

Peculiarities of countering religious extremism by internal affairs bodies

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Abstract

The relevance of the study is due to the significant social danger of manifestations of extremism, including religious extremism, because untimely prevention of extremist offences leads to various forms of terrorist actions, which necessitates consideration of the role of internal affairs bodies authorized to counter such a negative phenomenon. The purpose of the publication was to provide a comprehensive analysis of the regulatory framework for countering extremism and extremist acts in the Republic of Kazakhstan by internal affairs bodies. The authors used general scientific methods of legal knowledge such as the method of analysis, method of synthesis, formal-logical method, system-structural method, and historical and comparative legal method in addressing the issues related to the topic of work. The publication examined both codified legislation (criminal, criminal procedural, criminal executive legislation) and special laws relevant to countering extremism in the Republic of Kazakhstan, which made it possible to state, in general, the appropriate level of legal regulation devoted to issues of countering extremism. A comparative legal study of the relevant norms of both post-Soviet states and some other countries (United Kingdom, Singapore, Australian Union) on the subject of work has confirmed the comprehensive approach of the Kazakh legislator to the problem of countering extremism at the national level.

Keywords

Freedom of religion – national security – national security bodies – law of the Republic of Kazakhstan – criminal law

Introduction

The need for internal affairs agencies to study the countering of religious extremism is particularly important for ensuring not only national state security but also public security, as the late detection of extremist organisations can lead to acts of terrorism, which significantly increases the threat to the lives and health of the citizens of any state. The essence of the research issues is the existence of different types of extremist manifestations (national, political, or religious), which require the development of measures to combat such negative phenomena, taking into account their peculiarities. At the same time, it should be considered a fact that every state (including the Republic of Kazakhstan) has a whole system of law enforcement and national security bodies that often include internal affairs bodies.^{1,2} This situation necessitates an understanding of the legal basis for the activities, roles and tasks of each type of such body.

The September 11, 2001, terrorist attack in the United States is considered a prime example of an extreme manifestation of religious extremism and its consequences, making it difficult to discuss the emergence of the research problem without mentioning this event. Nevertheless, returning to the Republic of Kazakhstan, it is important to note that Law of the Republic of Kazakhstan No. 31-III “On Countering Extremism” (2005)³ was adopted in 2005, as amended and supplemented in 2020, so 2005 may be considered the year that laid the statutory foundation for the study of countering extremist manifestations in the Republic of Kazakhstan. Kazakhstani scientists A. Kaldybek, M. Tynybekova, A. Orynbek (2021)⁴ investigated the issues of terrorism and

1 A. Novikovas, L. Novikoviene, R. Shapoval, K. Solntseva, ‘The peculiarities of motivation and organization of civil defence service in Lithuania and Ukraine,’ *Journal of Security and Sustainability Issues*, 2017, 7:2, 369-380.

2 R. Shapoval, I. Bytiak, N. Khrystynchenko, K. Solntseva, ‘Problematic issues of the administrative and legal status of the police in the baltic states (Lithuania, Latvia, Estonia),’ *Journal of Advanced Research in Law and Economics*, 2018, 9:1, 295-306.

3 *Law of the Republic of Kazakhstan No. 31-III ‘On Countering Extremism’, 2005*, https://online.zakon.kz/Document/?doc_id=30004865.

4 A. Kaldybek, M. Tynybekova, A. Orynbek, A., ‘Terrorism and Violent Extremism in the CIS on the Example of the Republic of Kazakhstan,’ *Post-Soviet Research*, 2021, 4:5, 388-399.

extremism in the Republic of Kazakhstan, the attention of researchers was more focused on the fight against terrorism, rather than extremism. In Ukraine, in 2021 there was a dissertation devoted to the issues of criminal law counteraction to extremism, the author of which was A.Y. Babii (2021).⁵ D.V. Dorokhin (2019)⁶ prepared research on problems of criminological characterization and counteraction to extremism.

E. Akhmetova and M. Jaafar (2020)⁷ address the reasons for the rise of religious extremism in Malaysia. In this context, E. Akhmetova and M. Jaafar (2020) also examine international politics and the world order. S. Anwar (2019)⁸ discusses the Taliban as a possible reason for the rise of religious extremism by security agencies. An example of academic research on countering religious extremism in China can be found in M. Dilmurat (2019).⁹ The authors also deem it necessary to mention the work written by the research teams of M.I.A. Razak, R.A.A. Rahim, M.A. Ramli, M.Y.Y. Salleh, P. Hassan, N.I. Kasmaruddin (2019),¹⁰ which touches on the recruitment methods of religious extremism. Therefore, it can be concluded that there is a lack of comprehensive examination of the legal aspects pertaining to countering extremism, specifically addressing the challenges of combating religious extremism by internal affairs bodies. This deficiency is evident both in the codified laws of the Republic of Kazakhstan and in the specialized legislation of the country. The object of the study was the social relations arising in the exercise by the internal affairs authorities of their powers to combat extremist offences.

The main state of the problem discussed in the article is the significant social danger posed by manifestations of extremism, particularly religious extremism. The focus is on the role of internal affairs bodies in countering this negative phenomenon. The purpose of the publication is to provide a comprehensive analysis of the regulatory framework for countering extremism and extremist acts in the Republic of Kazakhstan by internal affairs bodies. The article utilizes various general scientific methods of legal knowledge to address the topic effectively. It examines both codified legislation and special laws relevant to countering extremism in Kazakhstan, concluding that there is an appropriate level of legal regulation dedicated to addressing these issues. Additionally, the article conducts a comparative legal study, comparing the relevant norms of post-Soviet states and other countries, which confirms the comprehensive approach of the Kazakh legislator to countering extremism at the national level.

Materials and Methods

When researching the topic of the publication, the authors used a system of general scientific methods of legal knowledge, such as the method of analysis, the method of synthesis, the formal-logical method, the system-structural method, and the historical and comparative legal method.

The method of analysis was used by the authors to identify a set of norms that provide for criminal and

5 A.Y. Babii, *Criminal Law Counteraction of Extremism in Ukraine*, V.M. Koretsky Institute of State and Law of National Academy of Sciences of Ukraine, Kyiv, 2021.

6 D.V. Dorokhin, *Criminological Characteristics and Prevention of the Religious Extremism*, Interregional Academy of Personnel Management, Kyiv, 2019.

7 E. Akhmetova, M. Jaafar, 'Religious Extremism and Radicalisation of Muslims in Malaysia: The Malay Ties with the Mujahidin, Al Qaeda and Isis,' *Journal of Nusantara Studies*, 2020, 5:1, 104-123.

8 S. Anwar, 'Religious Extremism and the Rise of Talibanaization in Swat,' *Journal of Politics and International Studies*, 2019, 5:2, 45-62.

9 M. Dilmurat, 'Controlling Religious Knowledge and Education for Countering Religious Extremism: Case Study of the Uyghur Muslims in China,' *Forum for International Research in Education*, 2019, 5:11, 22-43.

10 M.I.A. Razak, R.A.A. Rahim, M.A. Ramli, M.Y.Y. Salleh, P. Hassan, N.I. Kasmaruddin, 'Religious Extremism and its Recruitment Methods: An Analysis,' *Journal of Administrative Science*, 2019, 16:1, 34-50.

administrative offences related to extremism and extremist acts.^{11,12} When considering the content of criminal procedure, criminal executive legislation, special laws relating to the system of internal affairs bodies, national security issues and activities of religious associations, the authors were also guided by the method of analysis.^{13,14,15,16,17,18,19,20} The method of analysis also allowed the authors to assess the content of the Report on International Religious Freedom: Kazakhstan (2021),²¹ a special report of the United Nations (UN) on religious issues in Kazakhstan, The United Nations Human Rights Committee's observations, which addressed the compliance of Kazakhstan's current legislation to combat religious extremism with freedom of religion and other human rights.^{22,23}

The authors used the method of synthesis to conduct a comprehensive assessment of the legal regulation of countering extremism in the Republic of Kazakhstan and to highlight both positive aspects (logic and consistency of the legislator) and negative aspects (lack of special legislation mentioning measures to combat religious extremism) of this issue. The authors employed the formal-logical method to develop a framework for understanding criminal offenses associated with extremism and extremist acts. This method facilitated the formulation of both a broad and narrow interpretation of these offenses. By utilizing logical reasoning and analytical techniques, the authors were able to establish a comprehensive understanding of the various manifestations of extremism within the criminal justice system. This approach enhances the conceptualization and classification of extremist acts, enabling a more nuanced analysis of the associated legal provisions and their practical implications.

