The Legal Nature of Ethnic and Religious Conflicts

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Abstract

Nowadays the problem of legal regulation of ethnic and religious conflicts is becoming highly important like never before. It becomes the subject matter of research not only for domestic scientists but all over the world as well. This is also confirmed by the migration processes that embrace all continents. Due to the unresolved issues of particular nations and the peoples who live in different parts of the globe, these instances threaten the world law and order. There has been an increase of paramilitary extremist organizations advocating ideas of racial supremacy and national xenophobia. Imperfect legislation facilitates activities of these organizations as well as the lack of proper framework that would define the nature of ethnic and religious conflicts. This is due to the extreme complexity of the issues arising out of cases related to this category, as well as law enforcement personnel lacking sufficient knowledge, experience and practice and the insufficiency of their scientific and methodological support in this area. In order to confront these processes it is necessary to carry out legal analysis of religious and ethnic conflicts, to generalize global experience of their emergence and to make an overview of this experience. The author suggests using domestic and foreign experience as a solution.

Keywords: Authorization, Extremism, Extremist Organizations, Global Law and Order, Imperfection of Legislation, Legal Nature, Migration Processes, National Economic Security, National Security, National Xenophobia, Racial Superiority, Religious and Ethnic Conflicts, Resistance, State Sovereignty

1. Introduction

In first decade of the twenty-first century the world was shaken by an unprecedented upsurge of conflicts of various kinds. The consequences of such conflicts were disastrous, not only for the residents of these countries, where the conflicts were recorded, but also for the world public order, territorial integrity, state sovereignty, national and economic security. The number of migrants is increasing; people have been left without shelter and basic living conditions. We can also observe an increase in the number of clashes based on ethnic and religious conflicts.

One of the significant phenomena at the end of the last century is the proliferation of Islam fundamentalist political movement that is characterized as a trend, which is able to influence the development of society by using religious law.

The representatives of Algeria, Egypt and Indonesia have been fighting wars for many years in different parts of the globe. The number of Muslim extremists is growing every year.

Divergence of interests between Catholics and Protestants gives rise to serious concerns, which allows us to judge that a conflict exists in Western Europe. These contradictions, first of all, are related to ethnic and ideological problems.

The Islamic revolution in Iran became one of the most unexpected victories of Islamic fundamentalism. It is this revolution that changed the usual history of the state.

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The most prolonged religious conflict of the past century can be called a war for the Holy Land of Palestine. What distinguishes this conflict from all the others is the subjects of the dispute i.e. Jerusalem's status. Clashes on this matter have been taking place for decades. Until now, the parties of the conflict are unable to find a solution to this problem.

Political conflicts in Sudan are smaller in scope and time than religious conflicts. Sudanese authorities support the interests of the Muslim part of the country, which constitutes the majority.

The conflict between India and Pakistan is characterized by a clash of two different religious denominations, i.e. Hinduism and Islam. Now in India, Hinduism is professed by more than 80% of the population, but in some states, the representatives of other religions constitute the majority. In Punjab the majority of the population are Sikhs, and more than a half of the population of the State of Nagaland profess Christianity. Due to the long confrontation, hundreds of thousands of Islam and Hinduism supporters perished.

As the world experience shows, the resolutions of religious conflicts, which are based on religious or ethnic reasons, can last for decades or even for centuries.

Mutual religious discord can be inherent in ethnically similar communities, for example, between Serbians and Croats. The extent and strength of this discord affects the normal legal consciousness of a human being.

