

LEGAL REGULATION OF THE ACTIVITIES OF RELIGIOUS ASSOCIATIONS: ISSUES OF THEORY AND PRACTICE

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ABSTRACT

Objective: The article proposes the study of the legal basis for the activities of religious associations in the context of legal and regulatory framework.

Theoretical framework: The study is based on international scientific publications, reports, scientific papers. And also for a more complete and objective presentation of the problem under study, practical materials in the area under study were used.

Method: The study was conducted on general and private legal methods were used to fully cover the problems of legal regulation of the activities of religious associations.

Results and conclusion: Religious associations are an integral part of the dynamic development of the sphere of religion in the country. In modern times, religion takes the most active part in solving the problems of globalization, most consistently opposing it. Remaining, for the most part, a unifying principle and having a complex system of horizontal connections and institutional relations, religion can serve as an effective tool for regulating global trends. Globalization, dictating the contours of a new world order, can have many negative consequences, leading to the destruction of original cultures and oblivion of the religious and moral values of society, or vice versa. Under these conditions, religious identity becomes an expression of those very unfulfilled hopes and hopes in the world of real social relations, including the ideals of the social arrangement of the world. The positive, evolutionary formation of confessional identity in different parts of the world is being disrupted everywhere by the revolutionary and chaotic impulse of modernization.

Originality/value: The authors propose an approach of the scientific research lies in the fact that various religious associations, their relationship and influence on a person and society as a whole were covered. Remaining, for the most part, a unifying principle and having a complex system of horizontal connections and institutional relations, religion can serve as an effective tool for regulating global trends.

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REGULAMENTAÇÃO LEGAL DAS ATIVIDADES DAS ASSOCIAÇÕES RELIGIOSAS: QUESTÕES DE TEORIA E PRÁTICA

RESUMO

Objetivo: O artigo propõe o estudo da base jurídica para as atividades das associações religiosas no contexto do quadro legal e regulamentar.

Estrutura teórica: O estudo é baseado em publicações científicas internacionais, relatórios, artigos científicos. E também para uma apresentação mais completa e objetiva do problema em estudo, foram utilizados materiais práticos na área em estudo.

Método: O estudo foi realizado sobre métodos legais gerais e privados foram utilizados para cobrir plenamente os problemas de regulação legal das atividades das associações religiosas.

Resultados e conclusão: As associações religiosas são parte integrante do desenvolvimento dinâmico da esfera da religião no país. Nos tempos modernos, a religião assume o papel mais ativo na resolução dos problemas da globalização, opondo-se-lhe de forma mais consistente. Permanecendo, na sua maioria, um princípio unificador e tendo um sistema complexo de conexões horizontais e relações institucionais, a religião pode servir como uma ferramenta eficaz para regular tendências globais. A globalização, que dita os contornos de uma nova ordem mundial, pode ter muitas consequências negativas, levando à destruição de culturas originais e ao esquecimento dos valores religiosos e morais da sociedade, ou vice-versa. Nestas condições, a identidade religiosa torna-se uma expressão dessas esperanças e esperanças muito insatisfeitas no mundo das relações sociais reais, incluindo os ideais da organização social do mundo. A formação positiva e evolutiva da identidade confessional em diferentes partes do mundo está a ser perturbada em toda a parte pelo impulso revolucionário e caótico da modernização.

Originalidade/valor: Os autores propõem uma abordagem da pesquisa científica no fato de que foram abordadas várias associações religiosas, suas relações e influência sobre uma pessoa e a sociedade como um todo. Permanecendo, na sua maioria, um princípio unificador e tendo um sistema complexo de conexões horizontais e relações institucionais, a religião pode servir como uma ferramenta eficaz para regular tendências globais.

Palavras-chave: regulação legal, associações religiosas, confissões, extremismo, instituições, sociedade civil.