The application of the system-structural method was important in ascertaining the fact that the *corpus delicti* of criminal offences are enshrined in the various structural elements of the Criminal Code of the Republic of Kazakhstan (CC RK) (2014).²⁴ This approach allowed the authors to draw attention to the fact that the generic

11 *Criminal Code of the Republic of Kazakhstan*, 2014, https://online.zakon.kz/document/?doc_id=31575252#sub_id=0.

12 *Code of the Republic of Kazakhstan on Administrative Offenses*, 2014, https://online.zakon.kz/document/?doc_id=31577399#sub_id=0.

13 *Criminal Procedure Code of the Republic of Kazakhstan*, 2014, <https://adilet.zan.kz/eng/docs/K1400000231>.

14 *Criminal Executive Code of the Republic of Kazakhstan*, 2014, https://online.zakon.kz/Document/?doc_id=31577723.

15 *Law of the Republic of Kazakhstan No. 199-V 'On the Internal Affairs Bodies of the Republic of Kazakhstan'*, 2014, <https://adilet.zan.kz/rus/docs/Z1400000199>.

16 *Law of the Republic of Kazakhstan No. 380-IV 'On the Law Enforcement Service'*, 2011, https://online.zakon.kz/document/?doc_id=30916594#sub_id=0.

17 *Law of the Republic of Kazakhstan No. 154-XIII 'On Operational-Search Activity'*, 1994, https://adilet.zan.kz/rus/docs/Z940004000_.

18 *Law of the Republic of Kazakhstan No. 527-IV 'On the National Security of the Republic of Kazakhstan'*, 2012, https://online.zakon.kz/Document/?doc_id=31106860&pos=3;-106#pos=3;-106.

19 *Law of the Republic of Kazakhstan No. 2710 'On the National Security Bodies of the Republic of Kazakhstan'*, 1995, https://online.zakon.kz/Document/?doc_id=1005971.

20 *Law of the Republic of Kazakhstan No. 483-IV 'On Religious Activity and Religious Associations'* 2011, <https://adilet.zan.kz/rus/docs/Z1100000483#z198>.

21 *Report on International Religious Freedom: Kazakhstan*, 2021, <https://kz.usembassy.gov/2021-report-on-international-religious-freedom-kazakhstan/>.

22 R. Ospanova, 'UN Special Rapporteur Gives Recommendations on Religious Affairs in Kazakhstan', 2014, <https://astanatimes.com/2014/04/un-special-rapporteur-gives-recommendations-religious-affairs-kazakhstan/>.

23 *Kazakhstan: Government contradicts UN Human Rights Committee*, 2016, <https://www.refworld.org/docid/579213114.html>.

24 *Criminal Code of the Republic of Kazakhstan*, 2014, https://online.zakon.kz/document/?doc_id=31575252#sub_id=0.

object of criminal offences is different in Kazakhstan's criminal legislation. Law of the Republic of Kazakhstan No. 1128-XII "On Freedom of Religion and Religious Association" (1992),²⁵ which provided for the prohibition of propaganda of religious extremism, was examined using the historical method. It should be noted that this Law of the Republic of Kazakhstan No. 1128-XII "On Freedom of Religion and Religious Association" (1992) lost force with the adoption of Law of the Republic of Kazakhstan No. 483-IV "On Religious Activity and Religious Associations" (2011).²⁶ By employing this method, the researchers aimed to gain insights into the legislative development and context of the law, shedding light on its intentions and the societal considerations at the time of its enactment.

Using the comparative legal method, the content of the texts of criminal, criminal procedural codified acts of a number of post-Soviet states was investigated:

- Republic of Azerbaijan: Criminal Code of the Republic of Azerbaijan (1999),²⁷ Criminal Procedure Code of Azerbaijan Republic (2000).²⁸
- Republic of Armenia: Criminal Code of the Republic of Armenia (2003),²⁹ Criminal Procedure Code of the Republic of Armenia (1998).³⁰
- Estonia: Estonian Penal Code (2001),³¹ Criminal Procedure Code of Estonia (2003).³²
- Kyrgyz Republic: Criminal Code of the Kyrgyz Republic (2021),³³ Criminal Procedure Code of the Kyrgyz Republic (2021).³⁴
- Republic of Latvia: Criminal Law of Latvia (1998),³⁵ Criminal Procedure Law of Latvia (2005).³⁶
- Republic of Moldova: Criminal Code of the Republic of Moldova (2002),³⁷ Criminal Procedure Code of the Republic of Moldova (2003).³⁸
- Republic of Tajikistan: Criminal Code of the Republic of Tajikistan (1998),³⁹ Criminal Procedure Code of the Republic of Tajikistan (2009).⁴⁰

25 *Law of the Republic of Kazakhstan No. 1128-XII 'On Freedom of Religion and Religious Association,'* 1992, https://adilet.zan.kz/rus/docs/Z920004000_#z0.

26 *Law of the Republic of Kazakhstan No. 483-IV 'On Religious Activity and Religious Associations,'* 2011, <https://adilet.zan.kz/rus/docs/Z1100000483#z198>.

27 *Criminal Code of the Republic of Azerbaijan,* 1999, https://continent-online.com/Document/?doc_id=30420353.

28 *Criminal Procedure Code of Azerbaijan Republic,* 2000, <https://www.migration.gov.az/content/pdf/f5875139b52568b64830edb7a3d5855d.pdf>.

29 *Criminal Code of the Republic of Armenia,* 2003, <http://www.parliament.am/legislation.php?ID=1349&lang=rus&sel=show>.

30 *Criminal Procedure Code of the Republic of Armenia,* 1998, <https://www.arlis.am/documentview.aspx?docid=82645>.

31 *Estonian Penal Code,* 2001, <https://www.riigiteataja.ee/en/eli/522012015002/consolide>.

32 *Criminal Procedure Code of Estonia,* 2003, <https://www.riigiteataja.ee/en/eli/530102013093/consolide>.

33 *Criminal Code of the Kyrgyz Republic,* 2021, https://online.zakon.kz/Document/?doc_id=36675065.

34 *Criminal Procedure Code of the Kyrgyz Republic,* 2021, <http://cbd.minjust.gov.kg/act/view/ru-ru/112308>.

35 *Criminal Procedure Law of Latvia,* 2005, <https://lawyer-khroulev.com/wp-content/uploads/2019/09/upz-latvii-prava-i-objazannosti-uchastnikov-ugolovnogo-processa-v-latvii.pdf>.

36 *Criminal Law of Latvia,* 1998, <https://lawyer-khroulev.com/wp-content/uploads/2019/09/ugolovnij-zakon-latvii.pdf>.

37 *Criminal Code of the Republic of Moldova,* 2002, https://continent-online.com/Document/?doc_id=30394923.

38 *Criminal Procedure Code of the Republic of Moldova,* 2003, https://continent-online.com/Document/?doc_id=30397729.

39 *Criminal Code of the Republic of Tajikistan,* 1998, https://continent-online.com/Document/?doc_id=30397325.

40 *Criminal Procedure Code of the Republic of Tajikistan,* 2009, https://continent-online.com/Document/?doc_id=30594304.

