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REGULATION OF CRIMINAL-LEGAL RELATIONS IN ISLAMIC LAW

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Abstract: The article is based on the study of Islamic law, the relevance and necessity of studying its influence on the modern national legal system. Equally important is the study of the combination of the basic principles of Islamic Sharia in the regulation of public relations, including the public relations of the Kyrgyz. The purpose of the study is to study the influence of Islamic law on the formation of ordinary Kyrgyz law, and the subsequent legislation. Equally with them is the regulation of criminal law relations, the essential and content sides of fiqh. The results of the study determined the specifics and characteristics of the regulation of criminal relations, the specifics of the regulation of public relations under Islamic law. The results of research can be used in the study of theories of state and law, philosophy of law, history of doctrine of law and state, as well as in the study of this area.

Keywords: Islam, Muslim law, Sharia, customary law, jurisprudence, Sunnah, Qur'an, doctrine.

ИСЛАМ УКУГУНДА ЖАЗЫК-УКУКТУК МАМИЛЕЛЕРДИ ЖӨНГӨ

САЛУУ

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Аннотация: макала ислам укугун изилдөөгө, анын заманбап улуттук укуктук системага тийгизген таасирин изилдөөнүн актуалдуулугуна жана зарылдыгына негизделген. Ислам Шариятынын негизги принциптеринин айкалышын, анын ичинде Кыргызстандын коомдук мамилелерин жөнгө салууну изилдөө да маанилүү. Изилдөөнүн максаты-ислам укугунун кадимки Кыргыз укугунун калыптанышына жана андан кийинки мыйзамдарга тийгизген таасирин изилдөө. Алар менен бирдей Кылмыш-жаза укугунун

мамилелерин жөнгө салуу, фикхтин негизги жана мазмундук жактары. Изилдөөнүн жыйынтыгы кылмыш-жаза мамилелерин жөнгө салуунун өзгөчөлүктөрүн жана мүнөздөмөлөрүн, ислам мыйзамы боюнча коомдук мамилелерди жөнгө салуунун өзгөчөлүктөрүн аныктады. Изилдөөнүн натыйжалары мамлекеттик жана укук теорияларын, укук философиясын, укук жана мамлекет доктринасынын тарыхын изилдөөдө, ошондой эле ушул тармакты изилдөөдө колдонулушу мүмкүн.

Ачкыч сөздөр: Ислам, мусулман Мыйзамы, Шариат, салттуу мыйзам, Юриспруденция, Сунна, Куран, окуу.

РЕГУЛИРОВАНИЕ УГОЛОВНО-ПРАВОВЫХ ОТНОШЕНИЙ В ИСЛАМСКОМ ПРАВЕ

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Аннотация: Статья основана на изучении исламского права, актуальности и необходимости изучения его влияния на современную национальную правовую систему. Не менее важным является изучение сочетания основных принципов исламского шариата в регулировании общественных отношений, в том числе связей с общественностью Кыргызстана. Целью исследования является изучение влияния исламского права на формирование обычного кыргызского права и последующего законодательства. В равной степени с ними связано регулирование уголовно-правовых отношений, суцностных и содержательных сторон фикха. Результаты исследования определили специфику и особенности регулирования криминальных отношений, специфику регулирования общественных отношений по исламскому праву. Результаты исследования могут быть использованы при изучении теорий государства и права, философии права, истории доктрины права и государства, а также при изучении этой области.

Ключевые слова: Ислам, мусульманское право, шариат, обычное право, юриспруденция, Сунна

In recent years, the influence of religion, including Islam, on legal norms in their formation and development has become of some interest. One of the reasons for this interest is to identify the influence of Islam on the formation of a modern legal system, as well as the development of modern concepts in combination with legal practice. In particular, in our opinion, this situation is due to a number of important factors:

- the need to identify the positive and negative aspects of the impact of Islamic law on the formation of the customary law of the Kyrgyz people;

- harmonization of some elements of Islamic law in the regulation of existing civil law relations (financing according to Islamic rules);
- development of adequate legal regulations in the ongoing legal reforms in line with the social and psychological consciousness of the population;
- identification of contradictions, combinations of social norms, including religious ones, in the legal system of the current secular state.

Independent studies of Islamic law have become more active in post-Soviet countries since the collapse of the Soviet Union. In particular, M.A. Sarsembaeva's "Muslim law (national and international norms)" [1.p.45], G.M. Kerimov's "Sharia; the law of Muslim life" [2.p.34], R. Kh. Giliyuzdinova's "The nature of Muslim law" [3.p.27], Ch. I. Arabaev's "Philosophy of Crime and Punishment" [4.p.34], A.T. Atantaev, Ch. Z. Kushbakov's "Kyrgyz customary law proceedings and the impact of Muslim law on it" [5.p.258-259].

There are records that Muslim laws are based on Sharia law and that those who are based on it deserve God's grace. It should be noted that Sharia regulates not only relations related to religious obligations, but also everyday relations between Muslims.

In the process of research, the study was carried out by historical-legal, comparative-legal, systemic, systemic-structural, logical methods.

In the field of public relations, many religious norms, Sharia norms of the Muslim religion, were introduced into the life of the Kyrgyz several times and subsequently became the norms of customary law. At the stage of its development, the south of Kyrgyzstan accepted partial Islamic justice [6.p.256-257].

