

THE REFLECTION OF RELIGIOUS BELIEF AND THE LEGAL REGULATION OF THE ACTIVITIES OF RELIGIOUS ASSOCIATIONS IN THE NORMS OF CUSTOMARY LAW

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The relationship between the state and religious associations, as well as between religion and law, has gone through very complex stages in human history. While religion and law influenced the shaping of human behavior, the state and religious associations performed functions of organizing and governing society. Law, the state, and religious institutions were so intertwined that the legal and governmental foundations of many states were established on the basis of religious norms [1].

Despite the ongoing secularization processes in many states today, the continuing strong influence of religion on state and social life demonstrates the profound impact of religion on human consciousness. This can be observed particularly in post-Soviet states, where, despite attempts to eradicate religion entirely, religious associations have reemerged and gained growing influence over society. Even when the state employed all of its governing institutions, ideological means, and coercive methods, it still failed to fully separate society from the influence of religion. Therefore, in order to assess how the relationship between religious associations and the state was formed and how they influenced each other, it is necessary to analyze historical periods.

Throughout human history, the state, religious associations, and religion itself experienced very complex interactions. Religion and law, along with other functions, regulated human conduct, while the state and religious associations organized society. Consequently, the systems of state institutions and religious institutions are highly similar, and the legal systems of many countries have developed on religious foundations. Today, in many countries of the world, the process of secularization is progressing rapidly, distancing state legal institutions from the influence of religion. However, in some states — especially post-Soviet countries — despite long-term campaigns of religious eradication and atheist propaganda, religion has once again strengthened its role in social life. These two contradictory processes reveal that the roots of religion are deeply embedded, and that it is impossible to completely eradicate this concept from the consciousness of society.

Religious associations are an integral part of the social structure of modern society. Organizations founded on religious principles exist in all states, directly influencing their history, culture, and social organization. Even in states that viewed religion as a dangerous element and persecuted its members, religious organizations nevertheless continued to function.

The secularization processes in modern states, along with the development of social technologies and communications, have still not been able to remove religion from social life. Although the influence of traditional religions on social processes has diminished, new religious movements adapted to modern realities have emerged in their place. Contemporary religious organizations are multifaceted social phenomena with distinct systems. They possess their own hierarchical structures established on legal bases, and in some cases, their influence may exceed that of certain state institutions (for example, the Vatican, which has established its own state). At the same time, some exist only within families or small groups, functioning as low-activity organizations.

The state authorizes the operation of religious organizations, defines their rights and obligations, and supervises the directions of their activities. However, this relationship did not develop instantly. To understand the interaction between modern states and religious associations, it is necessary to turn to history.

When considering the history of relations between religious organizations and the state, the world can be roughly divided into the following groups: European countries where Christianity spread; Eastern countries influenced by Islam; India, where Hinduism dominates; and China, shaped by Confucian teachings.

From a theoretical perspective, religion as a normative system appeared earlier than law and influenced its formation. The emergence of religious organizations, however, is associated with later stages of history. At different times, religious organizations functioned not as separate social structures but as integral parts of political, national, or cultural systems. In certain cases, they became components of the state apparatus, or even carried out its functions. Often, religious associations did not have a concrete form or hierarchy. The uneven development of states and political systems, combined with the absence of a clear organizational structure among religious associations, complicates legal analysis of their relations. Comparatively speaking, religious associations were recognized as legal subjects only at a later stage. Moreover, legal relations in states were often established not with religious associations themselves but directly with individual believers. Nevertheless, from the moment states emerged, they sought to regulate the activities of religious associations. History bears witness to numerous reforms aimed at regulating religious affairs. Practices familiar today, such as licensing, registration, granting privileges to some religious associations while banning others, restricting certain religious practices, and even criminal prosecution, date back to ancient times. It is difficult to find a state that did not exercise such functions. While laws, edicts, decrees, and other acts provided the normative foundation for religious regulation, in some cases state intervention was carried out without any legal justification.

At the early stages, state regulation in this area was implemented through norms that restricted individual rights and freedoms, including the right to religious belief. According to M.T. Baymakhanov, in such states, administrative-command methods dominated, ensuring unconditional compliance by all subjects of social relations with state decrees [2]. For this reason, freedom of religion was heavily restricted and could only be exercised according to state prescriptions, with an emphasis on coercion, persecution, repression, and similar methods.

At the same time, there were states in history where religious tolerance existed. However, even in those states, individuals were assumed to be born into a particular faith, and conversion to another religion was not recognized by the state. For example, I.V. Churkina notes that in medieval Europe a person first identified themselves as a Christian Catholic, a

Christian Orthodox, or a Jew, and only afterward indicated their place of residence or origin. Similarly, P. Sorokin argued that during this period, the citizens of a state were generally required to adhere to the same religion, which had to be recognized as official by the state. Those with different religious beliefs — the so-called heretics — were denied the opportunity to live freely, and they were often persecuted or destroyed [3].

