

N.P. Starozhilova

*Ye.A. Buketov Karaganda State University, Kazakhstan
(E-mail: star-np@mail.ru)***International legal aspects of the fight against profiling and stigma and their influence on the formation of national sense of justice**

The relevance of the topic is due to the increasing role of national sense of justice in the formation of modern society. The article discusses the legal aspects of the relationship of religion and national sense of justice. The author reveals the essence of national legal consciousness by analyzing its features, structure and types. The author concludes that religion and legal consciousness interact with each other in the process of regulating social relations and have a direct impact on human behavior. As a result of this influence in modern society, a negative attitude towards representatives of other religions is formed in the minds of many people. This is the cause of many interethnic, inter-religious conflicts in states. The article analyzes the international legal acts adopted in order to eliminate religious intolerance, discrimination based on religious affiliation. The author explores the essence of such negative manifestations of social and religious intolerance as profiling and stigmatization. The author's view on the problem of combating the facts of negative profiling and stigmatization and its role in maintaining social harmony and nationwide unity is presented. The article concludes that the existence of ethnic profiling and stigmatization creates favorable conditions for facts of discrimination on ethnic and social grounds. Conclusions and suggestions are formulated to prevent stigma and profiling.

Keywords: legal consciousness, freedom of religion, discrimination, national minorities, religious extremism, stigmatization, profiling, intolerance, negative stereotypes, defamation of religions, human rights.

Introduction

Legal consciousness is a complex spiritual phenomenon that arises from various political and legal, cultural, historical, religious, moral, national and ethnic characteristics. Legal awareness is not just the awareness and perception of existing legal norms. Traditionally, three elements are distinguished in the structure of legal consciousness:

- legal ideology, which represents the results of abstract thinking and includes conceptually designed concepts and ideas about the necessity and role of law, its functions and values, its maintenance, improvement, methods and forms of implementation;
- legal psychology, as a result of the psychological perception of legal reality, feelings, emotions and experiences of people associated with law;
- behavioral factors, as the results of intellectual, ideological and psychological perceptions of law. These factors are expressed in motives, goals, internal attitudes and specific wills of behavior of subjects of law and in many respects determine the legitimacy of their behavior in regulated social relations.

In modern legal literature, the authors distinguish the following main characteristics of legal awareness:

- legal consciousness is a specific form of social consciousness in which economic, social, political and other interests are recognized as legal;
- the content of legal awareness consists of ideas, theories, feelings, moods, emotions, concepts, on the basis of which the attitude of people to the current and desired law is expressed;
- legal consciousness is comparable with the sources of law, because it constitutes a system of universally recognized ideals, values, ideas, signs;
- the legal entities are the subjects of law.

Alekseev S.S. notes that justice as well as law is an element of the country's legal system. Legal awareness, along with law, performs normative functions and is characterized by structuredness [1; 264]. But unlike law, legal consciousness is a purely subjective phenomenon, it «consists of subjective representations of people about law..., from a subjective attitude to the very phenomenon of law, from legal psychology, and even from an individual or mass reaction to law» [1; 265]. Legal awareness is not just the awareness and perception of existing legal norms. Legal consciousness is defined as a form of consciousness that reflects

legal validity in the form of legal knowledge and assessment of the law and practice of its implementation, legal attitudes and values that determine the behavior of people in legally significant situations [2; 379].

Ideology, psychology and behavior are three characteristics that are commonly used to identify a nation or people. In turn, a nation or people form a specific group, part of human society, which is characterized by this type of group justice as national justice. The problem of national justice as a subjective factor that determines the activities of people in the state-legal sphere provides a key to understanding the nature of legal relations and people's activities.

An important element of national justice and human behavior is the freedom of religion and belief. Religion and legal consciousness interact with each other in the process of regulating social relations, which are their logical goal, and their regulation is not always the result. Today, around the world, the principle of separation of religion from the state is recognized, the vast majority of states are secular in nature. But the right to freedom of conscience remains one of the most important natural human rights.

