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**FEATURES OF THE MUSLIM-LEGAL CULTURE
IN THE SOCIO-POLITICAL SPACE OF CENTRAL ASIA**

Abstract. Using specific materials, the article deals with the features of the Muslim-legal culture in the socio-political space of Central Asia, which have not yet been studied in political science. The paper examines in more detail the politological aspects of the main features, characteristics of the Muslim-legal culture of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. Muslim-legal culture can play a certain role in political and cultural development of Central Asia, also other countries of the Commonwealth of Independent States. The relevance of Muslim-legal culture for Central Asia is determined by the fact that Islam is not something alien and extraneous for Central Asia. It is an integral part of its history and culture, the most important aspect of lifestyle of tens millions Central Asian Muslims. In present-day Central Asia Islam is characterized by an extraordinary variety, pluralism of manifestations, and ambiguity of functions, which are determined both by common features peculiar to Islam, as well as by country-specific social, cultural, political, religious and other factors. The article notes that the Muslim - legal culture contains many useful things in Central Asia for solving the urgent task of bringing moral and legal foundations under the policy. At the same time, the article focuses on discussing issues.

Keywords: politics, law, Islam, Moslem, state, country, culture, knowledge, Ijtihad, custom, tradition, civilization, justice, faith, religion, Sharia, legislation.

In the beginning, it should be noted that the Muslim-legal culture in Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan) serves as channels of interaction between the individual, society and the state. Unfortunately, the Muslim-legal culture in Central Asia has not yet been studied in science. Naturally, in one article it is impossible to cover all the issues of this problem. Therefore, we will consider only some of the politological issues of the Muslim-legal culture in Central Asian socio-political space.

To correctly understand the Muslim-legal culture in the socio-political space of Central Asia, it is necessary to know the history of the spread of Islam. As you know, Islam arose in the 7th century in Arabia. Islam as a result of the Arab conquests spread to the Near and the Middle East, Southeast Africa [1], etc. In this regard, it should be said that the beginning of the spread of Islam in Central Asia dates from sources of the 7th-8th centuries AD [2].

Currently, about two billion people in the world confess Islam. According to official figures, 18% of Muslims live in Arab countries, almost 50% of Muslims live in North Africa, about 30% - in Pakistan and Bangladesh, a large number of Moslems are citizens of Indonesia, the USA, China, Russia, India, South Africa, Europe and Central Asia [3], etc.

Muslim - legal culture represents an extremely complex phenomenon in its internal structure and wealth of socio-political ties.

In this regard, it should be noted that the Muslim-legal culture can play a significant role in the legal, political and cultural development of both Central Asia and other countries of the Commonwealth of Independent States.

The Muslim - legal culture of Central Asians - part of the Central Asian, global legal culture - is part of the politological problem. Today in Central Asia, more than 60 million people confess Islam. Currently, more than 15,000 Moslem communities are registered in Central Asia, about 14,000 mosques operate (and in total about 18,000 religious communities and more than 50 confessions are registered in the region). Many buildings taken from believers in previous years come back and are being restored. Islamic

institutes were established in the countries of Central Asia, and courses for training Muslim officers in Shymkent, Sary-Agash, Kazalinsk, Samarkand, Chardzhau, Osh and other cities of the region were organized. Believers are sent to study in Turkey, Egypt, and other countries.

It should be emphasized: to correctly understand the Muslim legal culture in Central Asia, first of all, it is necessary to know the specificity, features of Islamic law. Islamic law, like any legal system, has its features of the interrelation of the three main law manifestations - norms, legal consciousness, and behavior. In this regard, we note that Islamic law is distinguished by their special closeness to each other when the legal norm is perceived by believing Moslems as an expression of their ideas about what is due and fair, which determines the readiness to subordinate their behavior to this rule. It follows that in the marked triad the central role belongs to legal consciousness: the doctrine embodying its highest level not only serves as a leading source of law and legal culture but also ensures it and its conformity to the prevailing mass consciousness.