- Turkmenistan: Criminal Code of Turkmenistan (1997),⁴¹ Criminal Procedure Code of Turkmenistan (2009).⁴²
- Ukraine: Criminal Code of Ukraine (2001),⁴³ Criminal Procedure Code of Ukraine (2013).⁴⁴
- The Republic of Uzbekistan: Criminal Code of the Republic of Uzbekistan (1995),⁴⁵ Criminal Procedure Code of the Republic of Uzbekistan (1995).⁴⁶

By considering the legal frameworks of various post-Soviet states, the study sought to identify similarities, differences, and best practices in addressing the issue of religious extremism through legal means. Also, the comparative legal method allowed the authors not only to familiarise herself with the relevant laws potentially relevant to the regulation of extremist activities in countries such as the UK, Singapore, and the Australian Union, but also to ascertain the presence or absence of specific legislation on countering extremism in the selected post-Soviet states:

- Law of Great Britain “On Maintaining Public Order” (1986).⁴⁷
- Law of the Republic of Singapore “Maintenance of Religious Harmony Act” (1990).⁴⁸
- Law of the Commonwealth of Australia No. 49 “On the Prohibition of Discrimination” (1991).⁴⁹
- Law of the Republic of Tajikistan No. 69 “On Countering Extremism” (2003).⁵⁰
- Law of the Republic of Moldova No. 54-XV “On Countering Extremist Activity” (2003).⁵¹
- Law of the Azerbaijan Republic “On the Fight Against Religious Extremism” (2015).⁵²
- Law of Turkmenistan No. 3 “On the Fight against Terrorism” (2003).⁵³
- Law of Ukraine No. 638-IV “On the Fight against Terrorism” (2003).⁵⁴

The examination of countering religious extremism by internal affairs agencies followed a three-stage approach: preparatory, main, and final. In the preparatory stage, the authors analysed Kazakhstani legislation, as well as legislation from other countries, for anti-extremist norms. They also conducted a search for relevant international academic sources. The main stage involved systematically presenting and comprehensively mapping the normative regulations of extremist activity in Kazakhstan and other countries. Various general scientific methods of legal knowledge were employed to address the research questions at a doctrinal level. Additionally, the authors reviewed key scientific works, particularly those by international authors, to compare

41 *Criminal Code of Turkmenistan*, 1997, https://continent-online.com/Document/?doc_id=31295286.

42 *Criminal Procedure Code of Turkmenistan*, 2009, https://online.zakon.kz/Document/?doc_id=31344376.

43 *Criminal Code of Ukraine*, 2001, <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

44 *Criminal Procedure Code of Ukraine*, 2013, <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

45 *Criminal Code of the Republic of Uzbekistan*, 1995, <https://lex.uz/docs/111457>.

46 *Criminal Procedure Code of the Republic of Uzbekistan*, 1995, <https://lex.uz/docs/111463>.

47 *Law of Great Britain ‘On Maintaining Public Order,’* 1986, <https://www.legislation.gov.uk/>.

48 *Law of the Republic of Singapore ‘Maintenance of Religious Harmony Act,’* 1990, <https://sso.agc.gov.sg/Act/MRHA1990>.

49 *Law of the Commonwealth of Australia No. 49 ‘On the Prohibition of Discrimination,’* 1991, https://www.austlii.edu.au/lcgis/qld/consol_act/aal1991204/.

50 *Law of the Republic of Tajikistan No. 69 ‘On Countering Extremism,’* 2003, <https://www.cisatc.org/1289/135/155/285/7923>.

51 *Law of the Republic of Moldova No. 54-XV ‘On Countering Extremist Activity,’* 2003, <https://www.cisatc.org/7919>.

52 *Law of the Azerbaijan Republic ‘On the Fight Against Religious Extremism,’* 2015, <https://www.cisatc.org/1289/135/155/278/9001>.

53 *Law of Turkmenistan No. 3 ‘On the Fight against Terrorism,’* 2003, <https://www.cisatc.org/7927>.

54 *Law of Ukraine No. 638-IV ‘On the Fight against Terrorism,’* 2003, <https://zakon.rada.gov.ua/laws/show/638-15/page#Text>.

and contextualize their findings. The final stage encompassed summarizing the results, achieving the research goal, and establishing a foundation for future scientific developments related to countering religious extremism by internal affairs bodies.

Results

After analysing various statutory acts of the Republic of Kazakhstan related to the regulation of extremist activity, the authors deem it necessary to outline the fundamental points. First of all, in this aspect, it is necessary to be familiar with the norms of criminal, and criminal procedure, as well as penal and correctional legislation. The Criminal Code of the Republic of Kazakhstan (2014)⁵⁵ contains not only criminal offences relating to the restrictions of certain types of extremist activity (Articles 174, 182, 183, 258, 259, 260, 405 CC RK), but also the concept of an extremist group as a possible option (type) of a criminal group (paragraph 24 Article 3 CC RK), and the commission of extremist offences is a circumstance which makes it impossible, for example, to apply bail to an offender (Article 69 CC RK). The authors would like to draw particular attention to the fact that the so-called “extremist” offences are located in different sections of the CC RK – both against the foundations of the constitutional order and state security, and public safety and public order, and against the order of governance. This clarification is of particular importance when understanding the generic object of criminal extremist offences.

The *corpus delicti* of administrative offences, which provides for liability for possible manifestations of extremist activity, is also important. Thus, part 1 of Article 453 of the Criminal Procedure Code of the Republic of Kazakhstan (CPC RK) (2014)⁵⁶ contains the offence of producing, storing, importing, or transporting mass media products aimed at the propaganda of religious discord on the territory of the Republic of Kazakhstan. Part 2 of Article 453 of CPC RK provides for more socially dangerous acts, namely the distribution of media products aimed at propaganda and justification of extremism. Part 4 of Article 453 of CPC RK differs from the previously examined parts of the studied article also in the subject matter of the offence – other products not related to the mass media. However, the authors would like to specify that parts 2 and 4 of Article 453 CPC RK stipulate that a guilty person(s) may be held liable only for acts that do not contain elements of a criminal offence, while parts 3 and 5 of Article 453 CPC RK contain the qualifying element repeatedly within a year after the imposition of an administrative penalty. In this regard, it is important to highlight Article 489 of the Criminal Procedure Code of the Republic of Kazakhstan, which imposes liability for involvement in the activities of unregistered religious associations, as prescribed by the legislation of Kazakhstan. Parts 9, 10 and 11 of Article 489 of CPC RK contain administrative offences for leading activities, participating in activities, as well as financing activities not only of unregistered religious associations but also of those religious associations whose activities have been suspended or banned.

In the context of the content of the offences related to religious extremism in the Republic of Kazakhstan, it is worth mentioning that there are significant comments, primarily on their application, from international experts and organisations. After reviewing several international reports on the assessment of accountability for criminal and administrative offences, the authors would like to mention the US Embassy’s Report on International Religious Freedom: Kazakhstan (2021),⁵⁷ which raises these issues. The Report on International Religious

55 *Criminal Code of the Republic of Kazakhstan*, 2014, https://online.zakon.kz/document/?doc_id=31575252#sub_id=0.

56 *Criminal Procedure Code of the Republic of Kazakhstan*, 2014, <https://adilet.zan.kz/eng/docs/K1400000231>.

57 *Report on International Religious Freedom: Kazakhstan*, 2021, <https://kz.usembassy.gov/2021-report-on-international-religious-freedom-kazakhstan/>.

Freedom: Kazakhstan (2021) discusses in detail both the offences and the sanctions for which perpetrators may be held liable.

The US Ambassador and other US officials have expressed concerns regarding the regulatory framework and application of measures addressing religious extremist activity in the Republic of Kazakhstan. They have raised specific concerns about potential violations of freedom of religion, particularly in certain criminal and administrative proceedings. The current formulation of criminal law in Kazakhstan has raised apprehensions as it may criminalize peaceful religious expression, and unregistered prayer, and impose censorship on religious literature. The US ambassador was also concerned about the provisions of Kazakhstan's legislation on the procedure for registering a religious organisation, as well as the grounds for refusing such registration. According to the US official, such grounds have the potential for manipulation and unjustified refusals to register religious organisations. In the Report under review, religious freedom observers also reported the abuse of state authorities to harass and restrict not only the rights but also the activities of religious minorities.

In 2014, the UN Special Rapporteur Gives Recommendations on Religious Affairs in Kazakhstan prepared a report that contained recommendations on religious issues in Kazakhstan. The UN report, while noting the importance of an adequate legislative response to the situation of religious extremism in the Republic, also raised concerns about possible violations of freedom of expression and freedom of religion and belief.⁵⁸ In 2016, the UN response to Kazakhstan's legislation against religious extremism was harsher. The UN Human Rights Committee (UN Committee) criticised Kazakhstan for the "broad wording" of extremist offences and called for its laws to be brought fully in line with international human rights obligations. The UN Committee also obliged Kazakhstan to ensure that the rights to a fair trial and access to justice are duly respected. The UN Committee noted that the current criminal anti-extremist legislation in Kazakhstan may have the effect of unreasonably restricting freedom of religion, expression, and the right to peaceful assembly. According to the UN Committee, the broad concept of extremism, which is reflected in Kazakhstan's codified and legislative acts, is not consistent with the principles of legal certainty and predictability.⁵⁹

The problem of correlation between respect for freedom of religion and the construction of criminal and administrative offences lies not so much in the basis of legislative technique as in the practice of implementation of statutory norms.⁶⁰ At the same time, given the high level of danger of religious extremist activity for Kazakh society (it is worth recalling the fact that the untimely and inappropriate response of the relevant state authorities to various forms of extremism can result in terrorist acts), the authors believe that the response of the Kazakh legislator to such negative phenomena is appropriate and adequate. However, the issue of unjustified criminal and administrative liability is one of respect for the rule of law and the rule of law in all criminal and administrative proceedings – not only those relating to forms of religious extremism. It is worth recalling that the problem of unfair pre-trial or trial proceedings is endemic in many countries and for different categories of offences, not only in the Republic of Kazakhstan.⁶¹

58 R. Ospanova, 'UN Special Rapporteur Gives Recommendations on Religious Affairs in Kazakhstan,' 2014, <https://astanatimes.com/2014/04/un-special-rapporteur-gives-recommendations-religious-affairs-kazakhstan/>.