In the process of regulating social relations, religion and legal consciousness can directly affect human behavior. Above, we examined the nature of the connection between religion and legal consciousness, therefore, the connection between a person's commitment to any religious teaching and his further behavior becomes more understandable. The presence of such a relationship often contributes to the formation in modern society of most states of a negative attitude towards the supporters of certain religious teachings, extending this negative attitude to the entire religious direction as a whole. Such types of intolerance, which is based on religious, racial, ethnic, social affiliation, are called profiling and stigmatization. Profiling and stigmatization as a phenomenon of social life were initially the subject of research in psychological science [3, 4]. In legal science, profiling as a set of techniques and means of compiling a psychological portrait of a person to establish a psychological model of criminal behavior in order to establish the identity of a criminal is usually studied from the point of view of criminology [5]. Such intolerance and contempt often become the cause of interethnic, inter-religious conflicts in states, leading to the violation of human rights and freedoms. Such conflicts often occur as a result of foreign interference in the internal affairs of other states, or become an excuse for such interference, contribute to the cultivation of hatred between peoples and states. For these reasons, a number of documents have been adopted in international law aimed at eradicating these destructive phenomena. It should be noted that in different states the degree of distribution of these phenomena is not the same and is often present at the everyday, everyday level, introducing a certain tension in social and interpersonal relations. The analysis of international legal regulation of the fight against profiling and stigmatization and its reflection in national legislation became the subject of this study.

Methods and Materials

In order to reveal the essence of national justice, it is necessary to determine its features, structure, functions and types. The specifics of the national legal consciousness essentially depends on the living conditions of a particular nation, the characteristics of its historical development, existing economic and social relations, and the form of power. Freedom of religion — the right to profess and practice any religion. Historically, the meaning of the term has expanded, and today freedom of religion is usually understood also as the right not to profess and practice any religion, to preach religious or other worldviews and to propagandize their rejection. As noted above, religion and the level of justice have a direct impact on human behavior. If such an impact is balanced, then the result is legitimate behavior. The prevalence of religious values over the mindset contributes to the formation of negative phenomena in national justice and people's behavior.

The significant influence of religion on the nature of public consciousness is currently confirmed by the presence of legislative regulation of social relations taking shape in this area. For this, it is necessary to conduct a comparative legal analysis of international legal acts and national legislation in the studied sphere of public relations.

Results

Religion performs an important social function, being a means of agitation and coordination of people to certain deeds and thoughts through the formation of an appropriate social environment. This is a social management institute that establishes certain norms and motives of social behavior. Moreover, religious morality through the social environment extends to society and dominates it. Moral attitudes, becoming absolute norms for most people, form a culture of society that corresponds to religion, its moral attitudes and its logic of behavior and thinking. As a result, the relative stability of the management of society is ensured on the basis of basic religious ideas, which are accepted by the majority as a moral postulate. A person, understand-

ing his place in life, realizing his goals and objectives, coordinates his opinion with the objective criteria of religious teaching. Acceptance by a person of the position of religious doctrine leads to a change in worldview in such a way that it corresponds to divine purposes. This is the mechanism of religious regulation of social processes.

Representatives of almost 130 nationalities and 48 faiths live in Kazakhstan. They preserve their culture, traditions, customs and language, but at the same time they all respect and honor the traditions of the Kazakh people. The country has maintained peace and harmony in the field of interethnic and interreligious relations. In the conditions of a multi-ethnic and multi-religious Kazakhstani society, the spiritual world and harmony are of great importance. They act as a factor in the consolidation of the people of Kazakhstan into a single civic community, mobilizing its potential. In Kazakhstan, it was possible to achieve such unity and social harmony. Being a multinational and multiconfessional state, Kazakhstan by its example clearly demonstrates the possibility of peaceful coexistence of people of different origin and religion and is a platform for global dialogue of religions.

Features of the Kazakh legal consciousness, its formation are determined by the ethnic and national characteristics of the Kazakh people, its history and the modern period of development. Among these features, a high level of tolerance, peacefulness, and a deep organic connection with the outside world, nature, and space are traditionally called. All of the above features and advantages in general and determine the nature of national justice. They determine the state of the worldview and the level of legal awareness of the entire population of modern Kazakhstan. It is these listed features that led to the gradual formation in Kazakhstan of a modern multiconfessional state. These factors contributed to the creation of such an unusual, important institution of modern Kazakhstani society as the Assembly of the People of Kazakhstan [6].