The politological analysis shows that the main feature of Islamic law, revealing its nature and distinguishing it from other legal systems, is the interaction of sacral and secular, religious and legal principles in it [4], which is manifested in the specificity, features of its origin and historical evolution, sources and structure, mechanism of action and legal understanding of Muslim jurists, political scientists, the relationship of this law with the state and secular legislation. Another striking feature of Islamic law is its exceptional diversity, a wide range of regional and national forms, close interaction with local traditions and customs, a combination of both detailed individual decisions with general principles, and stability, and constancy with flexibility and ability to change over time. In this context, the relevance of studying the state and prospects of the development of the Muslim legal culture in Central Asia is predetermined. Moreover, the appeal to the Muslim legal culture is not only scientific, political, but also of practical interest for present-day Central Asia, which has not yet been thoroughly investigated in the scientific literature.

The relevance of the Muslim-legal culture for Central Asia is determined primarily by the fact that Islam is not something alien and extraneous for Central Asia, but an integral part of its history and culture, an important aspect of the lifestyle of many tens of millions of Central Asian Moslems. Without claiming to be complete, we note only those features, for example, of Kazakhstan Islam, which are directly related to our topic.

Kazakhstan “can and serve as a vivid example, refuting the conventional wisdom about Islam, firstly, that Moslems won their place under the sun only with fire and a sword, and secondly, that Islam was originally a conservator of all the most backward and, above all, in lifestyle and traditions” [5].

Islam in present-day Kazakhstan and other Central Asian countries is characterized by extreme diversity, pluralism of manifestations, and ambiguity of functions, which is determined both by common features inherent in Islam, as well as social, cultural, political, religious, and other factors specific to the Central Asian region. So, the diversity of regional forms of Islam is striking, due primarily to ethnic, aboriginal moments, close interweaving with local customs and traditions, etc.

There is a multiplicity of levels and roles of Islam, which follows from its complex structure (it acts as a religious system itself and as a way of life) and is enhanced by the variety of functions performed by it in the religious hierarchy, the social and political structure of modern Central Asian society.

It should be said that, for example, the peculiarity of Kazakhstan Islam is the relatively low level of Islamic culture [6], which manifests itself in different ways. In particular, we are talking about religious institutions and the level of knowledge of Moslems themselves. There are many reasons for this lag. One of them is the long isolation of Kazakhstani Muslims and Islamic institutions under the Soviet Union from the rest of the Islamic world, from the leading centers of Islamic knowledge, isolation from modern Islamic civilization, as a result, a noticeable lag behind the latest achievements of Islam, its spiritual, intellectual, political and legal culture. Kazakhstani Islamic religious centers are still not sufficiently familiar with the experience of modern Islam, are not ready to search for solutions to current planetary problems that Muslims face in the dynamically changing Kazakhstani, Central Asian society, in the spirit of the achievements of modern Islamic thought. Therefore, the current revival of Islam in the socio-political space of Kazakhstan is practically limited by the religious and cult side of the problem, and archaic forms of life, backward culture, and unresolved social problems continue to prevail at the level of Muslim lifestyle, its social and cultural components. There is a clear discrepancy between the cult and

secular sides of Islam, Islam as religion and Islam as the way of life, or, in the words of Islamic thinkers, between Islam as religion and the Islamic state.

Besides, it should be borne in mind that Kazakhstani, Central Asian Islam is a religion in a multi-religious environment, where, at times, vigilance and mistrust are manifested. For example, among non-Muslims and at the level of state structures, there is not enough objective knowledge about Islam and the achievements of Islamic culture, especially the modern one. It is dominated by superficial, often distorted ideas about Islam, etc.

Particularly acute are the shortcomings of the political and legal culture concerning Islam, the almost lack of knowledge of the Muslim legal culture [7]. In particular, the power structures that develop and implement legal policy not only do not have sufficient experience in resolving the problems of Moslems and Islamic institutions taking into account Muslim law, but also do not have adequate information about the law, about its place in modern legal systems and interaction with other legal cultures, as well as the approaches of the Muslim legal doctrine to such issues as the ratio of religious and secular principles, religion and law, religion and politics, the state and religion in Islam, to such issues as having actual political significance for Kazakhstan and other Central Asian countries.