Extremist organizations and sects have a huge impact on the growth of these conflicts. Despite the existence of a legal framework which defines the extremist organization and its extremist materials¹, their activities are aimed at a violent change of the foundations of the constitutional order and violation of integrity of the Russian Federation; public justification of terrorism and other terrorist activities; incitement of social, racial, national or religious hatred; promotion of a person's exclusiveness, superiority or inferiority on the grounds of social, racial, national, religious or linguistic belonging or attitude to religion; violation of a person's human and civil rights, freedoms and lawful interests, depending on their social, racial, national, religious or linguistic belonging or attitude to religion; obstruction of the realization of the citizens' voting and plebiscite rights or violation of voting secrecy connected with violence or the threat of using it; committing a crime on the grounds specified in paragraph “e” part 1. 63 of the Criminal Code of the Russian Federation; propaganda and public demonstration of Nazi attributes or symbols or attributes or symbols which are similar to Nazi ones up to confusion; public calls for implementation of these actions or mass distribution of obviously extremist materials, as well as their manufacture or possession for the purpose of mass distribution; the public knowingly false accusation against a person, holding a public post in the Russian Federation, that they have committed the above-mentioned offences during the performance of their duties; organization and preparation of such acts, as well as incitement to their implementation; the financing of such acts or other assistance in their organization, preparation and implementation, including provision of training, printing and logistics, telephone and other means of communication or information services. These paragraphs devoted to the extremist activity are basic constituencies of the Special Part of the Criminal Code of the Russian Federation.

Despite the fact that Russia is a legal, democratic, federal, multi-ethnic State, it would be wrong to say that we have no ethnic and religious conflicts. The national and religious factor should be reflected at the legislative level of all democratic states. It is impossible to ignore the religious, human, or the civil factor. The priority of any religion or the rise of national or religious status over other ones causes the emergence of ethnic and religious intolerance.

2. Methodology

Research methodology comprises complex interdisciplinary (analysis, synthesis, comparison, abstraction) and special (historical, systematic and structured, logical, comparative-legal) methods. Eccentricity of the researched problem, which is at the junction of branches of law, led the research literature study in other areas of science.

The theoretical basis of the study lay in the works of the domestic scientists in the field of law and sociology: V.V. Lunyev, V.N. Kudriavtsev, A.A. Piontkovsky, A.N. Traynin, I.Y. Foynitskiy.

We used the works of foreign scientists: L. Berkowitz, D. Dollard, D. Davis, G. Lenski, V. Newman, T. Parsons. This work deals with practical application of the legislation of those countries which prohibit any animosity.
3. Results

Religious conflicts have accompanied mankind throughout its history. The emergence of new religious movements, such as “Protestantism”, was the result of long and bloody religious wars. At the current stage of the world development the intervention of states on the basis of religion is somewhat different than it was in the past, during aggressive clashes of interests between states and armed intervention by one State in the territory of another to impose its religion.

As the world experience shows, the conflict requires three conditions. First, a conflict situation is required. We are talking about objective combination of different circumstances that precede the conflict and cause the normally incompatible demands of various parties. The same demands or claims but with the opposite sign are possible for two parties, but the satisfaction of one party’s interests prevents the satisfaction of the other one’s interests. This theoretical assumption can be illustrated by the example of Nagorno-Karabakh. Second, conflicting people (conflict groups) are required. The existence of a conflict situation only is not enough for the conflict if the parties are peaceful. Third, it is necessary to have a pretext for a conflict, i.e. such external circumstance that ‘triggers’ and gives rise to the development of events.

P. Sorokin conducted a research which demonstrated that for over 24 centuries of history accounted, on average, there were only 4 peaceful years per each year, accompanied by various conflicts of a considerable scope (wars, revolutions, revolts). So, for example, 363 revolutions have happened in the world over the period from 1900 to 1961.

An experience of foreign studies can provide a significant support in the analysis of violence in the conflict. A study of social and political violence became important in the late 1960s. It could be accounted for a dramatic surge in civil violence in Europe and America, particularly due to the emergence and activity of mass public movements, student interventions of 1968-69, racial unrest and rioting in the cities of United States in the 1960s.