It was only in relatively modern times that states began to recognize the freedom of religious belief of their citizens, and alongside defining the obligations of religious organizations, they also began to establish their own responsibilities toward these organizations. However, this was not a universal shift; there are still states today that do not fully recognize freedom of religion. Nonetheless, it took thousands of years for the relationship between states and religious organizations to develop to this stage.

D.M. Urigonovich pointed out that in the primitive communal era, every member of a clan or tribe belonged to a religious group, and all members of society participated in religious rituals. The writer Fustel de Coulanges believed that all religions were originally centered around the family and that rituals were performed exclusively within households [4].

The emergence of religious organizations as distinct social groups was significantly influenced by the differentiation of religious functions among members of society, the appearance of professional clergy, and the construction of temples. Among these factors, the rise of professional priests had the greatest impact on the formation of religious organizations.

Although not all states experienced the full development of these factors, the emergence of temples and priesthood can be observed universally. Religions organized into hierarchical structures entered into relationships with states and became key elements of political and cultural life. It is difficult to speak of legal norms regulating such organizations at the time, as law itself was only beginning to take shape. Religion, however, became an inseparable part of social consciousness and the foundation of state authority and ideology. As a result, religious organizations became almost indistinguishable from state power, often performing its functions.

In ancient Greece, however, the situation was different. Unlike in the despotic East, religion in Greece did not seek to dominate all forms of social consciousness or to monopolize political power. Moreover, numerous religious movements, circles, and associations existed there. Structurally, these associations bore many similarities to the Christian ecclesia that would emerge later.

I.A. Pokrovsky, in his works, noted that in Ancient Rome the distinction between secular law, human rights, and divine law had already begun at an early stage. Nevertheless, religious organizations and clergy played an important role in Roman society. According to some researchers, Roman religious associations became legal entities — corporations — on par with other institutions such as the Senate and the Roman people. These associations represented the earliest forms of public organizations, later evolving into “legal persons.”

In general, in the early societies of Greece and Rome, religion did not fully develop its own independent social structure. It functioned only as a part of the broader culture of society. Religious organizations consisted primarily of clergy and temple servants, while citizens carried out religious rituals as civic duties. Over time, however, organizations with religious features began to separate themselves from society and the state, and many of these groups took an oppositional stance toward both state power and other religions.

In Ancient Rome, the legal foundations for religious associations and other organizations began to take shape. The state legitimized (legalized) their activities and recognized them as subjects of law.

The emergence and development of religious organizations in the modern sense were influenced by the early Christian communities. These initial groups lacked a clear ecclesiastical hierarchy or structure. They were built on absolute faith in their leaders. Over time, the establishment of social hierarchies and the growing influence of bishops led to the formation of the church system. The church developed as an organization with its own internal order, territorial principles, rules for admitting new members, a unique jurisdiction, and norms regulating its relations with the external world.

The relationship between the state and religious associations in Kazakhstan can be divided into three stages. The first stage extends from the spread of Islam across the Kazakh steppe until the establishment of Soviet power in 1918; the second covers the Soviet period until Kazakhstan gained independence; and the third stage begins with independence and continues to the present day.

Kazakhstan's history and culture have been closely connected with Islam for many centuries. The spread of Islam into Central Asia and Kazakhstan is dated to the 7th–8th centuries. Initially, the new religion penetrated the southern regions. By the end of the 10th century, Islam had become the dominant religion among the settled populations of Zhetysay and the Syr Darya valley. At the beginning of the 10th century, Satuk, the founder of the Karakhanid dynasty, converted to Islam, and in 960 his son Bogra Khan Harun Musa declared Islam the state religion.

In the 13th century, the Mongol invasions of Central Asia and Kazakhstan, along with the settlement of Mongol and Turkic tribes who adhered to their own traditional religious beliefs, temporarily slowed the spread of Islam. Many cities were destroyed, centers of science and culture were plundered, and mosques and madrasas were demolished. Trade along the Silk Road suffered great damage. However, a revival gradually began. The Mongol conquerors and rulers converted to Islam and adopted the Turkic language. This facilitated the re-expansion of Islam into the steppe and allowed it to attract broader segments of the population. Importantly, the Mongol rulers did not impose their traditional faith on Muslims and often demonstrated religious tolerance.

In the 15th century, Islam was proclaimed the official ideology of the Kazakh Khanate, founded by Janibek and Kerei. Islam served as one of the ideological factors that strengthened supreme khan authority and unified diverse Kazakh tribes into a single ethnic community. From its inception, the Kazakh state referred to Islamic legal norms. All Kazakh khans — from Kerei and Janibek to the last khan, Kenesary — noted their reliance on Sharia. The steppe codes adopted by Kasym Khan and Yesim Khan were strongly influenced by Islamic law [5].

The adoption of Tauke Khan's code “Jetti Jargy” (Seven Charters) marked a significant step in the application of Islam in social life and legal practice. The document incorporated administrative, criminal, and civil law norms, many of which referred directly to Sharia. This law acknowledged the state's support of Islam. For example: “If a person is proven by

seven witnesses to have blasphemed against God, he must be executed by stoning”; “If someone converts to Christianity, his relatives inherit all his property.” At the same time, most legal norms remained linked to steppe customary practices or represented a synthesis of Sharia and customary law. Because Islam adopted many elements of steppe tradition, it is often difficult to distinguish between the two. This synthesis is evident in the Jeti Jargy.