The noted features of Kazakhstani Islam should be taken into consideration in a political analysis of the role that Muslim law can play in Kazakhstan and other countries of Central Asia. Moreover, the emphasis on the development of precisely the achievements of the Muslim legal culture is determined by those key issues on which the future of Islam in Kazakhstan and Central Asia depends.

In particular, in our opinion, the most relevant in Central Asia is not the spheres of Islam confession, doctrinal theology, and worship, but the secular problems faced by Muslims and Islamic institutions. The fact is that Islamic dogmatic theology and cult are relatively unchanged, stable and can be learned quite quickly: the elimination of elementary illiteracy in this area does not require long periods and excessive intellectual efforts and can focus on the perception of ready-made foreign samples. In any case, the restoration of old mosques and the construction of new ones, the distribution of popular literature on Islamic worship prepared abroad, and the organization of short-term training courses are completely solvable tasks, especially with the support that foreign Islamic centers have provided in recent years.

But these crucial measures alone do not solve the main problem, which is not simple religious illiteracy, but a low Islamic culture in the broad sense, inability to master and use for the good of Central Asian Moslems and the countries of Central Asia the whole rich spiritual and intellectual potential of Islam, including the achievement of a Muslim legal culture. Central Asian Moslems should not only competently and in strict accordance with the rules accepted in Islam perform religious rites, but also be able to think in Islamic ways and approach their problems - political, socio-economic [8], etc., and do it should be subject to global standards and based on interaction with other cultures and religions. Using the terminology of Muslim legal scholars - political scientists, it can be argued that the main problem of Central Asian Muslims lies not in the field of worship, Islam - religion, but in the sphere of worldly relations, Islam - state, and "secular Islam."

Central Asian Moslems should not only competently and in strict accordance with the rules accepted in Islam perform religious rites, but also be able to think in Islamic ways and approach their problems - political, socio-economic [8], etc., and should do it subject to global standards and based on interaction with other cultures and religions. Using the terminology of Muslim legal scholars - political scientists, it can be argued that the main problem of Central Asian Muslims lies not in the field of worship, Islam - religion, but in the sphere of worldly relations, Islam - state, and "secular Islam." They are formulated based on Ijtihad, depending on the specific conditions and features of the way of life of Moslems in a country or region. Therefore, on the basis of ijtiḥād, the vast majority of norms and rules governing the relationship of people are formed. It should be noted that in the modern Muslim world, schools that still existed since the first centuries of Islam are preserved, the creative development of which continues based on Ijtihad today. As you know, Ijtihad in Muslim countries plays an important role, guaranteeing the conformity of Sharia to various historical, socio-political, national, cultural and other conditions. Therefore, the experience of others, the solutions found and proved to be effective in other states, in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, may not be suitable, and even, most likely, will not be suitable because of the too big difference in "place, time and conditions" according to the terminology accepted in the Muslim legal doctrine.

Unlike the religious cult and the bases of Islamic dogmatic theory, which can be perceived in finished form according to ready-made samples and manuals published abroad, the Central Asian Moslems must seek a solution to secular, social and politological problems, their own way of life, because no one can do this for them. Indeed, Ijtihad in Central Asia is not a simple memorization of established rules once and for all, not a mechanical reproduction of the experience of others, but a creative approach to non-standard problems based on understanding the meaning, essence, and goals of Islam, the development of all its spiritual and political heritage and, above all, Muslim - legal culture.