As a result, justice is a compromise between the rule of law and morality. Religious norms are often filled with specific legal content, and vice versa. Thus, we see that religion and law create an interesting area of social relations, limited, on the one hand, by the sphere of religion, and on the other — by the sphere of legal regulation. The peculiarity of the national legal consciousness of Kazakhstani society is public consent and national unity enshrined in the Law on the Assembly of the People of Kazakhstan on the basis of Kazakhstani patriotism, civil and spiritual-cultural community of ethnic groups of Kazakhstan with the consolidating role of the Kazakh people.

Discussions

Almost everyone knows the name of rights and freedoms, but the problem is a different interpretation of the content of rights and freedoms, and most importantly, a different understanding of how to use them, i.e. how to implement them. There is a definite connection between a person's commitment to a religious teaching and his further behavior. The presence of such a relationship often contributes to the formation in modern society of most states of a negative attitude towards the supporters of certain religious teachings, extending this negative attitude to the entire religious direction as a whole. This often becomes the cause of interethnic, inter-religious conflicts in states, leads to the violation of human rights and freedoms. Such conflicts often occur as a result of foreign interference in the internal affairs of other states, or become an excuse for such interference, contribute to the cultivation of hatred between peoples and states. Among the negative phenomena of modern reality are intolerance and discrimination based on religions and beliefs. All these factors required the further development of international legal standards of human rights in the field of religious freedom.

225 years have passed since the day when the French Declaration of Human Rights and Citizen proclaimed freedom of religion. The provisions of the French Declaration are internationally enshrined in the 1948 Universal Declaration of Human Rights, the 1966 Covenant on Civil and Political Rights, and regional human rights documents. The Preamble to the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief states that ignoring and violating human rights and fundamental freedoms, in particular the right to freedom of thought, conscience, religion or belief of any kind, are directly or indirectly the cause of wars and serious human suffering, especially when they serve as a means of foreign interference in the internal affairs of other states and lead to incitement of hatred between peoples and states [7]. Article 2 defines that «intolerance and discrimination on the basis of religion or belief» means any distinction, exclusion, restriction or preference based on religion or belief and with the aim or effect of destroying or diminishing recognition, enjoyment or exercise on the basis of equality of human rights and fundamental freedoms.

Therefore, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief established the need to promote understanding, tolerance and respect for freedom of religion and belief and to ensure that religion or belief is not used for purposes incompatible with the UN Charter. Article 6 of the Declaration states that the right to freedom of thought, conscience, religion or belief includes the following freedoms: to worship or gather in connection with religion or belief and to create and maintain places for these purposes; create and maintain appropriate charitable or humanitarian institutions; to produce, acquire and use, in an appropriate volume, the necessary items and materials related to religious rites or customs or beliefs; write, publish and distribute relevant publications in these areas; teach religion or belief in places suitable for this purpose; seek and receive voluntary financial and other donations from individuals and organizations; to observe days of rest and celebrate holidays and worship in accordance with the requirements of religion and beliefs; establish and maintain relationships with individuals and communities in the field of religion and belief at the national and international levels.

Article 2 prohibits discrimination on the basis of religious affiliation or belief. The state and society must fight against religious intolerance.

In pursuance of these provisions and as guarantees of their observance, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in Article 1 proclaimed that States protect the existence and identity of national or ethnic, cultural, religious and linguistic minorities in their territories and encourage the creation of conditions for the development of this identity and take appropriate legislative and other measures to achieve these goals [8]. Measures should be aimed at ensuring that these people can use their cultural heritage, practice their religion and worship, and use their language in private and publicly, freely and without interference or discrimination in any form whatsoever those cases when a specific activity is carried out in violation of national law and is contrary to international standards.

The origins of religious intolerance often come from recent interpretations of various religions that preach the forcible distribution and imposition of religious beliefs. This issue was discussed at the World Conference on Dialogue between Religions and Civilizations: «The Contribution of Religion and Culture to Peace, Mutual Understanding, and Cooperation», October 26–28, 2007 in Ohrid, Republic of Macedonia. The conference adopted the Declaration on the Promotion of Dialogue and Understanding between Religions and Civilizations.