According to Marx concept an analysis of social conflict and collective violence is carried out based on the principles of economic determinism and class approach, the diversity of which accounts for the historical process. In compliance with these principles it is alleged that some social groups and classes resort to coercion and force in order to protect their privileges and exploitation of others. Collective violence, manifesting itself in any forms, is the result of protest of the poor against coercion. Describing the Marxist concept, it can be said that the high level of violence in society accompanies the transition from one form of class domination to another. Many historians adhere to this very interpretation of collective violence in their writings. However, economic factors appear to be the components of social phenomena determination. They cannot explain the diversity of public behavior, especially among ethnic groups. Therefore, violence in Marx’s concept of ethnic conflicts lacks its persuasive power.

T. Parsons defines a social conflict as a pathologic by-product of existing social systems. Such conflict conception presupposes a situation where the interrelated parts of the system are not able to comply with each other or operate harmoniously. The conflict is understood as tension or stress inside the public system. Social tension caused by the incompatibility of social values and the inability of the political institutions to adapt them to social changes serve as a main source of inter-group conflicts. Violent collective actions arise from the moral decay of the society, reducing integrated public values.

We can highlight another reason of violence which is the loss of regime’s legitimacy and its political institutions in the eyes of wide layers of society. The decline of political trust leads to authorities’ deflation, i.e. people’s resistance to government requirements which makes the authorities meet their demands by increasing the use of coercion force.

To some extent, the ideas of T. Parsons can be applied to explain the violent actions of the central authorities and law enforcement forces against the part of a civil society, which has adopted the new values of nationalism and national sovereignty. Political institutions have been unable to adjust to new social values. The use of violence by law enforcement forces against the civilians has increased the authorities’ deflation, which has led to the decline of legitimacy. The theory of violence represented by T. Parsons does not deal with the inner sources of tension; therefore, it is limited in its application.

The structural conception of inter-group conflicts is based on instances of racial conflicts in the United States. It focuses on two parameters of social structures: stratification and received reward, as well as the social
status. These parameters determine the occurrence, frequency, and intensity of inter-group conflicts. And the more inequality of received reward, social stratification and differences of status groups in the society, the greater the intensity and likelihood of violence, which occurs within inter-group conflicts.

As an example of structural paradigm implementation in the analysis of ethnic problems we can mention Seymour Spilerman's study, which is devoted to the causes of racial unrest in the cities of the United States in the 1960s. Spilerman considers the inequality of social groups' access to political power as the main cause of collective violence.

In 1979, J. Dollard and his colleagues formulated a socio-psychological hypothesis of frustration-aggression. Frustration is referred to as an individual's condition caused by external obstacles in the path of their desire to achieve meaningful goals, to satisfy this or that demand. Aggression is thought of as an individual’s behavior aimed at subordination or coercion of another person, thing or process. In accordance with this conception, frustration is a necessary and sufficient condition for aggression: aggression always results from frustration and the latter leads to aggression. If an individual, due to fear of punishment or for any other reason, could not immediately send an aggressive impulse against the direct source of frustration, aggression may be delayed in time or “replaced” which is directed towards a more vulnerable and unprotected object or inside the individual (suicide is an extreme instance of such inward aggression).

In the 1940-60s the frustration-aggression theory was complemented by the introduction of the scheme of causal mechanism for intermediate changes. Resorting to Miller's work we can come to the conclusion that frustration does not directly evoke aggression but only instigates it, after which different individual reactions - both aggressive and nonaggressive are possible. Incitement to aggression is actualized in aggressive behavior in case the duration, frequency and intensity of frustration are great enough to raise the threshold of its deterrence by rationalizing the behavior of opposing ethnic groups based on foresight and calculation of their representatives, the variety of negative consequences of their violent acts against their own violence, the environment, the situation of the ethnic group in the international relations system for the destruction of the culture of delayed development of the younger generations.

The development of events during the aggravation of ethnic relations is similar to a whirlpool when the funnel of initial ethnic separation of inhabitants is constantly getting larger after its attraction and general population is being taken away by an underflow of failed social changes to a place unknown to anyone.

An ethnic conflict is not just a clash of national relations, but an instance of contradictions between the parties of one and the same public demand for national development which is actualized in opposing intercourse of nationalities both on individual and group levels.