It should be emphasized that Islamic law did not single out ijthad because it is one of the central categories, the core of Muslim-legal doctrine [9]. It should also be remembered that the main subject of the latter is the mundane relationships of people that are key to Central Asian Islam. Of course, solving the problems arising from this approach is much more complicated and requires immeasurably more time, effort and knowledge than translating foreign propaganda brochures on Islam into Kazakh, Kyrgyz, Tajik, Turkmen, and Uzbek languages. But without this, it is difficult to expect dramatic changes in the position of Central Asian Islam, to enter modern Islamic civilization, to avoid the vulgar politicization of Islam and its use as not a goal, but a means of realizing interests that are very far from true Islamic values. So far, no one is seriously solving this strategic, general cultural, general political and cultural task. Meanwhile, to master Islam as an open system, which allows solving many modern secular, socio-political problems of Muslims in Central Asia, to use its strong positive aspects can only cultural, politically mature, competent, knowledgeable people. But, unfortunately, the Islamic revival in Kazakhstan, Kyrgyzstan and other countries of Central Asia is not accompanied by an increase in the prestige of in-depth knowledge of all aspects of Islam, in particular, the development of the capacity of the Muslim legal culture. Under these conditions, it is crucially important to disclose mainly the rational aspects and values of Islam that can be accepted by all, reflect the interests and aspirations of not only Muslims, but the entire Central Asian society. This requirement is satisfied, first of all, by Islamic law, mainly its part that regulates the planetary relations of people based on principles and norms, as a rule, quite compatible with other legal systems and universal moral and legal ideas. Indeed, such initial principles of Islamic law are not only the property of Moslems in Central Asia, but also a contribution to the pan-Eurasian, global legal culture.

It should be said that at present, the use of the achievements of the Muslim legal culture in favour of developing the legal system of Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, and Turkmenistan is of great importance. Muslims in Central Asian countries should not only have the opportunity to freely visit mosques and freely make pilgrimages to their shrines, but also have the right to expect that some secular relations will be legislated also taking into account Islamic legal traditions and cultures.

Herewith, one should take into account the well-known differences in Central Asia approaches to the legal regulation of the Islamic cult and secular issues. If in the sphere of religious duties, based on the separation of religion from the state, the basic principle should be the provision of guarantees of freedom of confession and the creation of the necessary conditions for this, then in the secular area, direct influence and the adoption of legislation establishing clear, legally, politically binding principles and norms are of particular importance.

Today, from a purely theoretical one, this problem very quickly turns for Central Asia into an issue of practical legal policy and legal culture policy.

It is necessary to clearly understand that the revival of Islam in the countries of Central Asia, a return to its values inevitably raises the question of recognizing several aspects of the Muslim legal culture, including their legislative consolidation. Since we are talking about temporal affairs and the acceptance of certain achievements of Islamic civilization by the entire Central Asian society, the prospects for Islam in Central Asia largely depend on whether its fundamental values are vested in a legal, political form, oriented to legal criteria. It should be noted that the emphasis of Muslim - legal culture from the entire Islamic heritage allows putting its achievements at the service of Kazakhstani, Kyrgyz, Tajik, Turkmen, Uzbek law and politics. If we justifiably raise the question of the possibility and necessity of using the experience of other legal systems, successful solutions of which are being actively mastered, then essentially, we cannot exclude the prospect of turning to an Islamic legal culture, including its capacity in the legal and political development of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan.

Of course, each Central Asian republic should and will follow its own path, finding solutions to complex politological and other problems mainly in its own history, traditions, culture, etc. It is

impossible to take someone else's experience as a ready sample and directly transfer it to yourself, but to study and take it into account is quite acceptable and even useful. Moreover, the achievements not only of the so-called civilized world, which is usually considered as the West, but also of those civilized Islamic countries where spiritual traditions and legal, political values are close to millions of Central Asians.