1 INTRODUCTION

Religious associations are an integral part of the dynamic development of activities in the country as a whole. Since our state is secular, therefore, religious associations act and function on a par with other institutions of civil society. In this regard, the state has developed norms for the activities of such structures, which formed the basis



of the Law of the Republic of Kazakhstan “On Religious Activities and Religious Associations”. According to it, religious associations in Kazakhstan, depending on their scale and number of participants, can be created at different levels: local, regional and republican. The initiative to create a religious association should belong to citizens of the Republic of Kazakhstan who have reached the age of 18. The process of creating a structure takes place within the framework of the meeting, at which a decision is made on the name of the future association, the charter and governing bodies. Along with this, a religious association in its activities must observe a single dogma, religious rites, ceremonies, sermons, education of its followers in accordance with religious canons, as well as a spiritual orientation.

2 LITERATURE REVIEW

The issue of legal regulation of the activities of religious associations is relevant almost all over the world. Everyone can freely practice any religion, that is, be a member of a religious association or an atheist. Almost all existing legal norms concerning freedom of conscience and religion speak about this. However, the legislative bodies of different countries regularly introduce restrictions on the spread of new religious movements, destructive cults and sects, certain religious rites and ceremonies, as well as extremist worldviews. Such legislative acts, in accordance with the logic of law enforcement practice, can be divided into two main categories: prohibitive and restrictive (Sklyarov, 2022).

Some studies propose to substantiate religious activity as an administrative-legal regulation of social relations subject to state-administrative influence, the definition of the concept and types of state-administrative religious (confessional) legal relations (Kushkov, 2023). In this study, Kushkhov K.L. (2023) offers a variety of terminological concepts of religious relations and scientific approaches to their definition, the lack of a systematic analysis of the legal regulation of multifaceted relations that arise in the process of interaction between the state and religious associations.

Lauta, O. N. et al. (2022) studies the possibilities of religious organizations in applying new means of influencing the religious and spiritual side of Western European society. The authors consider some aspects of the use of cyberspace by religious organizations in the European Union, and also analyze the legal framework for the activities of religious organizations in the European Union in the context of digitalization.



As a secular international entity, the European Union regulates the activities of religious organizations through the national legislation of all twenty-seven states. But still, religious organizations do not receive state status in all EU states. The so-called "state religions" enjoy the support and assistance of the political authorities. While granting rights and obligations to religious organizations, the authorities also establish the right of religious organizations to use the media. The active use of the global Internet, all kinds of gadgets and other means of technological progress in its activities makes it possible to attract the younger generation to its forums, the generation that actively uses and owns the global Internet.

About a third of the world's population now lives in multiple legal systems in which governments consider individuals to be subject to ethno-religious rather than national family law rules. Based on archival research, forensic observations, and interviews with individuals from three countries, Yuksel Sezgin (2013) shows that governments often intervened to impose a certain image of subjectivity on society, while people constantly challenged the interpretive monopoly of the courts and state-sanctioned religious institutions. , reviewed their rights and obligations in accordance with the law and changed the system from the inside. It also highlights key lessons and best practices for integrating universal human rights principles into religious legal systems.

Therefore, many different scientific papers and studies are devoted to this issue, but interest does not fade away and many questions also remain open.

I. Mima (2019) analyzes religious and legal traditions in the processes of transformation of knowledge about law, in particular, understanding the place of religious and legal traditions in the legal system in the context of the globalization of society. The development and interaction of world legal systems is an important factor in the effective and safe development of all mankind. However, the dynamism of globalization processes and the diversity of directions in the development of the legal system of our state dictate the need to clarify the features of their relationship and mutual influence. Her recommendations allow us to assert that the process of convergence of legal systems as a result of globalization and acculturation of social processes is an integral part of the overall process of social transformation caused by factors of a historical, political, economic, sociocultural nature that contribute to and accompany the transformation of society, qualitative changes in society; manifestation of the heterogeneity and inconsistency of the dynamics of social processes within the state and its policy in the



international space; an objective process that serves as a catalyst for the development of the national legal system.

The issue of finding a reasonable balance in the relationship "international - national" remains relevant to ensure the effectiveness of the legal system of the state, which can only be said if the implementation of international law and international standards is carried out taking into account justice, legal culture and traditions, the legal mentality of our people . society, historical features of its development, available economic resources and political potential. In any case, taking into account the dominant positions of unification and standardization in the process of transforming the national legal system under the influence of globalization, there is a need for scientific analysis and research into their manifestation in the aspect of specific legal institutions, which will be possible not only through the use of the inductive method to clarify the current state, but also more likely to predict the development of both individual elements and the legal system of the state as a whole.

