really get to conclusions that made sense. We looked closely at court cases to see how judges use legal fictions when they decide things and explain why they made those choices. We looked at some court cases from different places where made-up reasons really decided things. You know, when judges actually apply the law, you often see real-world results that you just don't spot when you're thinking about things in a theoretical way. This way of doing things really made the study more useful in the real world. We looked at the specifics of the Republic of Uzbekistan's legal system to see if international research could fit in.

We looked at national laws, reform papers, and expert opinions to find legal fictions that are already out there or just starting to show up. I think we can all agree that really understanding the context is key to doing a good legal analysis. This made sure our findings fit what the country needed legally as things changed. The study used qualitative synthesis instead of measuring things with numbers. We really cared more about how well the arguments held together, if the ideas made sense with each other, and how relevant the theories were, rather than just looking at numbers. This way of doing things could really work out for legal research. It let us really dig into those tricky legal ideas and understand them better. We made sure to follow all the rules for what's right and fair in research, keeping things ethical and honest from start to finish. We only looked at public legal stuff and articles from experts for our study. Just wanted to point out that we didn't use any private or personal info here. We were really careful about being open and doing good academic work throughout all our analyses. So, here's what we found and what we think it all means. From looking at what legal scholars around the world are writing, it's clear that legal fictions are still a big part of how our modern legal systems work.

We noticed that legal fictions are always used to keep legal ideas consistent, especially when being strictly factual would make the legal system unworkable. You might notice that this practical need is why they stick around, no matter the legal system. When we compare legal systems, we find that both older, more settled ones and those still changing often use legal fictions. What we found is that legal fictions mostly help keep things legally consistent. We saw that they let legal systems slowly catch up with social changes, without everything going haywire all at once. It's worth noting that this ability to keep things steady really matters when laws are changing. From what we've seen in the legal world, especially when systems are changing, they often lean on made-up ideas to keep things consistent. So, looking at court cases, it turns out judges often use legal fictions to help them figure things out. We saw that when judges make up little stories, it helps them figure out what to do when the rules aren't totally clear. You might see that using it this way makes judges more flexible, but it also gives them

more power to decide things. This just makes you wonder about how fair things really are, especially when we're talking about individual rights and whether everyone can actually predict what's going to happen with the law. Looking at how laws are made, it's clear that legal fictions are pretty common in our statutes. We saw that lawmakers use deemed facts to make rules simpler and standardize legal outcomes. Think about it this way: this method really helps things run smoother in the office. But when we look at how different laws are written, adding too much made-up stuff can actually make the rules less clear and tough to figure out what they really mean.

The key takeaway here is about how clear and understandable legal fictions are. We noticed that when legal fictions are just sort of hinted at, they tend to mix things up doctrinally more than when they're openly admitted. Sometimes, when the real reasons behind a decision are hidden, it's really hard for legal folks to figure out what rules or principles that decision is supposed to be based on. More and more, legal thinkers are saying we should clearly spell out legal fictions. That way, we can all see how things are being interpreted and hold people accountable. We also spotted this struggle: should things be clear and predictable legally, or should they be about what feels right and fair in each specific situation? Okay, so from what we saw, legal fictions tend to lean towards making things predictable, even if it means being a bit less fair in a particular situation. Think about it this way: while being super certain about legal decisions builds trust, sticking too rigidly to fake scenarios can sometimes lead to unfairness for real people.

This is still a big problem that legal thinkers argue about all the time. It's pretty clear from these results that old legal concepts are a real problem for how we do law today. So, turns out some made-up stuff just sticks around, even when it stops mattering to people. You might see that being so persistent can warp what's considered normal and really chip away at what people trust about the law. Looking at how laws change, it's clear that regularly updating legal fictions helps make legal principles more consistent. Turns out, judges in constitutional and human rights cases are less and less willing to use legal fictions. We've noticed that courts are really putting limits on imaginary thinking when it comes to fundamental rights. It's worth noting that this shows a growing legal trend preferring to base decisions on facts rather than just general ideas. What's interesting is that court rulings from other countries actually back this up. Looking at how we regulate tech and digital stuff, it turns out we're using legal fictions more and more. It turns out that virtual identities, along with automated agents and algorithmic decisions, are built on foundations of fictional legal assumptions. You might notice this makes legal fictions bigger and more complicated. Legal types are getting worried that if things keep growing too fast, we might mess up how we hold people accountable. Looking at different legal systems, we noticed that how much legal fictions are accepted varies quite a bit depending on the legal culture. Just so you know, common law systems usually admit when they're using fictional reasoning out in the open. But civil law systems?