For the countries of Central Asia, where Moslems constitute the confessional majority, and the state has a secular character, in our opinion, the right approach is to develop not Sharia in general, but Islamic law. Taking into consideration the separation of religion from the state, the secular legal system of Central Asian countries can perceive only those elements of the Islamic way of life that fit into it, which means that they are not directly related to religion. Under this condition, referring to the Islamic legacy will mean using the experience of the original legal system while observing the secular nature of the state in Central Asia, as well as taking into account the particularities of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

Another clause for mastering the achievements of the Muslim legal culture is its compatibility with the general principles of the Kazakh, Kyrgyz, Tajik, Turkmen, and Uzbek legal systems, primarily the constitutional ones. At the same time, it is not only about the conformity of the provisions of Islamic law with the indicated principles, but also about the fact that the perceived principles and norms harmoniously fit into the legal system of the countries of Central Asia in terms of their technical, legal, moral and political, structural characteristics. The fact that such an adaptation of Islamic law to the parameters of other legal systems is quite real is evidenced by the experience of modern Islamic countries, the investigation of which is very relevant for Central Asia. This question is beyond the scope of our study.

Suffice it to point out that the practice of "modern" Islamic law in many East countries confirms the possibility of successful development of a legal system based on the combination and interaction of elements that go back to different legal cultures - Islamic and European (both continental and Anglo-Saxon). For Central Asian countries, this is of particular importance, since it helps to overcome distorted interpretations of Muslim law, Islamic doctrine [10] and substantiate their compatibility with European, Eurasian, Central Asian (national) legal cultures.

While meeting the indicated conditions, the Muslim legal culture may be useful for Central Asia. Taking into account certain norms, principles, institutions of Islamic law and their inclusion in the European legal system is a very likely prospect for the development of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan legislation. It should be clearly understood that it does not just have a future in Central Asia. Moreover, in this region, the legal development, in the long run, is hardly possible without resorting to the legal aspects of Sharia. Currently, there is no question of the practical application of Islamic law, it does not remove from the agenda the issue of its future fate. At the same time, the prospect of including Sharia elements in the legal system of Central Asian countries should not be regarded as an inevitable evil, but as a natural process of reviving a serious legal culture that has centuries-old traditions and has made a significant contribution to world legal development. There is no dilemma in this issue "either Sharia or another legal culture". It can only be about choosing between different approaches to the legal understanding of Sharia, about the ability to professionally and in a civilized manner apply to Islamic law and use its achievements for the benefit of Central Asian society and humans. The main thing, as already mentioned, depends on a consistently legal, moral and political approach to the selection of perceived institutions, including respect for universally recognized norms and principles of international law, observance of the rights and interests of non-Moslems.

The perception of certain provisions of Islamic law in the socio-political space of Central Asia can be carried out only through balanced, carefully prepared measures and intermediate steps, subject to a smooth, phased incorporation into the relevant legislation of those Muslim legal instructions that are compatible with the general principles of the Central Asian (national) law, and in their form, they will be perceived by the modern Central Asian legal, moral and political cultures. An example is a marriage contract carefully designed in Islamic law, the provisions of which can be used in the detailed regulation of this institution of family law, family policy by the laws of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

The appeal to the experience of resolving issues of inheritance, guardianship, trusteeship, and charity in Islamic law is promising. It is noteworthy that, although they are considered institutions of personal status, the legislation governing them in many Arab countries applies to all citizens, regardless of their

confession, nationality, and is not perceived as reinforcing religious tenets. This approach indirectly confirms the legal, moral and political nature of these institutions.

In particular, for regulating charitable activities, the institution of waqf property may be of undoubted interest that has been withdrawn from circulation and intended for use for charitable purposes. Refined by Islamic legal doctrine, politics for centuries, this institution was previously widely used to support education and science, and now, moreover, it is used in the Islamic world for funding social programs. Moreover, Islamic law is much more detailed and more effective than the current Central Asian (national) legislation, regulates the legal status and mutual rights and obligations of the three main parties to charitable activities - the donor, the beneficiary party and the person authorized to manage the property and direct the proceeds from the operation to meet the needs of the assistance recipient.

In the civil and commercial legislation of Central Asia, certain types of transactions can be found that are elaborated in detail in Muslim law, including those related to banking. In recent decades, Islamic banks have spread not only in the Islamic world, but also in some Western countries, for example, in the UK, Luxembourg, Switzerland, and France [11]. It would seem that Islamic law, known for the prohibition of obtaining interest on a loan or late payment of a debt, is absolutely incompatible with modern commercial turnover. However, comparative legal and financial studies, which lasted several years, led to the fact that transactions carried out by Islamic banks were given a form that, on the one hand, meets the requirements of European banking law, and on the other hand, does not depart from the fundamental principles of Islamic law.