If we pay attention to the concept of Fiqh, "Fiqh" is a rule sent by God, and anyone who obeys him must obey these scriptures. He despises, respects, forbids or allows. These rules are found in the Qur'an and Sunnah. These norms are also called Fiqh [7.p.445].

Among the general theoretical structures of jurisprudence, the concept of the goals (values) of the Shari'ah, which includes religion, life, reason, honor and

dignity, the established order for the continuation of humanity, as well as property, has a special place. They believe that the various rules of daily behavior established by Fiqh are ultimately aimed at achieving one or more of the stated goals.

Therefore, Islamic law is not synonymous with the Shari'ah. The difference between these concepts is based on legal criteria: the Shari'ah contains all the instructions of the Qur'an and the Sunnah that apply to people, while Islamic law contains only the principles and norms that have been developed or interpreted by the doctrine and meet the requirements of the law. The Shari'ah in the proper sense is a whole religious phenomenon, in which only some traces of a legal principle can be found through the prism of Fiqh.

The features of Islamic law as an independent legal system (family) can be noted. In particular, the doctrine has been its main official source for many centuries. In some cases (mainly in the field of family relations), the principle of territorial operation of the norms of Islamic law is combined with the principle of individual-confessional. There are certain institutions in this legal system, such as waqfs and almsgiving, as well as religious responsibilities (kaffarah and fasting).

By L. R. Sukiainen [8.p. 4] "First of all, it is clear where to look for Sharia instructions. However, the Prophet Muhammad left to his followers two sources of God's commandments. This is the Qur'an, the holy book of Islam, a direct revelation of Allah, and the Sunnah of the Prophet (peace and blessings be upon him) - a collection of legends (hadiths) about the deeds and sayings of the latter, as well as Islamic thought through the description or presentation of actions, although indirectly considered as realization. Messages from his Messenger.

Secondly, the definition of Sharia, developed in the traditions of Islam, raises questions about what specific recipes mean in Sharia. Answering this question, it should be noted that, according to the majority of Islamic thinkers, Sharia consists of three parts - religious dogmas, Islamic ethics and practical norms regulating the external behavior of people. Moreover, the normative part of Sharia is not only an

addition to Islamic dogma and ethics, but also its most important component. It is important to note that certain areas of Islamic thought constrain the general Sharia by external rules of human behavior.

It should not be forgotten that, in a normative sense, the Sharia contains only the prescriptions of worship, which establish the order of performing religious duties, as well as the rules governing the daily life of Muslims. In other words, Sharia is not limited to the postulates that determine the religious consciousness, inner world and state of a Muslim, or the order in which he performs his religious rites. It attaches as much importance to the issues of daily life and the behavior of Muslims in their daily life as they attach to each other, government and other religions.

Third, in the light of the above, the question naturally arises to what extent Sharia norms regulate human actions."

Muslim law also deals with criminal behavior. It should be noted that in connection with the problems under consideration, the sources of Muslim law fully cover issues related to various institutions of criminal law, including the institution of crime.

The rules of conduct under Islamic law are governed by religious, legal, moral, customary, polite and etiquette rules. According to the Qur'an, a person's life is always under the control of Allah, and he evaluates every act in accordance with his religious commandments. In it, Allah sees everything that people do, and repeatedly declares that "nothing is hidden either from earth or from heaven."

Consequently, any criminal act is not only a crime to life, a violation of the rule of law, but also a religious sin that can be punished in a future life. This means that the crime can be viewed as a religious sin, as well as a violation of the legal norms of the Qur'an.

Issues of crime and punishment are included in the legal norms of Sura 4 of the Qur'an (verses 33, 34, 94, 95) [9. from. 234]. However, despite the religious and legal nature of these verses, the Qur'an cannot be called a legal code in the modern sense.

Muslim jurists have traced the origins of two main philosophical sciences to the study of the concept of crime. First of all, they said that all human actions and, if necessary, thoughts are determined by the will of Allah. However, the restrictions imposed by the Quran are too great to allow a person to choose their own behavior in many situations. Thus, the Qur'an provides a general direction, basic principles and five basic values: religion, life, reason, reproduction and protection of private property.

According to Muslim legal theory, a crime that has formal and legal significance is a criminal act (crime) when a person does what Allah has forbidden and punished.

Today, in many Muslim countries, the Qur'an is not used at all as a legal remedy, but is used spiritually to eradicate crime. The result is a conflict between criminal law and religious law. This is true, because no matter how serious and thorough, specific, comprehensive and multifaceted the Qur'an is, a number of its provisions and norms cannot be clearly and directly reflected in the modern criminal law of Muslim countries.

The principles of Fiqh play a key role in Islamic law as a sign of criminal behavior [10.p.5]. At the same time, it is believed that its works comply with Sharia law and at the same time have a legal content.

Concluding the scientific article, we can consider the following:

- It is natural that religious norms in people's lives as a social norm regulate the behavior of people, including issues related to crime;
- Some states, while recognizing religious norms as a source of law, have included Islamic law in their legal system;
- Issues related to the crime are not excluded from Islamic law, such as its regulation, the establishment of liability are provided for in the principles of Islamic law;
- Fiqh in Islamic law is a key component of the relationship with law.

This is why fiqh becomes a legal phenomenon, forming the basis of Islamic law. At the same time, Islamic law is based on Sharia and considers the task of forming legal consciousness.

Islamic law is characterized by the interconnection of legal norms, legal consciousness and behavior.

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