The practical significance of religious and legal traditions lies in their ability to "penetrate into the future" - to embody the structure of the rule of law, shaping the desired and appropriate "future" behavior of the subjects of public relations. In addition, the legal convergence of law and religious and legal tradition makes it possible to enrich law and bring it closer to real social relations. At the same time, the convergence of law and religious and legal traditions, almost to the point of their merging, in practice can lead to unjustified restrictions on rights and freedoms or to the establishment of unjustified preferences for certain categories of legal entities. The convergence of law with religious and legal traditions must take into account their regulatory elements in order to improve the quality of the legal order.

However, there is another side to the coin of religious associations and their activities. Along with religious associations, pseudo-religious associations have begun to operate, which are trying to change people's consciousness in the other direction, opposite from real truths; trying to provoke local people and on the parallel of several states. Thus, various radical movements arise (Mitts, 2022). Currently, at the regulatory level, there is a rather strong base for counteracting various kinds of such movements, and the fight against it and its suppression is being carried out.

However, some view religion as a whole as a religious fiction, an approach that is usually interpreted as being fully compatible with both atheism and naturalism.



K. Diaconu, K. Jailobaeva, T. Jailobaev, C. Eyber & A. Ager (2023) on the contrary view religion as salvation. Violence, abuse and neglect pose a serious threat to the health and well-being of children around the world. However, until recently, relatively little systematic attention has been paid to the role of religious communities in shaping the child protection environment. This paper describes the development of a measure to identify the propensity of religious communities to protect children through field research involving religious leaders and their spouses in Senegal, Uganda and Guatemala. By identifying common factors related to child care and protection practices, child rights orientation and approaches to discipline, this measure potentially serves both to inform and evaluate interventions aimed at engaging with the beliefs and behaviors of religious communities to promote health and wellbeing of children.

But all over the world they are analyzing the creation of a secular model of religious associations and modern states (Ivanova et al., 2018). Each state must guarantee the activities of confessional educational organizations implementing general educational programs (their components) in the legal, organizational, methodological and financial spheres. It is proposed to unify the approach, according to which the state regulates the participation of religious organizations in the field of general education, in order to ensure equal opportunities for students in the exercise of freedom of conscience and religion. So, Sheryazdanova K. (2014) in her study notes the strengthening of Kazakhstan's contacts with Islamic states, which contributes to the further development of international relations, and the peace process becomes the basis of Kazakhstan's policy to establish interreligious harmony in the country, promote intercivilizational norms of tolerance, which varies greatly. differs from the policies pursued by other states.

3 METHODOLOGY AND ANALYSIS

The development of religions in Kazakhstan is a systematic development of the state, aimed at protecting and strengthening freedom of religion, spiritual development, civil harmony and interfaith cooperation in the country.

The Constitution is the fundamental law of the country, which prohibits any form of discrimination on religious, national and other grounds. The law strengthened the legal basis for the activities of religious associations. Kazakhstan has acceded to important international agreements and treaties on human rights, including the fundamental UN conventions. And also due to the existence of both religion and politics separately from



each other and their warm conditions, there is an increase in the number of religious communities, confessions.

According to the Ministry of Information and Social Development of the Republic of Kazakhstan.

3.1 ON RELIGIOUS ASSOCIATIONS ON THE TERRITORY OF THE REPUBLIC OF KAZAKHSTAN

3932 religious associations representing 18 confessions are registered in the country. Of these: 2790 - Islamic, 345 - Orthodox, 93 - Catholic, 588 - Protestant, 61 - Jehovah's Witnesses, 24 - New Apostolic Church, 13 - Society for Krishna Consciousness, 7 - Jewish, 6 - Baha'is, 2 - Buddhism, 2 - Church Jesus Christ of Latter Day Saints (Mormons), 1 – Moonies.

In total, 3,726 places of worship operate throughout the country. Of these: 2788 - mosques, 302 - Orthodox churches, 115 - Catholic churches, 424 - Protestant prayer houses, 57 - prayer houses of Jehovah's Witnesses, 24 - prayer houses of the New Apostolic Church, 6 - synagogues, 2 - Baha'i prayer houses, 6 - prayer houses houses RO "Society for Krishna Consciousness", 2 - Buddhist temple.