The list of examples of the possible application of Muslim legal culture in the socio-political space of Central Asia can be continued. In this regard, with the Central Asian republics, where the prospects of the Muslim legal culture are clearly visible, it is advisable to scrutinize the legacy of Islamic law and its latest concepts, choosing from them that meets the legal, moral and political criteria of the countries of Central Asia and can be claimed by the Central Asian legal, political system and legal policy, legal culture. In this case, it is necessary to keep in mind the dangers that may occur along this path. For example, under the guise of a revival of Islam and a Muslim-legal culture, it is unacceptable to conduct a business of legalizing customs and traditions that have nothing to do with the right, rule-of-law state [12]. In fact, such customs and traditions cannot be legalized, not only because they ignore legal criteria, but also because of their contradiction with Muslim, Central Asian law and politics. The understanding of freedom is closely connected with this problem. However, it is unnecessary to recall in this connection that freedom does not exist without a right. As you know, the road to freedom lies through the right. In this case, through the Muslim legal culture, which in this degree cannot be interpreted contrary to the meaning of law and the essence of freedom in its true meaning. In other words, this culture can be instrumentalized for freedom and independence only on the condition of its consistent legal understanding. In this regard, Islamic law, which outlines the legal framework of freedom, can be very effective in overcoming those customs and traditions that, on the contrary, preserve inequality and self-will for the under the guise of concern for freedom. Here, considerable experience gained by Islamic countries in using the Muslim legal culture to fight to survive, anti-legal customs, traditions and establishing instead the values of law and justice can be useful to Central Asia.

Known that generally, Islam stands on the side of law obedience and loyalty about the government, which is ready to respect the values it shares. Most of them are consonant with modern legal systems and do not contradict the principles of Central Asian (national) law and Central Asian legal policy, legal culture. Therefore, not only Moslems, but also other faiths, the Central Asian society as a whole will benefit from the recognition of the achievements of the Muslim legal culture, the inclusion of some of them in the current legislation of the countries of Central Asia. For example, it is hard to imagine that any major law would be effective in Kazakhstan if it is not accepted by all leading faiths, taking into account their moral, political views, including by Muslims, focused on the highest ideals of their religion and the principles of Muslim law. If the most influential political forces of Kazakhstan have recently more and more strongly emphasized the need for public, civil and national harmony in the development and adoption of the most important decisions of national significance, including legislative acts, then the achievement of interfaith consensus on fundamental areas of state policy or legal policies that should focus on the use of all the positive that accumulated by various legal, political cultures, including Muslim. Therefore, the synthesis of the world, Muslim, Central Asian and Kazakhstani legal culture "in current

Kazakhstani society and the improvement of science and education that underpin the future of Kazakhstan - all this requires by today" [13].

It should be mentioned that many features of Central Asian Islam, its legal culture and its perception by public opinion, as already noted, are explained by simple illiteracy and lack of culture, which are also preserved by some politicized organizations acting under the name of Islam, and on which these organizations are parasitic. Therefore, the development of a Muslim legal culture, the study of modern Islamic political and legal ideas and the practice of their implementation in civilized Islamic countries can neutralize the negative consequences of the already noted politicization of Central Asian Islam, by which we mean mainly the political activity of some movements and organizations acting under the flag of Islam [14], as well as the noticeable prevalence in public opinion (not of Muslims) of the image of Islam as a dangerous and even hostile Central Asia political power. In this regard, we think that the conversion and knowledge of the Muslim legal culture can help to understand the true causes of the so-called Islamic extremism, intolerance, and violence, which not only threaten the socio-political and national stability of the Central Asian countries, but also harm the prestige Islam itself. In any case, the study of the fundamental principles of Muslim law and the Muslim legal culture confirms that negative phenomena connected with Islam are explained primarily by sins, and even crimes of specific organizations, and their leaders.