The Astana Declaration, adopted by the participants in the Ministerial Conference on the theme «A Common World: Progress through Diversity», held in Kazakhstan on October 17, 2008, proclaimed that, to combat stereotypes, prejudices and misconceptions in any form about different cultures, are key factors in the activities of political actors spheres, institutions of the education system and the media in order to promote intercultural dialogue are education and information [9].

On the one hand, the task is to respect and guarantee the right to freedom of religion and belief. On the other hand, manifestations of religious extremism in various parts of the world are increasing, which affect the rights of people, including persons belonging to religious minorities. This gives rise to acts of violence and cases of intolerance on the basis of religion or belief against individuals, including believers and persons belonging to religious minorities and other communities in various parts of the world; incidents of hatred, discrimination, on the basis of religion or belief, which may be associated with the formation of derogatory stereotypes, negative profiling and stigmatization of persons based on religion or belief of such people or find expression in them. The Resolution adopted by the General Assembly on December 17, 2015 70/158 «Freedom of religion or belief» is devoted to this problem [10].

In modern society, today such negative manifestations of public consciousness as profiling and stigmatization have formed. «Profiling (English «profile» — a profile) is a concept that denotes a set of psychological methods and techniques for assessing and predicting human behavior based on an analysis of the most informative particular signs, characteristics of appearance, non-verbal and verbal behavior. The most controversial aspect of profiling is ethnic profiling, based on the assumption of a connection between a person's ethnicity and the possibility of illegal behavior» [11]. «Stigmatization (from the Greek. Στίγμα — «label, stigma») — stigmatization, stigma. In contrast to stigmatization, the word stigmatization can mean hanging social labels. In this sense, stigmatization is the linking of some quality (usually negative) with an individual person or many people, although this connection is absent or not proven» [11]. The manifestations of stigmatization are very diverse and quite common in everyday life. As a rule, they have everyday nature. For example, distrust of previously convicted people is neglected It leads to pensioners, people with disabilities, suspicion and disgust for children from orphanages. Stigmatization can lead to discrimination, that is, to real actions that restrict the rights of a group.

Therefore, the Resolution adopted by the General Assembly on 17 December 2015 70/157 «Combating intolerance, the formation of negative stereotypes, stigmatization, discrimination, incitement to violence and violence against people based on religion or belief» stated that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group. Condemning criminal acts committed by terrorist and extremist groups and movements against people on the basis of their religion or belief, these acts cannot be associated with any particular religion or belief [12]. Prevention in society of acts of discrimination, intolerance and violence based on religion or belief against individuals, including persons belonging to religious communities and religious minorities around the world and in our country, caused by Islam phobia, anti-Semitism and Christian phobia, as well as prejudice in the attitude of persons of other faiths or beliefs should become an element of national justice.

The Human Rights Council, in its resolution 10/22 on combating defamation of religions (criticism of religions) of March 26, 2009, also condemned all acts of violence and incitement to violence against people based on their religion or belief and against their business enterprises, property, cultural centers and places of worship, as well as cases of mockery of holy places, religious symbols and revered personalities of all religions. The Council recognized the unacceptable association of Islam with terrorism, ethnic and religious profiling of Muslim minorities, especially after the tragic events of September 11, 2001 and the stigmatization of Muslim minorities.

The UN also called on states to ensure that persons on their territory are not deprived of their right to life, liberty and security of person due to religion or belief, and that adequate protection is provided for individuals at risk of violent attacks based on their religion or conviction that no one should be subjected to torture or arbitrary arrest or detention on this basis and to bring to justice all who violate these rights.

Conclusions

In the Republic of Kazakhstan, civil society institutions are constantly developing, aimed at the formation of national justice on the basis of tolerance and respect for all members of society. The Assembly of the People of Kazakhstan is working successfully. At the government level, a Ministry of Information and Public Development has been created, whose functions include participation in the formation and coordination of state policy in the field of modernization of public consciousness; implementation of preventive measures aimed at preventing religious extremism and radicalism; interaction with centers for assistance to victims of destructive religious movements and other non-governmental organizations on issues falling within the competence of the Ministry of Information of Social Development of the Republic of Kazakhstan [13].

To prevent the facts of stigma and profiling based on religions and beliefs, it is necessary:

open public discussion of ideas, as well as interreligious, interfaith and intercultural dialogue at the local, national and international levels;

the use of educational programs that promote all human rights and fundamental freedoms to increase tolerance for religious and cultural diversity.