3.2 ABOUT MISSIONARIES IN RK

419 missionaries are officially registered, 373 of them are foreigners, 46 are citizens of the Republic of Kazakhstan. In terms of denominations: Catholics - 253, Orthodox - 16, Pentecostal Church - 63, New Apostolic Church - 12, Society for Krishna Consciousness - 28, Presbyterian Church - 17, Baptists - 5, Seventh-day Adventists - 6, Judaism - 2, Lutherans - 1, Jehovah's Witnesses - 6, Buddhists - 1, Mormons - 9.

Peaceful coexistence of religions, internal actions against the spread of extremism, in general, are important tasks for the internal and external development of Kazakhstan. Today it is considered important to form a real public opinion in the rejection of various destructive, including false, religious ideas of the people.

Today in Kazakhstan there is an obligation not to interfere in the internal affairs of religious organizations, to respect religious values, and representatives of different religions have equal status before the law, it should be noted that there is a certain pattern between the State and religions based on its existence.



According to a sociological survey, 70.4% of the country's citizens support the religion of the state.

In terms of religious affiliation, 61.3% of Kazakhstanis adhere to Sunni Islam, 17.2% confirmed their adherence to Orthodoxy, 5% of Kazakhstanis are followers of Catholicism, 15.8% confirmed their belief in God, but do not identify themselves with any religious movement.

In addition, 70.4% of Kazakhstanis have a positive attitude towards secularly oriented people, 26.9% have a negative attitude, 2.7% of Kazakhstanis have a neutral attitude.

22.8% of respondents noted that they do not notice any problems in the religious sphere. Another 33% of Kazakhstanis are concerned about the emergence of new sects and trends for Kazakhstan. 23.2% of respondents are afraid of religious extremism, 8.5% see a problem in supporting religious organizations in Kazakhstan from abroad, 3.1% are dissatisfied with the intensification of various religious sects, 1.8% of respondents call the artificial politicization of the religious situation in the country a problem.

International organizations and foreign partners, including the UN, UNESCO, OSCE, study and analyze the practice of our country's interaction with various religions.

During the period of independence, the attitude towards religion in Kazakhstan has changed both at the level of society and at the level of state-confessional relations. Kazakhstani society considers religion as an important part of itself. Religion plays an important role in the social development and stability of Kazakhstani society. This requires the state to have equal relations with religious organizations; state-confessional relations have become important relations for the Republic of Kazakhstan.

It is worth noting that, according to the report of The Cato Institute, among the countries of the EAEU, Kazakhstan lost in the index of religious freedom to such countries as Armenia, Belarus and Kyrgyzstan. The country was able to get ahead of only Russia. The country's religious freedom index was 5.2.

The index included criteria such as freedom of religion, repression of religious organizations, harassment and physical abuse, legal and regulatory restrictions. The most positive assessment was given to the country in the area of freedom from persecution and physical violence related to religion - 8.5. The lowest score was awarded for the criterion of repressions against religious organizations - 3.3.



Religious organizations, in turn, improve their relations with the state, clarify their strategy of social development, and agree with the religious values of modern Kazakhstan.

4 RESULTS AND DISCUSSION

To date, the following can be noted as the most pressing issues in the field of religion in the Republic of Kazakhstan: determining the state of all religions (basically, in order to conduct an effective campaign in the country of religion, the state needs to know the real situation of the country, at present there are many false ideas and stereotypes, even analysis of customs in the country of religion (the identification of these customs makes it possible to “use” the positive possibilities of religion and avoid a negative situation), the internal bitterness of state-confessional relations. Due to the structural complexity of the issues raised, all aspects of the research problem, the importance of which was studied earlier, were fully seen in the work. Due to the fact that Kazakhstan is a secular state, today the form of creating state-confessional relations is being carefully worked out with the task of creating a Kazakh model of secularism.