Mastering the Muslim legal culture may prove useful for relations between Central Asia and the Islamic republics of the Commonwealth of Independent States and the Islamic world in general. Muslim legal culture can become an important factor in the understanding and trust of nations and states. At the same time, this culture can be used to neutralize extremism and terrorism under the Islamic flag, since Islamic law is incompatible with violence and intolerance according to its principles.

In conclusion, we would like to mention that the Muslim legal culture contains a lot of useful things for solving the urgent task in Central Asia of bringing moral and legal foundations under the policy. This approach is especially relevant for today's Kazakhstan, which has proclaimed that it will build a rule of law [15] based on justice and protection of human rights, freedoms, honor, and dignity.

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Абылайхан атындағы Қазақ халықаралық қатынастар және әлемдік тілдер университеті,
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ОРТАЛЫҚ АЗИЯ ӘЛЕУМЕТТІК-САЯСИ КЕҢІСТІГІНДЕГІ МҰСЫЛМАН-ҚҰҚЫҚТЫҚ МӘДЕНИЕТТІҢ ЕРЕКШЕЛІКТЕРІ

Аннотация. Мақалада әлі саяси ғылымда зерттелмеген Орталық Азияның әлеуметтік-саяси кеңістігіндегі мұсылман-құқықтық мәдениетінің ерекшеліктері нақты материалдарда қарастырылады. Мақалада Қазақстан, Қырғызстан, Тәжікстан, Түркіменстан, Өзбекстандағы мұсылман-құқықтық мәдениетінің саяси аспектілерінің басты ерекшеліктері егжей-тегжейлі зерттеледі. Мұсылман-құқықтық мәдениет Орталық Азияның да, басқа да Тәуелсіз Мемлекеттер Достастығының елдерінде құқықтық, саяси және мәдени дамуында белгілі бір рөл атқара алады. Орталық Азиядағы мұсылман-құқықтық мәдениетін дұрыс түсіну үшін, ең алдымен, мұсылман құқығының ерекшелігін, ерекшеліктерін білу қажет.

Саяси талдау мұсылман-құқығының табиғатын ашатын және оны басқа құқықтық жүйелерден ерекшелейтін басты ерекшелігі, онда киелі және зайырлы, діни және заңды бастаулардың өзара әрекеттестігінде болып табылады, бұл ерекшелікте, оның шығу тегі мен тарихи эволюциясының ерекшеліктері, мұсылман құқықтанушыларының, саясаттанушылардың іс-әрекеттері мен құқық түсінуінің тегітері, осы құқықтың мемлекетпен және зайырлы заңнамалармен арақатынасы көрінеді. Мұсылман құқығының тағы бір жарқын ерекшелігі – оның айрықша әралуандығы, өңірлік және Ұлттық формалардың кең ғаммасы, жергілікті салт-дәстүрлермен тығыз қарым-қатынас жасау, онда егжей-тегжейлі жеке шешімдердің жалпы принциптермен, сондай-ақ тұрақтылықпен және уақытпен өзгеріп отыратын икемділігімен үйлесуі. Бұл ретте Орталық Азия үшін мұсылман-құқықтық мәдениетінің өзектілігі ең алдымен ислам – бұл Орталық Азия үшін бөтен және жат емес, оның тарихы мен мәдениетінің ажырамас бөлігі, көптеген ондаған миллион Орталық Азия мұсылмандарының өмір салтының маңызды жағы болып табылады. Белгілі болғандай, ислам тұтастай алғанда заңға бағыну және билікке адалдық, оның бөлінетін құндылықтарын құрметтеуге дайын. Орталық Азия ақиқаты Ислам туралы түсініктерді: мұсылмандар күн астында өз орнын тек отпен және қылышпен ғана жеңіп алған сияқты; ислам бастапқыда ең артта қалған