An ethnic conflict, as M.V. Iordan defines it, possesses two levels to some extent. The history of conflicting relationships of confronting parties and their actual argument lies in it. If we want to search for the root of the problem, which engenders ethnic tension, we should bear in mind that it lies neither in socialism, nor in internationalism, but in quasi-socialism and pseudo-internationalism.

The author of the study sees the origin of the conflict in its historical, economic, social, and religious backgrounds. In fact, conflict “biography” includes its history and the background, where on it progressed. The parties of the conflict appear to be individuals, groups or large communities. The level of social complexity of the conflict is determined by calculating the actual real forces and participants. The positions and relations of the parties could be formal or informal, public or private. Finally, their attitude to the conflict arises from the fact whether the parties strive for resolving the conflict, whether they want to solve it on their own or rely on external factors, what their hopes and promises are.

An ethnic conflict in its development goes through various stages, which are accompanied by a kind of social-psychological “background”. The initial stages of a conflict are usually characterized by growing tension, a gradual increase in the socio-political activity of any national group of population and the creation and functioning of public associations controlled by its representatives. Another national group which lives in the same area waits.
and sees instead of taking part in confrontation at once. But when one group begins to put forward the slogan of “restoring the social and historical justice,” “granting of national rights to make demands of a social, financial or territorial nature and appeal to the local, national or central authorities, striving for adoption of “fair”; in their view, decisions, as a rule the reactive actions follow from the other side. They are mostly of unauthorized nature and occur spontaneously.

In the course of a conflict aggravation these two movements tend to acquire an organized nature, which is particularly reflected in the nomination of leaders and activists and arrangement of their own material base. Then the process of tension “crystallization” begins, which flows through three “force fields”: national movement and authorities, national movements and representatives of other nationalities, which are also formalized into their structures, national movement and law enforcement bodies. Further the events develop on the basis of these areas periodically increasing in one or another of them.

Our national politics turned out to be confusing in its anti-national basis. This policy is the very product of ethnic tension, because there exists only one way to meet nationwide and state interests at the expense of their own national interest in the development of their language, national culture and national identity.

S.A. Arutyunov in his report “Ethnic conflicts: form, essence and theology” emphasizes that an ethnic conflict is a common base of the modern world. Its most vivid manifestation is intergroup conflicts, religious, clannish and class ones.

An attempt to create a national state in our country on the basis of nationality has brought only radicalization of national issues and as a result to ethnic enmity.

In the sphere of ethnic relations, an increase of the perception of relative deprivations is accompanied by increased negative attitudes and the hostility towards conflict groups (particularly ethnic minority groups and groups, raising their status or seeking to prevent it from changing). This situation has been referred to as a status conflict, at the heart of which is the desire to broaden the administrative and managerial power in the region. Such conflicts may not be linked to national interests of any ethnic entities. Here the national aspect is revealed only in relation to the issue of integrity and recognition or non-recognition of its authority.

- Rising expectations. This idea was used by J.C. Davies to explain the causes of violent conflicts. Its essence lies in the fact that social groups experience extremely high and intense frustration after the period of significant improvement of social and economic living conditions and, consequently, the growth of expectations. The group suddenly faces the crisis triggering the reverse processes and a sharp decrease of living standards. People estimate their living conditions as unbearable, people get into a psychological state, because there has been a gap between their subjective and objective expectations and their satisfaction in this period. This situation leads to collective violence in the form of revolution.

- Status inconsistency. This modification of frustration-aggression concept proposed in G. Lenski’s works. According to this concept, social groups, whose members have significant resources and wealth, but possess a low hierarchy status are experiencing dissatisfaction and believe that group deserves much more recognition and a higher social status. Let us consider Tatarstan, for example, where separatist tendencies took place before the conclusion of a treaty on delimitation of power between the Federal and Republican authorities.