In today's world, secularism takes many forms. To analyze the model of secularism created in different countries, these are the main issues of the development of the religious situation in the Republic of Kazakhstan, it will highlight the end of the inner circle. This comes from the variety of ways in which interest is actually expressed. Today, Kazakhstan has the opportunity to develop a special model of secularism, based on the implementation of religious culture and national interests in the external and internal world.

The change in the role and service of religion as a social institution, the revitalization of the activities of confessions in the social sphere, the emergence of new religious organizations, state conferences form the core of the process of improving civil relations. These relations are a way of determining the status of the state in terms of clergy and secularism, the visibility of the status of religious organizations in the structure of society, interaction with the religious institutions of the state.

At the same time, it will be difficult to consider these issues without having a general idea of religion as an institution, without defining its role in the life of modern society, without defining its functions. And in order to understand and accept religion as a socio-cultural institution, it is necessary to know the tendencies of religiosity, the



peculiarities of their manifestation in the mentality of citizens. From this point of view, we argue that the process of clarifying the model of state-confessional relations and its improvement requires both methodological foundations and scientific and practical methods.

The method here is associated with the publication of a universal and consistent glossary, with the preparation of the foundations (concepts) of religion as a modern socio-cultural institution. Scientific and practical methods are an inductive analysis of the legal coverage of relationships that arise throughout the process of religious service, state-confessional relations, the disclosure of the delivery model decides. Taking into account changes in the life of society, its orientations and values, the attitude towards religion as an institution in Kazakhstan is changing, the socio-cultural meaning of religion is changing, the need for research is satisfied, the need for research has appeared in all areas of common religion.

At the end of the secular development of Kazakhstani society, the central issue of the formation of a model of state-confessional relations in Kazakhstan as a religious and social institution is the state church perspective, the relationship of the state with religious organizations, the role of religious paradigms. in the structure of the worldview, methods of religious education, in the system of education and training of schools and universities, many other issues have become central.

During the years of independent development, Kazakhstan as a legal, secular, democratic and social state has a real pluralism. Due to the religious nature of Kazakh society, today we have a wide range of new religious beliefs and rituals, along with a collection of world and traditional religions for the summer. In many cases, beliefs and rituals are separate from religion, beliefs, and spirituality. Religiosity and religion (used as a religious tool) historically established in Kazakhstan, its own ethno-cultural, confessional, civil and religious unity, based on stability and mobility, had a significant impact on the gay model. At the same time, insufficient knowledge of the mechanisms of the above processes not only affects the effective formation of a worldview and its worldview, but also harms the individual, makes it difficult to make timely government decisions that prevent tension in society. In the Republic of Kazakhstan, society is historically and culturally oriented towards two different religions: Sunni Islam (the Hanafi sect) and Orthodox Christianity.



The most important religious association is the religious administrator of Kazakhstani Muslims, who manages 15 regional branches, there are also 2744 mosques for worship. Muslims belonging to the parishioners of these mosques make up two-thirds of all believers in the country

The Orthodox Church of Kazakhstan (KPSH) ranks second in terms of the number of believers in Kazakhstan, with 299 religious sites.

The next most widespread religion in Kazakhstan is the Roman Catholic Church, which has 111 places of worship.

In the confessional space of Kazakhstan, a large place is occupied by the Protestant religious community, at present it has more than 500 churches and places of worship.

In addition to the religious communities listed above, there are 7 Jewish communities in our country, 2 Buddhist religious communities and 18 religious communities different for Kazakhstan (“Mormons”, “Krishnaites”, “Bahais”, “Mounites”, etc.).

In Kazakhstan, there are three main principles of state policy in the field of religious freedom: neutrality (neutrality), tolerance (tolerance) and the principles of equality.

We do not interfere in the internal religion of religious communities, we do not mix any religious beliefs with each other, we cover issues of equal opportunities for religions. The principle of neutrality takes pride of place in the worldview of a peace-loving country. As stated in article 3 of the new law on religion, the state requires citizens to clarify their views on religion and their preferred religion, and parents to raise their children in accordance with their beliefs. If the activities of religious associations do not contradict the legislation of the Republic of Kazakhstan, the state does not interfere in the activities of religious associations. The state is separated from religion and religious communities.