59 *Kazakhstan: Government contradicts UN Human Rights Committee*, 2016, <https://www.refworld.org/docid/579213114.html>.

60 I.V. Chekhovska, O.M. Balynska, R.I. Blahuta, V.V. Sereda, S.O. Mosondz, 'Euthanasia or palliative care: legal principles of the implementation in the context of the realization of human rights to life,' *Wiadomosci lekarskie (Warsaw, Poland : 1960)*, 2019, 72:4, 677-681.

61 T.A. Khanov, A.V. Boretsky, 'Interaction of the Russian federation and the republic of Kazakhstan-related crime trafficking,' *Criminology Journal of Baikal National University of Economics and Law*, 2012, 4, 76-81.

Criminalization of Extremist Offenses in Article 174 of the Criminal Code of the Republic of Kazakhstan: Analysing the Scope and Sanctions

Regarding comments on the construction of criminal offenses of extremist nature and their sanctions, attention is drawn to the criminal offense defined in Article 174 of the Criminal Code of the Republic of Kazakhstan (2014).⁶² This category of a criminal offence provides for liability for inciting social, national, tribal, racial, class or religious discord, as the title of the article under analysis attests. Thus, the first thing the authors have pointed out is that CC RK (2014) criminalises in one article not only incitement of one kind of discord – religious discord, but also – social, national, tribal, racial and class discord. This approach of the legislator can be explained by the authors’ desire to comprehensively cover all possible manifestations of the causes that contribute to such a negative phenomenon as incitement to hatred, and therefore both the title of Article 174 CC RK (2014) and part 1 Article 174 CC RK (2014) do not give rise to significant criticism.

Next, on Article 174 CC RK (2014) part 1, which provides for the basic criminal offence. In the authors’ opinion, the features of the criminal offence analysed, as constructed by the Kazakh legislator, are as follows: premeditation; the commission of this type of criminal offence is possible in the form of actions aimed at (a) inciting social, national, tribal, racial, class or religious strife, or (b) insulting the national honour and dignity or religious feelings of citizens, or advocating the exclusivity, superiority, or inferiority of citizens on the grounds of their religious, class, national, tribal or racial affiliation; the Kazakh legislator also provided in Part 1 for the modus operandi of the criminal offence under Article 174 CC RK (2014): (a) publicly; (b) through the media or telecommunication networks; (c) By the production or distribution of literature or other media advocating social, national, tribal, racial, class or religious discord.

It is extremely important for bringing the perpetrators under Article 174 CC RK (2014) for law enforcement agencies, including internal affairs agencies, to be the fact of ascertaining all the relevant elements of the analysed composition of a criminal offense provided for in the criminal legislation of the Republic of Kazakhstan. The authors would like to emphasise that, for example, it is not in itself a criminal offence for a perpetrator to deliberately advocate superiority on the grounds of attitude to religion, because in Article 174(1) CC RK (2014) the legislator has also clearly stated the manner of the offence, which must also take place.

Also, in analysing Article 174(1) CC RK (2014), the authors had technical comments on the construction of the criminal offence. The first is that the first part of Article 174 CC RK (2014) refers to “acts” and then to “acts done publicly”. From the perspective of criminal law theory, the concept of an act includes both acts and omissions. Without precluding the correctness of the stated wording, the authors consider it necessary to justify the possible forms of committing the criminal offence under Article 174 CC RK (2014) in further theoretical studies designed to answer the questions – is it possible to commit incitement to hatred by omission or an incitement to hatred be committed solely by action? With in-depth theoretical research, the answer to this question may not be so obvious. The authors’ second observation concerns the construction of the criminal offence under Article 174 CC RK (2014). As the authors have pointed out above, the Kazakh legislator has identified three possible options for this, but there is also a theoretical issue here – the concept of publicity may include the use of both the media and telecommunications networks, as well as, for example, the distribution of literature promoting religious discord to an unlimited range of people.⁶³ Thus, on the one hand, having three possible ways of committing a criminal offence under Article 174 CC RK (2014) seems excessive; on the other hand, such an approach may be

62 *Criminal Code of the Republic of Kazakhstan*, 2014, https://online.zakon.kz/document/?doc_id=31575252#sub_id=0.

63 J.P. Cointet, ‘Assessing intolerance, the level of protest on the internet and the impact of botfarms on political life in modern France from a sociological standpoint,’ *European Chronicle*, 2022, 7:2,35-44.

justified in terms of detailing specific rules. A solution to this situation could be to limit the term to “publicly” and to interpret it in a footnote to the article. However, in any situation, the issue outlined by the authors not only requires in-depth theoretical and doctrinal research but can also serve as a basis for further scientific debate.

In a general characterisation of Article 174 CC RK (2014), the authors also consider the following to be noteworthy. Article 174 CC RK (2014) is structured as “predicate offence” → “predicate offence” → “predicate offence” → “predicate offence”. This is a classic legislator’s approach for many criminal offences. Article 174(2) CC RK (2014) provides for a set of qualifying characteristics: commission of an offence by a group of persons, a group of persons by prior conspiracy, repeated commission of an offence, commission of an offence connected with violence, a commission of an offence connected with the threat of violence; commission of an offence by a person using his official position; commission of an offence by the leader of a public association. However, a valid question is whether the reference in Article 174(2) CC RK (2014) to the commission of the offence by using funds derived from international sources should be regarded as such, which is only relevant in the case of the offence committed by the leader of a public association, to any of the above-described cases of incitement to hatred, or is this characteristic a separate qualifying feature? The answer to the above question is complicated by the fact that in Article 174(2) CC RK (2014), the Kazakh legislator used the phrase “including with”, which can be interpreted in different ways. However, it should be noted that Part 1 of Article 174 CC RK (2014) contains the phrases “as well as”, and “if these acts are”, which can be considered to be clearer and more understandable.

Article 174 CC RK (2014) part 3 already refers to the possibility of prosecution in the case of acts under article 174 CC RK (2014) parts one or two, while there are only two special qualifications – committed by a criminal group or resulting in serious consequences. Both the content of the predicate offence and the content of the qualifying and particularly qualifying characteristics are particularly relevant to the analysis of the sanctions of Article 174 CC RK (2014), as discussed below.

The criminal offence outlined in Article 174(1) CC RK (2014) specifies penalties including fines ranging from two to seven thousand monthly calculation indices, restriction of liberty for two to seven years, and imprisonment for two to seven years. At the same time, the presence of penalties such as restriction of liberty and imprisonment for the same period of two to seven years in Article 174 CC RK (2014) part 1 is considered excessive by the authors. It should be noted that the possibility of imposing a prison sentence of up to seven years on the perpetrator effectively places Article 174 CC RK (2014) part 1 in the category of felony offences under Article 11 CC RK (2014) part 3. In the authors’ view, the public danger of inciting hatred is not so great as to classify such acts as serious crimes. It is therefore theoretically possible to propose a reduction of the sentence under Article 174(1) CC RK (2014) to at least five years imprisonment. Restriction of liberty for up to seven years should also, in the authors’ opinion, be considered excessive, because, based on the content of Article 39(2) CC RK (2014), which enshrines such purposes of punishment as the restoration of social justice, correction of the convicted person and prevention of the commission of new criminal offences, a sentence of two to five years in the form of restriction of freedom would fully achieve these purposes. Overall, given the wide range of offences for which the perpetrator may be prosecuted under Article 174 CC RK (2014) part 1 (e.g., inciting social or religious hatred may have varying degrees of public danger), the authors believe that it would be appropriate to supplement the sanction of this part of the article with punishments such as correctional or community service. But such a position would be justified if the amount of imprisonment were consistent with the categories of offences set out in Article 11 of the CC RK (2014). In any case, the construction of the sanction for Article 174 § 1 of the CC RK (2014) raises many questions, which necessitates not only further research but also the amendment of the current CC RK (2014).