және ең алдымен, өмір салтында, дәстүрлер мен мәдениетте консерватор болып табылған, деген пікірлерді теріске шығаратын жарқын үлгі бола алады. Қазіргі Орталық Азиядағы ислам үшін өте алуан түрлілік, көріністердің плюрализмі, функциялардың бірқалыпты еместігі тән, бұл жалпы, исламға тән, сондай-ақ ел үшін ерекше әлеуметтік, мәдени, саяси, конфессиялық және өзге де факторлармен анықталады. Мақалада мұсылман-құқықтық мәдениет саясатқа адамгершілік және құқықтық негіздерді енгізу үшін Орталық Азия жағдайында өзекті міндеттерді шешу үшін пайдасы аз емес. Сонымен қатар, мақалада пікірталас мәселелеріне де назар аударылды.

Түйін сөздер: саясат, құқық, ислам, мұсылман, мемлекет, ел, мәдениет, білім, иджтихад, әдет-ғұрып, дәстүр, өркениет, әділдік, сенім, дін, шаригат, заңнама.

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ОСОБЕННОСТИ МУСУЛЬМАНСКО-ПРАВОВОЙ КУЛЬТУРЫ В СОЦИАЛЬНО-ПОЛИТИЧЕСКОМ ПРОСТРАНСТВЕ ЦЕНТРАЛЬНОЙ АЗИИ

Аннотация. В статье на конкретных материалах рассматриваются вопросы особенности мусульманско-правовой культуры в социально-политическом пространстве Центральной Азии, которые еще не изучены в политической науке. В статье более подробно исследуются политологические аспекты главных черт, особенностей мусульманско-правовой культуры Казахстана, Кыргызстана, Таджикистана, Туркменистана, Узбекистана. Мусульманско-правовая культура может сыграть определенную роль в правовом, политическом и культурном развитии как Центральной Азии, так и других стран Содружества Независимых Государств. Надо подчеркнуть: чтобы правильно понять мусульманско-правовую культуру в Центральной Азии, прежде всего, необходимо знать специфику, особенности мусульманского права.

Политологический анализ показывает, что главная особенность мусульманского права, раскрывающая его природу и отличающая его от других правовых систем, заключается во взаимодействии в нем сакрального и светского, религиозного и собственно юридического начал, что проявляется в специфике, особенности его происхождения и исторической эволюции, источников и структуры, механизма действий и правопонимания мусульманских правоведов, политологов, соотношения этого права с государством и светским законодательством. Другая яркая черта мусульманского права – его исключительное разнообразие, широкая гамма региональных и национальных форм, тесное взаимодействие с местными традициями и обычаями, сочетание в нем как детализированных индивидуальных решений с общими принципами, так и стабильности, и постоянства с гибкостью и способностью изменяться во времени. При этом актуальность мусульманско-правовой культуры для Центральной Азии определяется, прежде всего, тем, что ислам – это не нечто чуждое и постороннее для Центральной Азии, а неотъемлемая часть ее истории и культуры, важнейшая сторона образа жизни многих десятков миллионов центральноазиатских мусульман. Известно, что ислам в целом стоит на стороне законопослушания и лояльности по отношению к власти, готовой уважать разделяемые им ценности. Центральноазиатская действительность может служить ярким примером, опровергающим представления об исламе: будто мусульмане свое место под солнцем завоевали только огнем и мечом; будто ислам изначально является консерватором всего самого отсталого и, прежде всего, в образе жизни, традициях и культурах. Для ислама в нынешней Центральной Азии характерны чрезвычайная разновидность, плюрализм проявлений, неоднозначность функций, что определяются как общими, присущими исламу чертами, так и специфическими для страны социальными, культурными, политическими, конфессиональными и иными факторами. В статье отмечается, что мусульманско-правовая культура содержит немало полезного для решения актуальной в условиях Центральной Азии задачи подведения под политику нравственных и правовых основ. Вместе с тем, в статье уделено внимание и дискуссионным вопросам.

Ключевые слова: политика, право, ислам, мусульман, государство, страна, культура, знание, иджтихад, обычай, традиция, цивилизация, справедливость, вера, религия, шариат, законодательство.

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