An analysis of the legislation on religious activity in the Republic of Kazakhstan, on the Assembly of the People of Kazakhstan, on the media shows that in our country's current legislation there are no such categories as «profiling», «stigmatization», «defamation of religions». On the one hand, this is a good sign and indicates that in modern civil society in Kazakhstan there are no such manifestations in droves. However, legal regulation must also have a preventive character. Therefore, we believe that in order to prevent these phenomena, it is necessary to make appropriate amendments to the legislative acts.

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Н.П. Старожилова

Профайлинг және стигматизациямен күрестің халықаралық-құқықтық аспектілері және олардың ұлттық құқықтық сананы қалыптастыруға әсері

Тақырыптың өзектілігі қазіргі қоғамның қалыптасуындағы ұлттық құқықтық сана рөлінің күшеюіне байланысты. Мақалада дін мен ұлттық құқықтық сана арақатынасының құқықтық аспектілері қарастырылды. Автор ұлттық құқықтық сана мәнін, оның ерекшеліктерін, құрылымы мен түрлерін талдай отырып ашады. Автор дін және құқықтық сана қоғамдық қатынастарды реттеу процесінде өзара әрекеттеседі және адамның мінез-құлқына тікелей әсер етеді деген тұжырым жасайды. Қазіргі қоғамда осындай әсердің нәтижесінде көптеген адамдардың санасында басқа дін өкілдеріне теріс көзқарас қалыптасты. Бұл мемлекеттердегі көптеген ұлтаралық, дінаралық қақтығыстардың себебі болып табылады. Мақалада діни сенімге негізделген төзбеушілікті, кемсітушілікті жою мақсатында қабылданған халықаралық-құқықтық актілер талданды. Автор әлеуметтік және діни төзбеушіліктің профайлинг және стигматизация сияқты жағымсыз көріністерінің мәнін зерттейді. Теріс профайлинг мен стигматизация фактілерімен күресу мәселесі және оның қоғамдық келісім мен ұлттық бірлікті сақтаудағы рөлі туралы автордың көзқарасы келтірілген. Мақалада профайлинг мен стигматизацияның болуы этникалық және әлеуметтік себептер бойынша дискриминация фактілері үшін қолайлы жағдай туғызады деп тұжырымдалған. Стигматизация мен профайлингтың алдын алуға бағытталған қорытындылар мен ұсыныстар жасалды.

Кілт сөздер: құқықтық сана, дін бостандығы, кемсітушілік, ұлттық азшылық, діни экстремизм, стигматизация, профайлинг, төзбеушілік, теріс стереотиптер, діндердің диффамациясы, адам құқықтары.

Н.П. Старожилова

Международно-правовые аспекты борьбы с профайлингом и стигматизацией и их влияние на формирование национального правосознания

Актуальность темы обусловлена возрастающей ролью национального правосознания в формировании современного общества. В статье рассмотрены правовые аспекты соотношения религии и национального правосознания. Автором раскрыта сущность национального правосознания, проанализированы его особенности, структура и типы. Автор приходит к выводу, что религия и правосознание взаимодействуют друг с другом в процессе регулирования общественных отношений и оказывают непосредственное влияние на поведение человека. В результате этого влияния в современном обществе в сознании многих людей формируется негативное отношение к представителям других религий. Это является причиной многих межэтнических, межрелигиозных конфликтов в государствах. В статье проанализированы международно-правовые акты, принятые с целью ликвидации религиозной нетерпимости, дискриминации по признаку религиозной принадлежности, исследована сущность таких негативных проявлений социальной и религиозной нетерпи-

мости, как профайлинг и стигматизация. Представлен авторский взгляд на проблему борьбы с фактами негативного профайлинга и стигматизации и её роль в поддержании социального согласия и общенационального единства. В статье сделан вывод о том, что наличие этнического профайлинга и стигматизации создает благоприятные условия для фактов дискриминации по этническому и социальному признакам. Сформулированы выводы и предложения, направленные на предупреждение стигматизации и профайлинга.

Ключевые слова: правосознание, свобода религии, дискриминация, национальные меньшинства, религиозный экстремизм, стигматизация, профайлинг, нетерпимость, негативные стереотипы, диффамация религий, права человека.

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