Concerning Article 174 of the Criminal Code of the Republic of Kazakhstan (2014),⁶⁴ specifically parts 2 and 3, the authors offer the next observations. Each of the criminal offences in question provides for only one type of punishment – imprisonment. In this context, only the terms differ: for Part 2, from five to ten years, and for Part 3, from twelve to twenty years. There is also an additional punishment in each of the criminal offences under consideration – deprivation of the right to hold certain positions or engage in certain activities for up to three years. This additional punishment, given the wording “or without”, is not peremptory, which is correct. Overall, given the content of the qualified or particularly qualified characteristics discussed by the authors above, given their considerable public danger, the sanctions of Article 174 CC RK (2014) part 2 and part 3 do not give rise to serious reservations. However, the authors would like to recall that according to the definition of grave consequences under Article 3(4) CC RK (2014), the death of one person or even two or more persons may be a manifestation of such consequences, the statutory possibility to punish such an offence with a maximum prison sentence of twenty years, as set out in the sanction of Article 174(3) CC RK (2014), is assessed as a fair and justified approach.

However, international experts’ concerns about the construction of sanctions for extremist offences are not always justified. As an example, the authors suggest looking at Article 183 CC RK (2014) and Article 405 CC RK (2014). The sanction under Article 183 CC RK (2014) for permitting the publication of extremist materials in the media contains several alternative sanctions such as fines, correctional work, community service or arrest. The criminal offence is therefore not punishable by imprisonment and there are many alternatives to the most severe punishment available under Article 183 CC RK (2014) – arrest. Therefore, the court, taking into account the actual circumstances of the offence, can choose the punishment that is most just.

The situation is similar to Article 405 CC RK (2014), which enshrines some alternative penalties for organising and participating in the activities of a religious association after a court decision to ban their activities. The authors would like to emphasise that the corpus delicti of the criminal offence under Article 405 CC RK (2014) is constructed in such a way that the perpetrator(s) can only be prosecuted if there is an enforceable court injunction, which must record that such an organisation is engaged in extremist activity. Thus, in the authors’ opinion, Article 405 CC RK (2014) is competently constructed and has several deterrent factors that allow the legislator of the Republic of Kazakhstan to balance respect for freedom of religion in the Republic with a timely, appropriate law enforcement response regarding the prevention of extremist offences.

In the authors’ view, comments on the construction of sanctions to parts 9, 10, and 11 of Article 489 CPC RK (2014) may be more substantial. Part 10 of Article 489 of CPC RK (2014) may fall under both participation in the activities of a public organization that is not registered by the procedure established by the legislation of the Republic of Kazakhstan, and participation in the activities of a religious organization, the activities of which have been suspended. Thus, not only the essence of the factual elements of the administrative offences considered above is different, but also their public danger. However, under the current Article 489(10), the court has the power to impose a fine of fifty months’ calculation indexes without an alternative. Thus, the authors are convinced that this approach of the Kazakh legislator needs to be improved. A way out of this situation could be suggested as follows: either establish minimum and maximum amounts of fines or supplement them with one or more alternative types of punishment. This approach will allow the court to take into account the actual characteristics of each administrative offence.

64 *Criminal Code of the Republic of Kazakhstan*, 2014, https://online.zakon.kz/document/?doc_id=31575252#sub_id=0.

Article 490 CPC RK (2014) contains a wide range of administrative offences designed to curb manifestations of religious extremism in one form or another. For example, Article 490(3) CPC RK (2014) contains the administrative offence of carrying out missionary activities without registration or the use of religious literature by missionaries without positive religious expertise. Part 2 of Article 490 CPC RK (2014) is designed to protect legitimate religious activities. In the context of comments by the Committee and international experts, it is Article 490 of the CPC RK (2014) that should be given particular attention. In the authors' view, the need for Article 490 in the CPC RK (2014) should be justified by the fact that it essentially provides liability for non-compliance with legal requirements in the field of religious activities and activities of religious associations. In the mildest possible form – administrative.

The absence of Article 490 of CPC RK (2014) would negate the legal requirements for the activities of religious associations, which, in turn, would significantly reduce the preventive effect of anti-extremist measures of a religious nature. In the context of respect for freedom of religion in the Republic of Kazakhstan, the authors would like to emphasise again – Article 490 CPC RK (2014) in Part 2 contains an administrative offence for obstructing lawful religious activity, which demonstrates the fair approach to the Kazakh legislator. In any case, the question of the relationship between freedom of religion and existing anti-extremist norms also lies within the realm of legal philosophy, which forms the basis for further research.⁶⁵

Criminal procedural legislation of the Republic of Kazakhstan also contains several norms relevant to extremism. For example, Article 113(3) of the Criminal Procedure Code of the Republic of Kazakhstan (2014) sets out the specifics of proving the circumstances in a criminal case that are related to extremist activity. Article 131(2) CPC RK provides exceptions to the general rules on detaining a person for a maximum of forty-eight hours in case of suspicion of committing an extremist offence. Article 148(2)(9) prohibits the setting of bail when authorising a preventive measure of detention in the case of a person suspected of having committed extremist crimes. Also, when conducting covert investigative actions in a criminal case concerning extremist crimes, a person may, with a reasoned request from a pre-trial investigation body, be unaware of such actions (Article 240 CPC RK). Like the CPC RK (2014), the Criminal Executive Code of the Republic of Kazakhstan (CEC RK) (2014) contains provisions that refer to extremist offences. For example, Article 96(2) of CEC RK contains a prohibition on transferring those convicted to minimum security facilities who have committed extremist offences. Article 113(3) CEC RK restricts the departure of those convicted of extremist offences from prison. Article 171 CEC RK provides for the administrative supervision of persons who have served a sentence for extremist offences.

Criminal and criminal procedural legislation regarding special anti-extremist provisions in other countries

From a comparative legal perspective, the authors deem it important to highlight certain points. The overwhelming majority of European states do not have special anti-extremist provisions in their criminal legislation or their criminal procedural legislation. This is also true for some post-Soviet states. For example, neither the Criminal Code of Ukraine (2001)⁶⁶ nor the Criminal Procedure Code of Ukraine (2013)⁶⁷ contains any wording regarding extremist activity or extremism. A similar situation exists in the criminal and criminal procedure legislation of most of the former Soviet Union and CIS countries. It is important to note that the authors find it necessary to

65 Y. Barabash, H. Berchenko, 'Freedom of Speech under Militant Democracy: The History of Struggle against Separatism and Communism in Ukraine,' *Baltic Journal of European Studies*, 2019, 9:3, 3-24.

66 *Criminal Code of Ukraine*, 2001, <https://zakon.rada.gov.ua/laws/show/2341-14#Text>.

67 *Criminal Procedure Code of Ukraine*, 2013, <https://zakon.rada.gov.ua/laws/show/4651-17#Text>.

mention the registration of the Draft Law of Ukraine 739-VII “On Countering Extremism” (2013)⁶⁸ in Ukraine. In 2020, Ukrainian political scientist K. Bondarenko again raised the issue of the need for the legal regulation of extremist activity in Ukraine both at the level of anticipating criminal liability and at the level of adopting a special law.^{69,70}

The authors also consider it necessary to outline some aspects of the legal regulation of extremist activities in states such as the United Kingdom, the Republic of Singapore, and the Commonwealth of Australia. In this context, the Law of Great Britain “On Maintaining Public Order” (1986),⁷¹ which defines religious hatred, deserves particular attention in Great Britain. The authors would like to clarify that it should not forget the specifics of the legal system of the state in question, which differs significantly from the legal systems of continental Europe – in the UK, judicial precedents play an important role, and therefore a study of the practice of applying responsibility for extremism can be extremely enlightening. An interesting title is the Law of the Republic of Singapore “Maintenance of Religious Harmony Act” (1990),⁷² which seeks to regulate extremist activities. The Law provides for the possibility, on appropriate grounds, of restricting the activities of members of religious groups, especially priests, monks, and pastors. Law of the Commonwealth of Australia No. 49 “On the Prohibition of Discrimination” (1991)⁷³ has a provision on “Racial and Religious Insult” that seeks to limit incitement to religious hatred.