In Kazakh society, Islam and ancient folk traditions became intertwined. For instance, the practice of arranging betrothals for infants (besik kuda) was not rejected by Islam. Through this custom, kinship ties were renewed across generations. Islam also accommodated older traditions such as the payment of kalym mal (bride price). Thus, traditional Islam spread widely, preserving elements of pre-Islamic beliefs. Although official religious leadership structures such as imams and mullahs developed, their growth was gradual.

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ӘОЖ 378.1(574)(092)

Е.А. БӨКЕТОВТЫҢ ҚАЗАҚСТАНДАҒЫ УНИВЕРСИТЕТТІК БІЛІМ БЕРУДІ ДАМУДАҒЫ БІЛІМ БЕРУШІЛІК МИССИЯСЫ

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Академик Е.А. Бөкетовтың тұлғасы отандық ғылым мен жоғары білім тарихында айрықша орын алады. Бөкетовтің өмірбаянының бірегейлігі – онда зерттеушілік, ұйымдастырушылық және гуманитарлық қырлардың органикалық түрде тоғысуында: ол – химия мен металлургия саласындағы көрнекті ғалым, жоғары мемлекеттік сыйлықтың лауреаты, тиімді білім беру тәжірибелерін жасаушы, сондай-ақ жазушы және аудармашы. Ғалымның жүз жылдық мерейтойы аясында оның ағартушылық миссиясын зерделеу тарихи-биографиялық қана емес, сонымен бірге Қазақстан университеттік саласының жаңғыруы үшін өзекті-әдіснамалық мәнге ие [1;2].

«Білім беру миссиясы» ұғымы бұл мақалада университеттің қоғамдық рөлін жүзеге асыратын мақсаттар, қағидалар мен тетіктердің жиынтығы ретінде түсіндіріледі: жоғары білікті кадрларды даярлау, ғылыми білімді ұдайы өндіру, азаматтық жауапкершілікті және мәдени сәйкестікті қалыптастыру. Е.А. Бөкетовтың университет миссиясына деген көзқарасы тұтастығымен ерекшеленді: ол ғылыми мектептің іргелілігін, инженерлік білімнің тәжірибеге бағдарланғанын, гуманитарлық ойлау мәдениетін және қоғамға қызмет ету этикасын біріктіре білді [3;4].

Мақаланың мақсаты – Е.А. Бөкетовтың білім беру миссиясының мазмұнын ашу, оның институционалдық көріністерін Қарағанды университетінің қызметінен көрсету және бұл мұраның Қазақстан жоғары мектебіндегі қазіргі реформалар үшін – академиялық еркіндік, білім сапасы, пәнаралықты дамыту және университеттердің әлеуметтік жауапкершілігі үшін маңыздылығын дәлелдеу [5;6;8].

Кеңестік және посткеңестік кезеңдегі білім беру көшбасшыларына қатысты зерттеулер табысты университеттік реформалардың жеке тұлғалардың стратегиялық көзқарастары мен институционалдық шектеулерді еңсеру қабілетіне сүйенгенін көрсетеді. Отандық историографияда Букетов бейнесі тек көрнекті ғалым-практик ретінде ғана емес, сонымен бірге ғылыми және оқу үдерісін сапалы ұйымдастыра білген, кадр даярлау сапасына да, нақты сектордың мәселелерін шешуге де бірдей бағытталған үлгілі ұйымдастырушы ретінде сипатталады [1;2].

Теориялық тұрғыдан Бөкетовтың білім беру миссиясын «гумбольдтық» университет моделінің (білім беру мен ғылыми-зерттеу жұмысының бірлігі), инженерлік модельдің (білімнің өндірістік қолданбалылығы) және үшінші буын университеттерінің қоғамдық миссиясының (әлеуметтік инновациялар, технологиялар трансферті, қауымдастықтармен өзара іс-қимыл) синтезі арқылы түсіндіруге болады [6;8]. Осы негіздердің үйлесімі оның қалыптастырған тәжірибесінің орнықтылығын және жаңа саяси-экономикалық жағдайларға бейімделу қабілетін түсіндіреді.

Бөкетовтың білім беру философиясында тұлғаны жан-жақты дамыту идеясы негізгі орын алды. Ол дәйекті түрде ұштағанды алға тартты: ғылыми дайындықтың іргелілігі, инженерлік ойлау мәдениеті және гуманитарлық рефлексия. Мұндай ұстаным түлектерге тек қолданбалы міндеттерді шешіп қана қоймай, сонымен бірге технологиялардың әлеуметтік салдарын бағалауға, этикалық сезімталдық пен қоғам алдындағы жауапкершілікті сақтауға мүмкіндік берді [3; 4].

Ғылым тіліне және сөздік қарым-қатынас мәдениетіне ерекше назар аударылды. Жазушы әрі аудармашы ретінде Букетов ғылыми тілдің дәлдігі мен гуманитарлық мәдениет «қосымша» емес, инженерлік және