- Cognitive dissonance. According to this concept, elaborated in the works by D. Geschwender, the experience and the surrounding reality generate the defined knowledge among the members of the social community: ideas, expectations, perceptions and beliefs about themselves and about their rights. However, at a certain stage of development actual experience of the group can cause changes to the perception of a cognitive worldview among its members. The new self-perception within a group could be of paramount importance. The tension and stress caused by the new knowledge, which sharply contradicts the previous notions and knowledge, can have a strong frustrating influence on the members of community. If it is unable to resolve a cognitive dissonance in a socially acceptable and achievable way and it is getting worse, the probability of a social conflict is extremely high.

- Reduction of interaction. The frustration-aggression hypothesis was reformulated by R. Williams, as “a hypothetical law of collective conflict”, according to which the reduction of groups’ interaction in significantly important relations of interdependence is the primary factor that motivates their conflict as collective entities.
• The concept of collective action. It found its reflection in fundamental studies of Ch. Tilly, a historian and sociologist. This concept acknowledges a purposeful and rational nature of choosing the violent forms of collective action. 

Some provisions of Tilly's theory can be applied and used for the analysis of violent ethnic conflicts in the republics of the former USSR. The fact that collective violence in the former Soviet Union in transition period from totalitarianism acquired a superior form of ethnic violence undoubtedly is one of the essential features of the struggle for power redistribution at various levels of the ethno-political structures: Centre vs. Soviet republics, Soviet republics vs. autonomy, union republics vs. minorities without political status. Peaks of collective violence occurred in a period of significant political changes and political struggle of new and the old forces both in the whole country and in particular republics. Chain reaction of movements for Republics sovereignty and subsequently territorial entities within the republics can be explained not only by the collective frustration of ethnic groups, but also by the growing ethno-political mobilization under the influence of elites and national movements and striving for the realization of ethnic interests by raising the status of nationhood in the national political structures in terms of socio-political changes.

It is not for nothing that ethno-political conflicts in the former Soviet republics have worsened sharply since August 1991, when the threat of new and more powerful bursts of ethno political violence in ethnic conflicts increased and in some cases was realized in actual confrontations. In those republics where the conflict between the titular nationality and the dissatisfied minority or autonomy until August had acquired violent forms (Armenian-Azerbaijani, Georgian-Abkhaz, Moldovan-Transdnistrian conflicts) a sharp escalation of violence was already registered in the first months after August, an increase of its intensity and destructiveness, the growth of participant numbers and the level of their organization and mobilization.

4. Discussion

None of the above concepts can be considered to be universal and is unable completely to explain all the particular instances of violence during ethnic and religious conflicts of various types.

Ethnic and religious conflicts are not abnormal ones, but an objective regularity. And the difference between the states, in which they occur, is not in the fact that in some states they exist and in others not, but in the society's ability to regulate and resolve such conflicts. If the state fails to respond to these processes in time, it is quite natural that the crime will appear and be justified as a mass phenomenon, motivated by ethnic and religious conflicts. The presence of such crime took place in the USSR during its collapse.

Analyzing foreign and domestic experience we can identify the traits which describe national and religious intolerance, implying the superiority of one nation or religion over another, transference of the negative properties of their certain representatives to the entire nation, religion or race, ascription of hostile action or intentions of one nation or religion against another one, calls for violation of national, religious equality and the fight against a particular ethnic group. On the basis of the above-mentioned facts you can judge about the intent of guilty people to stir up national and religious conflicts.

Forecasts for the next few years concerning an increase in number of ethnic and religious conflicts are not encouraging. This year we face conflict escalation, and this testifies to the growth in the number of crimes on this ground, a growing number of people are becoming sensitive to national and religious ideas. The goals are formulated in a new way. If the goals are chosen correctly, then the society is waiting for prosperity and progress, if not, the world is doomed to face the emergence of new conditions for aggressive nationalist and religious manifestations. In this regard, success depends on the integration of forces in the international community and of the domestic policies of individual states.

5. Acknowledgment

We express our sincere gratitude to our colleagues, higher-education teaching personnel, who influenced our formation as scientists, the management of the Ministry of Education and Science of the Russian Federation, who are interested in the development of domestic science.

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