In the aspect of comparative legal research, it is crucial to understand what exactly constitutes extremist offences. In the authors’ opinion, an approach that understands extremist offences broadly and narrowly is justified. The narrow aspect should include those offences (primarily criminal ones) which provide for liability for establishing an extremist organisation, financing an extremist organisation and propaganda of extremism. In the authors’ opinion, the main criterion for attributing extremist crimes to this group is a formal criterion (legislative wording), which must necessarily contain a word root similar to the word “extremism”. In a general sense, these offenses can encompass acts such as hooliganism or vandalism. This raises serious questions as to whether intentional killing with a religious motive or incitement to national hatred should be included in this group. To answer this question, serious doctrinal research is needed to provide a proper theoretical understanding of extremism and to justify when certain crimes should be classified as broad or narrowly defined. The authors only consider it necessary to clarify that his comparative legal research was guided solely by a narrow approach to the issue.

Regulatory acts of the Republic of Kazakhstan in the context of regulating the activities of internal affairs bodies aimed at countering extremism

Thus, having summarised the above, the authors can state the logic and consistency of the Kazakh legislator in the aspect of enshrining not only special types of criminal and administrative offences of extremist nature in the relevant codes but also in the criminal procedural and criminal enforcement aspects. Nevertheless, given the subject matter of the publication, the next stage of the study was a comprehensive examination of the

68 *Draft of the Law of Ukraine 739-VII ‘On Countering Extremism,’* 2013, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=49227.

69 *Ukrainian Legislators are Appointed to Understand the Concept of ‘Extremism,’ Expand the State Program and Preventive Entry – Experts,* 2020, <https://ua.interfax.com.ua/news/press-conference/710858.html>.

70 T. Slinko, O. Uvarova, ‘Freedom of Expression in Ukraine: (Non)sustainable Constitutional Tradition,’ *Baltic Journal of European Studies*, 2019, 9:3, 25-42.

71 *Law of Great Britain ‘On Maintaining Public Order,’* 1986, <https://www.legislation.gov.uk/>.

72 *Law of the Republic of Singapore ‘Maintenance of Religious Harmony Act,’* 1990, <https://sso.agc.gov.sg/Act/MRHA1990>.

73 *Law of the Commonwealth of Australia No. 49 ‘On the Prohibition of Discrimination,’* 1991, https://www.austlii.edu.au/lcgis/qld/consol_act/aal1991204/.

regulations of the Republic of Kazakhstan in the context of regulating the activities of internal affairs bodies aimed at combating extremism.

Law of the Republic of Kazakhstan No. 199-V “On the Internal Affairs Bodies of the Republic of Kazakhstan” (2014)⁷⁴ contains the organisational framework for the internal affairs bodies, their system, and specific powers. This legal act does not contain any details specifically on combating extremism (including religious extremism). The authors consider this approach of the Kazakh legislator to be acceptable, because in addition to extremism, the internal affairs bodies are called upon to counter a whole range of offences, and detail in the current situation would not be justified.

Law of the Republic of Kazakhstan No. 380-IV “On the Law Enforcement Service” (2011)⁷⁵ specifies in Article 3 that the system of law enforcement agencies includes internal affairs bodies but, similarly to Law of the Republic of Kazakhstan No. 199-V “On the Internal Affairs Bodies of the Republic of Kazakhstan” (2014),⁷⁶ does not contain any special reservations on combating extremist offences. It should also be mentioned that Article 6 of Law of the Republic of Kazakhstan No. 154-XIII “On Operational-Search Activity” (1994)⁷⁷ refers the internal affairs bodies to the system of agencies that carry out the operational-search activity, and Paragraph 15 of Article 1 of Law of the Republic of Kazakhstan No. 154-XIII “On Operational-Search Activity”, providing the concept of operational-search activity, the purpose of such activities defines and security of society and the state from criminal encroachments.

The legislative acts of the Republic of Kazakhstan regulating the national security of the state under study contain a sufficient number of norms relating to extremism and extremist activity. Thus, paragraphs 1 and 8 of Article 6 of Law of the Republic of Kazakhstan No. 527-IV “On the National Security of the Republic of Kazakhstan” (2012)⁷⁸ not only consider all forms and manifestations of extremism as a threat to national security but also the alliance of extremist organisations with state bodies. Also, this legal act provides the basis for the system of national security bodies, which includes internal affairs bodies: Article 15(1)(5), Article 9(1)(3) of the Law of the Republic of Kazakhstan No. 527-IV “On the National Security of the Republic of Kazakhstan” (2012),⁷⁹ but it should be specified that there is a special Law of the Republic of Kazakhstan No. 2710 “On the National Security Bodies of the Republic of Kazakhstan” (1995).⁸⁰ Article 2(1) (4-1) of the Law refers to the coordination of activities in the sphere of countering extremism in the Republic of Kazakhstan as a task of national security bodies. In the context of this study, the content of Law of the Republic of Kazakhstan No. 1128-XII “On Freedom of Religion and Religious Association” (1992), Article 4(6) which refers to the prohibition of propaganda of religious extremism,

74 *Law of the Republic of Kazakhstan No. 199-V ‘On the Internal Affairs Bodies of the Republic of Kazakhstan,’* 2014, <https://adilet.zan.kz/rus/docs/Z1400000199>.

75 *Law of the Republic of Kazakhstan No. 380-IV ‘On the Law Enforcement Service,’* 2011, https://online.zakon.kz/document/?doc_id=30916594#sub_id=0.

76 *Law of the Republic of Kazakhstan No. 199-V ‘On the Internal Affairs Bodies of the Republic of Kazakhstan,’* 2014, <https://adilet.zan.kz/rus/docs/Z1400000199>.

77 *Law of the Republic of Kazakhstan No. 154-XIII ‘On Operational-Search Activity,’* 1994, https://adilet.zan.kz/rus/docs/Z940004000_.

78 *Law of the Republic of Kazakhstan No. 527-IV ‘On the National Security of the Republic of Kazakhstan,’* 2012, https://online.zakon.kz/Document/?doc_id=31106860&pos=3;-106#pos=3;-106.

79 *Law of the Republic of Kazakhstan No. 527-IV ‘On the National Security of the Republic of Kazakhstan,’* 2012, https://online.zakon.kz/Document/?doc_id=31106860&pos=3;-106#pos=3;-106.

80 *Law of the Republic of Kazakhstan No. 2710 ‘On the National Security Bodies of the Republic of Kazakhstan,’* 1995, https://online.zakon.kz/Document/?doc_id=1005971.

was important. However, this Law of the Republic of Kazakhstan No. 1128-XII “On Freedom of Religion and Religious Association” (1992)⁸¹ expired in 2011. At the same time, the authors would like to point out that the Law of the Republic of Kazakhstan No. 483-IV “On Religious Activity and Religious Associations” (2011)⁸² does not contain any reference to extremism or extremist activities. Next, the authors would like to outline the specifics of countering extremism (including religious extremism) by the internal affairs bodies of the Republic of Kazakhstan may be. In this aspect, the norm enshrined in paragraph 5 of part 1 of article 6 of the Law of the Republic of Kazakhstan No. 31-III “On Countering Extremism” (2005)⁸³ is of particular importance, which, in general terms, provides for the specifics of countering extremism by internal affairs agencies. To be as effective as possible in countering extremism by the internal affairs agencies, both the legal basis for the exercise of their powers by the internal affairs agencies and the practical aspects of the issue need to be taken into account.

As to the legal basis for the exercise of their powers by the internal affairs authorities, the authors are convinced of the appropriate level of such regulation. Both the set of criminal, criminal procedural, criminal enforcement, and special law provisions discussed above should be assessed positively. This approach can be justified by the fact that the anti-extremist legislation of the Republic of Kazakhstan provides not only the basis for criminal and administrative offences but also the powers of internal affairs bodies to effectively combat extremist manifestations. Regarding the practical aspect, the existing challenges should not be forgotten. For instance, the authors would like to recall that combating the distribution of extremist materials (primarily on the Internet) or the financing of extremist organisations (e.g., tracing bank accounts and payment destinations) requires not only the expertise of internal affairs staff but also the appropriate equipment. It should not be forgotten that any kind of extremism (political, national, or religious) has its peculiarities of counteraction, which are not adequately reflected in the Law of the Republic of Kazakhstan No. 31-III “On Countering Extremism” (2005).⁸⁴

Thus, the authors consider it necessary to develop practical recommendations at the level of a by-law, which can facilitate the work of internal affairs bodies in combating possible manifestations of each type of extremism and extremist acts, including religious extremism. The authors can offer the next examples of such recommendations: pay particular attention both to printed publications and to information on the Internet of certain religious organisations, which may potentially contain calls to extremist actions or incitement to such actions; to be aware of the theological education programme (especially for young people) in time to prevent extremist propaganda; control the funding of religious organisations.