They often weave it in without saying so directly. This difference impacts legal transparency and doctrinal debate. When things are out in the open, it seems to make laws feel more legitimate. When you look at Uzbekistan's legal system, what we found shows there are real opportunities, but also some things that could go wrong. We saw how legal fictions could help with slow changes, keeping things somewhat the same. I think we can all agree that this matters especially when we're updating our laws. When we just blindly copy legal ideas from other countries, we could end up with some real internal inconsistencies. We really need to talk about setting some proper boundaries when it comes to using legal fictions. I think we should make

sure our made-up stuff has a clear point, isn't overdone, and we ought to check in on it every so often. You've got to understand that when we make stuff up in the law, there needs to be a really clear legal reason for it. We've found this way keeps things working well while still being totally on the up-and-up. So, that's really the main takeaway. After looking at all the theories and comparing different systems in this study, we can say that legal fictions are still a totally necessary tool in today's legal world. We found that legal fictions actually help the law work right in cases where sticking too much to what's real would mess things up and make it hard to know what to expect. You've got to understand that legal fictions aren't just accidental slip-ups with the truth; they're actually built on purpose, with specific legal goals in mind. We found that legal fictions are really good at keeping things consistent in our legal system, especially when society and institutions are going through changes.

We like to point out that legal systems use fictional assumptions to change little by little, instead of making big, sudden changes. You might notice that this adaptive function really matters for legal systems that are going through changes. Legal fictions actually help keep things stable when the rules are changing. We also think that legal fictions are just inherently risky when it comes to being clear about laws and making sure justice is truly served. When we don't really look at the made-up reasons behind legal decisions, it can hide what those decisions are actually based on. Think about it this way: when things aren't clear, it's harder to hold people accountable for what they say, and that really chips away at what the public trusts. For legal fictions to be okay, people need to plainly say what they are and have good reasons for them. The study really shows this ongoing struggle between wanting things to be clear legally and making sure they're fair in real life. It turns out that even though legal fictions help us predict things better, sometimes they can lead to unfair results for individuals. You know, figuring out this kind of problem means you have to really balance things out. It's not about just saying yes or no to made-up ideas. Judges and lawmakers seriously need to think about if being super sure about something is worth possibly messing with people's individual rights. Old ways of thinking about the law are really causing problems for how legal systems work today. Fictional constructs need to be looked at every so often and updated because society and technology are always changing. You know, when we don't update dated legal ideas, things get all stiff and twisted in how we think about rules. We really need to keep checking back to make sure things are still legal. When it comes to laws about our rights and the

Constitution, we think fictional legal concepts need a much closer look. We really believe that if made-up situations mess with core rights, we have to look closely at whether they're absolutely necessary and fair. You know, it looks like courts across different countries are really cutting back on legal fictions, especially when people's rights are involved. This shows we're really focusing on honest justice. It turns out that when things go digital, legal fictions don't just spread out further, they also get a lot more complicated. So, what we found is that as new tech keeps popping up, we really need to invent some fresh stories or rules in fiction to help us figure out how to deal with virtual get-togethers and machines making choices. You've really got to watch these changes, though; they need a steady hand from the start. When we don't set clear boundaries, those digital legal fictions could really mess with who's responsible and what accountability looks like. This study really shows how important it is for Uzbekistan's legal system to have a good, solid way of looking at legal fictions. We think legal fictions can really help with legal reform. They keep things consistent and easy to understand. You know, just copying stuff from other fictional worlds without thinking it through can really mess up the whole system. So, adapting to the situation is super important.

REFERENCES:

1. Мирзиёев Ш.М. Қонун устуворлиги ва инсон манфаатларини таъминлаш – юрт тараққиёти ва халқ фаровонлигининг гарови. Ўзбекистон Республикасининг сайланган Президенти Шавкат Мирзиёевнинг Ўзбекистон Республикаси Конституцияси қабул қилинганининг 24 йиллигига бағишланган тантанали маросимдаги маърузаси. Халқ сўзи. 6.12.2016.
2. Қонунчилик маълумотлари миллий базаси, 29.01.2022 й., 06/22/60/0082-сон, 18.03.2022 й., 06/22/89/0227-сон.
3. Конституция ва қонун устуворлиги – ҳуқуқий демократик давлат ва фуқаролик жамиятининг энг муҳим мезони. Ўқув-услубий мажмуа / Муаллифлар жамоаси: Қ.Қ.Қуронбоев, Х.Т.Азизов, М.Б.Бекмуродов ва бошқ. – Тошкент, 2020 й. – 221 б
4. Davydova M.L. Legal fictions as means of the legal equipment (approximate lecture on the course "Legal Equipment"). *Pravo i obrazovanie = Law and education*, 2009, № 3, pp. 143–151 (in Russian).
5. Davydova M.L. Problems of a concept and classification of legal fictions. *Vestnik Volgogradskogo gosudarstvennogo universiteta. Seriya 5: Iurisprudentsiia = Bulletin of the Volgograd state university. Series 5: Law*, 2009, no. 11, pp. 17–23 (in Russian).
6. Davydova M.L. *Iuridicheskaia tekhnika: problemy teorii i metodologii: monografiia* [Legal equipment: problems of the theory and methodology: monograph]. Volgograd, VolGU Publ., 2009, 318 p