The principle of mutual tolerance (tolerance) consists not only in tolerance for other people's religious beliefs, but also in respect for other people's religious beliefs, that is, not in the exclusion of old beliefs. The state promotes the establishment of relations of mutual tolerance and respect between religious and non-religious citizens, as well as between different religious communities.



The principle of equality is that if the rights of religions are the same, the state cannot discriminate against any religious community. Religious organizations and citizens of the Republic of Kazakhstan are equal before the law in terms of religion. No religion is recognized by the state as a compulsory religion.

Article 22 of the Constitution of the Republic of Kazakhstan on the religious beliefs of people states: "Everyone has the right to freedom of opinion."

Along with the growth of religious associations, there is also an increase in illegal actions, various pseudo-religious movements, to which people with an unstable weak psyche, adolescents, and children are very inclined.

The danger of the spread of terrorism in Kazakhstan is associated with the following situation in terms of scale: in some foreign terrorist structures living in our republic, there are compatriots of ethnic extremist groups who have become husbands. Today the fight against extremism and terrorism is very acute for the Central Asian region. And the fact that such extreme events do not pose a significant threat to the conflict in Kazakhstan is a preventive and prophylactic measure that the state is gradually taking in this direction, and is the result of the use of bees.

The global trend of the spread of terrorism and extremism, the movement of international and religious extremist organizations towards the countries of Central Asia is moving in an anti-terrorist direction. It is necessary to radically reform the legal system of the country. Much of this work was open inside the national security agencies. The above-mentioned bodies in many cases initiated the introduction and implementation of changes and additions to the legal framework.

Firstly, the republic has acceded to all twelve UN conventions on combating terrorism.

Secondly, strengthening the effect of interdepartmental coordination in Kazakhstan, strengthening control over the implementation of anti-terrorist legislation and the implementation of relevant state programs. The National Anti-Terrorism Center has been created.

Thirdly, national legislation is being developed. It is planned to identify scattered organizations as extremist.

Fourthly, work is underway in Kazakhstan to eliminate the limited activities of Sri Lankan organizations.



Fifth, in accordance with the decisions of the UN Security Committee, a system will be formed in the country to counter the financing of Sri Lankan organizations and the illegal receipt of money.

It should be noted that in view of the seriousness of the topic of regulating the services of religious associations, it is better to show the practice used in the EU countries. On February 12, 1996, the European Parliament adopted a resolution on the regions of Europe. The resolution is sufficient to prevent the illegal actions of new religious currents of civil, criminal and civil procedure legislation applicable in the Member States, is intended to consider whether it is weak or weak.

The above measures were introduced due to the frequent occurrence of tense situations and tragic events caused by the above-mentioned religious movements in various parts of the world. According to the ruling, the governments of SW member states do not automatically grant the status of a religious organization.

5 CONCLUSION

In general, the attitude of each religion towards globalization can be considered mature, but each of the religions speaks much less clearly about world development.

If in some regions of the world people demonstrate uncompromising devotion to their traditional, “pre-global” religious forms, in others, on the contrary, religiosity acquires modernist configurations. In this regard, the base of legal regulation of the activities of religious associations is also imperfect.

In the context of globalization, the religious factor is of particular importance both for the masses, who see religion as a source and means of preserving cultural values, and for the subjects of globalization, who use it to achieve specific goals.

In the religious sphere of the life of society, perhaps, as in no other link of spiritual culture, historical memory, moral principles and faith uniting people are connected, which in their unity develop a kind of immunity against the aspirations of globalists, devoid of a humanistic principle.

The generally recognized achievement of Kazakhstan was the construction of a democratic and secular state, which provides equal opportunities for economic, social, cultural, spiritual development for representatives of all population groups. The principles of interethnic and interfaith harmony are implemented both in the policy of the central



authorities and in each region. Broad support in the cause of interfaith harmony is provided by national cultural centers and religious associations.

Religious and ethnic tolerance traditionally remain high in modern Kazakhstan. In the process of building a democratic society, relations between the state and religious associations have changed radically. In accordance with the Constitution and normative legal acts, the principle of freedom of religion was enshrined in legislation. The state recognized the equality of all citizens, regardless of their ethnic or religious affiliation. Any restrictions on universal human and civil rights are prohibited.

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