At the same time, it is important that the internal affairs authorities, in implementing measures to counter religious extremism, do not violate the right of citizens to freedom of religion, and correctly establish a causal link between the factors of religious extremism and its manifestations.

Discussion

W. Ninsiana (2020)⁸⁵ focused on the problem of linguistic de-radicalisation of religious extremism in terms of

81 *Law of the Republic of Kazakhstan No. 1128-XII ‘On Freedom of Religion and Religious Association,’* 1992, https://adilet.zan.kz/rus/docs/Z920004000_#z0.

82 *Law of the Republic of Kazakhstan No. 483-IV ‘On Religious Activity and Religious Associations,’* 2011, <https://adilet.zan.kz/rus/docs/Z110000483#z198>.

83 *Law of the Republic of Kazakhstan No. 31-III ‘On Countering Extremism,’* 2005, https://online.zakon.kz/Document/?doc_id=30004865.

84 *Law of the Republic of Kazakhstan No. 31-III ‘On Countering Extremism,’* 2005, https://online.zakon.kz/Document/?doc_id=30004865.

85 W. Ninsiana, ‘Deradicalizing religious extremism linguistically: An intertextual approach to Islamic extremists’ view on the qur’anic Interpretation,’ *Akademika: Jurnal Pemikiran Islam*, 2020, 25:2, 277-294.

an intertextual approach to the views of Islamic extremists on the interpretation of the Quran. The researcher has used Fairkle's intertextual approach to those verses of the Quran that can be used by extremist groups to justify violent acts in the name of Islam. In this context, W. Ninsiana is convinced of the particular importance of linguistics as a tool capable of voicing a universal critique of radical interpretations in understanding Islamic sources (primarily verses of the Koran).

M.I.A. Razak, R.A.A. Rahim, M.A. Ramli, M.Y.Y. Salleh, P. Hassan, N.I. Kasmaruddin (2019)⁸⁶ reveals the analysis of religious extremist recruitment methods. These scholars began their study by saying that previously the process of Islam's development had been relatively peaceful – the Islamic community had never been involved in terrorism and extremism in the spread of the Islamic religion and the process of interaction with non-Muslims living together with Muslims in the same territory. Recently, however, the situation has changed significantly. M.I.A. Razak, R.A.A. Rahim, M.A. Ramli, M.Y.Y. Salleh, P. Hassan, N.I. Kasmaruddin focused on the process of spreading extremist ideology through social media, critically analysing data from qualitative methods to identify the causes of the extremism and develop a group of counter-terrorism measures against this negative phenomenon. In the paper under review, scholars have come to the important conclusion that social media unfortunately plays an important and effective role in spreading extremist ideology and recruiting new members of extremist groups around the world, including in Malaysia.⁸⁷

K.E. Brown's (2020)⁸⁸ work is a comprehensive examination that specifically delves into the relationship between gender, religion, and extremism, adopting a feminist perspective. K.E. Brown puts forth alternative approaches to conceptualizing and implementing counter-radicalization measures grounded in feminist principles. M. Mukhammadsidiqov (2021)⁸⁹ analysed the influence of religion on social and political processes in the era of globalization, the causes and negative consequences of religious xenophobia, and the impact of xenophobia on the emergence and spread of extremism. After examining the foundations of religious xenophobia and extremist movements, the researcher scientifically substantiated the thesis that extremists and terrorists act predominantly in the name of Islam. In another works, M. Mukhammadsidiqov (2019)⁹⁰ touched upon the problems of regulating secularism and religious principles in Arab countries. The researcher stresses that the penetration of political, religious extremism, fanaticism and other similar movements into people's consciousness and the spread of such movements are alien to human nature and can pose a threat to peace, security and tranquillity of entire states. Having familiarised ourselves with the content of the above-mentioned works, it can be stated that there are scientific studies concerning de-radicalisation, methods of recruitment of new members of religious organisations, the relationship between gender and religion, religious xenophobia, and secularism.⁹¹

The next group of studies on countering religious extremism looks at the issue in specific states – China,

86 M.I.A. Razak, R.A.A. Rahim, M.A. Ramli, M.Y.Y. Salleh, P. Hassan, N.I. Kasmaruddin, 'Religious Extremism and its Recruitment Methods: An Analysis,' *Journal of Administrative Science*, 2019, 16:1, 34-50.

87 I.M. Akylbayeva, Z.B. Malgarayeva, Z.D. Kussainova, S.K. Amanzholuly, L.A. Umirzakova, T.S. Kalenova, A.M. Zharkenova, M.D. Tlebaldiyeva, 'Resources of terrorism spread and its globalization,' *Life Science Journal*, 2014, 11:SPEC.ISS.1, 202-206.

88 K.E. Brown, 'Gender, Religion, Extremism: Finding Women in Anti-Radicalization', Oxford University Press, 2020.

89 M. Mukhammadsidiqov, 'Problems of Escalation of Religious Xenophobia in the ERA of Globalization,' *Central Asian Journal of Literature, Philosophy and Culture*, 2021, 2:12, 17-23.

90 M. Mukhammadsidiqov, 'Problems of Regulation of Secularism and Religious Principles in Arab Countries.,' *Bulletin Social-Economic and Humanitarian Research*, 2019, 4:6, 114-122.

91 N. Akpanbet, T. Sadykov, A. Zharkenova, 'The role of Kazakhstan in world association,' *Anthropologist*, 2016, 26:1-2, 12-17.

Indonesia, Myanmar, Malaysia, Sri Lanka, Pakistan as well as Kazakhstan. M. Dilmurat (2019)⁹² examined the problems of countering religious extremism through the prism of religious knowledge and education on the example of Muslim movements (in particular, Uighur) in China. The scholar notes that, as a secular state, China has always been sensitive to religious traditions, including Islam. However, since the events of 11 September 2001 in the US, Chinese state policy has been to equate Islamic knowledge and identity with violent ethnic separatism and more recently with extremism and terrorism. S. Wibisono, W. Louis, and J. Jetten (2019)⁹³ published a paper on the multidimensional analysis of religious extremism. S. Wibisono, W. Louis, and J. Jetten point out the shortcomings of the so-called “one-dimensional” understanding of religious extremism, which is associated primarily with violence. The researchers developed a model of religious extremism theologically, ritually, socially, and politically based on the diversity of Islamic groups in Indonesia. Importantly, S. Wibisono, W. Louis, J. Jetten that it should not be linked the understanding of religious extremism solely with violence – it is also possible for religious extremism to occur where Muslims (or any religious group) will be extreme in some respects but moderate in others (e.g. extreme in ritual and moderate in political beliefs).

D. Subedi and J. Garnett (2020)⁹⁴ on the demystification of Buddhist religious extremism in Myanmar. The researchers are convinced that the discourse of state building and development can better explain the current dynamics of extremist violence in a given state than religion and religious ideologies. D. Subedi and J. Garnett explain their position, stating that contemporary politics in Myanmar has been characterized by manipulation for political purposes. This has had numerous social consequences: the radicalisation of some Buddhists, the rise of violent religious extremism, and the marginalisation and double victimisation of Rohingya Muslims who have been targeted by state security forces. D. Subedi (2022)⁹⁵ also focused on the interaction of religion, extremism, and Buddhism in Sri Lanka. The scholar examined the conflicts between Sinhalese Buddhists and Muslims in historical, social, political, and economic contexts, which allowed him to state – the religious revival of the groups under study contributed to the simultaneous rise of religious extremism and its polarising social implications in contemporary Sri Lanka.

E. Akhmetova and M. Jaafar (2020)⁹⁶ investigated the causes of the rise of religious extremism in Malaysia in terms of international politics and world order. This approach allowed E. Akhmetova and M. Jaafar to develop a set of practical recommendations to address the escalation of extremism and radical understanding of Islam in Malaysia for the sake of national security and the well-being of its citizens. Y. Norhafezah, K. Amrita, S.M.A. Mohd and H.R. Awang (2019)⁹⁷ conducted an expert survey among Malaysian youths on their understanding of religious extremism. The researchers investigated the factors that provoke Malaysian youths to join religious extremist groups through interviews and described the findings using inductive analysis. Several authors have

92 M. Dilmurat, ‘Controlling Religious Knowledge and Education for Countering Religious Extremism: Case Study of the Uyghur Muslims in China,’ *Forum for International Research in Education*, 2019, 5:11, 22-43.

93 S. Wibisono, W. Louis, J. Jetten, ‘A Multidimensional Analysis of Religious Extremism,’ *Frontiers in Psychology*, 2019, 10, 67-73.

94 D. Subedi, J. Garnett, ‘De-mystifying Buddhist religious extremism in Myanmar: confrontation and contestation around religion, development and state-building,’ *Conflict, Security & Development*, 2020, 20:2, 223-246.

95 D. Subedi, D. ‘Religion, Extremism and Buddhist-Muslim Relations in Sri Lanka’ In: I. Ahmed, Z.S. Ahmed, H. Brasted, S. Akbarzadeh (Eds.), *Religion, Extremism and Violence in South Asia. Politics of South Asia*. Palgrave Macmillan, 2022, 45-70.

96 E. Akhmetova, M. Jaafar, ‘Religious Extremism and Radicalisation of Muslims in Malaysia: The Malay Ties with the Mujahidin, Al Qaeda and Isis,’ *Journal of Nusantara Studies*, 2020, 5:1, 104-123.

97 Y. Norhafezah, K. Amrita, S.M.A. Mohd, H.R. Awang, ‘A Qualitative Expert Interview Approach towards Understanding Religious Extremism among Malaysian Youth,’ *The Qualitative Report*, 2019, 24:7, 1577-1592.

researched the issue of religious extremism in Pakistan. For example, S. Khan (2016)⁹⁸ has produced a scholarly work that addresses extremism in contemporary Pakistan – threats, causes and future policies to counter it. The researcher notes that the origins and foundations of religious extremism in Pakistan have their roots in a mixture of national, regional, and international influences.⁹⁹

J. Faizullah, I.A. Syed, F.A.Sh. Sayyed (2021)¹⁰⁰ focused their work on gender-based violence and religious extremism in Pakistan. The scholars used symbolic interactionism and feminist theory to form a critical view of the search for the causes of contemporary, religious extremism in Pakistan in the state's colonial history. This approach allowed J. Faizullah, I.A. Syed, F.A.Sh. Sayyed states the influence of the past on the present state of extremist currents in Pakistan and links the national Pakistani with regional non-colonial interests. H. Saba, H.A. Majid, and Sh. Faiza (2019)¹⁰¹ also addressed the state of religious extremism in Pakistan. An interesting conclusion was reached by H. Saba, H.A. Majid, Sh. Faiza is that one of the reasons contributing to youth participation in extremist movements is the increasing general education frustration of human ambitions in adult life, which entails the satisfaction of extremist views and/or the commission of extremist acts. U. Javaid (2011)¹⁰² has written about the rise of violent extremism in Pakistan. The scholar criticizes Pakistan's policy on countering violent extremism and considers it ineffective. The thesis voiced by U. Javaid argues that terrorism quite often stems from religious extremism.

K. Mani (2019)¹⁰³ published a scholarly work that examined religious, violent extremism in Pakistan in the context of the security threat to the South Asian region and today's challenges. The relevance of K. Mani is motivated by the fact that violent extremism terrorizes society, as numerous suicide attacks not only sow fear but also lead to the killing of innocent people. The Pakistani researcher is convinced that religious tolerance and moderation are key facts that can contribute to the de-radicalisation of society, with which it is difficult to disagree. In addition, K. Mani emphasises on timely formulation and adoption of effective counter-terrorism strategies at both provincial and federal levels, which can also stop the spread of extremist currents in the state.

An article by D. Sharipova and S. Beissembayev (2021)¹⁰⁴ focuses on the causes of violent extremism in Central Asia using Kazakhstan as an example. This paper addresses the causes of violent extremism in Kazakhstan through the prism of examining violent attacks on law enforcement agencies in 2011 and 2016 in Aktobe, Almaty, Atyrau. D. Sharipova and S. Beissembayev researched interviews with convicted extremists and found that criminal subculture, Salafi-Jihadi ideology, and Internet propaganda contributed to the emergence of extremist violence in Kazakhstan. Also, provides a brief comparative analysis of European jihadists and violent extremists in Kazakhstan, highlighting some important commonalities and differences in the movements under

98 S. Khan, 'Extremism in Contemporary Pakistan: Threats, Causes and Future Policy,' *South Asian Studies*, 2016, 31:2, 27-33.

99 R.E. Koulis, T. Fouskas, 'Social adaptation of syrian refugees in the European Union countries: Psychological aspects of the issue,' *European Chronicle*, 2022, 7:2, 6-13.

100 J. Faizullah, I.A. Syed, F.A.Sh. Sayyed, 'Khamosh Pani: Partition trauma, gender violence, and religious extremism in Pakistan,' *Liberal Arts and Social Sciences International Journal*, 2021, 5:1, 16-27.

101 H. Saba, H.A., Majid, Sh. Faiza, 'Religious Extremism, Religiosity and Sympathy toward the Taliban among Students across Madrassas and Worldly Education Schools in Pakistan,' *Terrorism and Political Violence*, 2019, 33:3, 97-104.

102 U. Javaid, 'Partnership in War on Terror and Mounting Militant Extremism in Pakistan,' *South Asian Studies*, 2011, 26:2, 97-111.

103 K. Mani, 'Religious Militant Extremism in Pakistan: Security Threat to South Asian Region and Challenges,' 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3332167.

104 D. Sharipova, S. Beissembayev, 'Causes of Violent Extremism in Central Asia: The Case of Kazakhstan,' *Studies in Conflict & Terrorism*, 2021, 1-21.

study between the regions. K. Begalinova, M. Ashilovam, and A. Begalinov (2020)¹⁰⁵ dedicated a specifically to religious extremism in Kazakhstan, namely the threats of its spread and the means to counter it. The Kazakhstani researchers emphasised that regional integration and globalisation have now added new dimensions to the problems of violence, religious extremism, and terrorism, which still attract considerable attention in the academic community in many countries.^{106,107}

T. Lovat (2019)¹⁰⁸ looked at countering religious extremism through the lens of theological religious education. The researcher is convinced of the need for a solid theology to support religious education that can inform and stimulate critical and self-reflexive knowledge, which can prevent the spread of religious extremism in a particular region. Interestingly, to form this argument, T. Lovat used the Hibernians frame of reference and illustrated the need for theological analysis to support an effective solution through religious education. S. Anwar (2019)¹⁰⁹ raised the issue of religious extremism in the context of the Taliban. The scholar addresses the problem of state and security agencies countering this type of religious extremism, as the practice has shown that such countermeasures are not always effective. In support of this thesis, S. Anwar recalls that members of Taliban groups have heavy weaponry and sophisticated communications equipment, indicating serious sources of funding.

Although there is a variety of research on religious extremism, both in general theoretical terms and in specific regions, the content of the scientific work outlined above has significant differences from the results displayed in this publication. In the authors' opinion, most of the studies studied are of the so-called social nature, as they reflect such issues as causes and conditions of religious extremism and the influence of such phenomena as xenophobia, secularism, and feminist movements on the negative phenomenon in question. Some publications address the relationship between state policy and the global rule of law and religious extremism, and ways to combat this type of extremism such as religious tolerance education or proper education for young people. In the present study, however, the authors focused on the content of a set of legal acts of the Republic of Kazakhstan in the aspect of enshrining anti-extremist norms, analysed the specifics of internal affairs bodies for sufficient grounds to combat religious extremism in this state, and also conducted a comparative legal study of the legislation of other countries on this issue. Thus, this publication has a specific legal direction with the development of practical recommendations, which significantly distinguishes it from already existing ones.

Conclusions

The assessment of the legislation in Kazakhstan concerning countering religious extremism by internal affairs authorities revealed a comprehensive framework of criminal offenses related to extremism. The authors positively evaluated the wide range of provisions in the Criminal Code of Kazakhstan, which provides a strong basis for investigating these crimes. However, certain aspects of the legislation require refinement, particularly

105 K. Begalinova, M. Ashilovam, A. Begalinov, 'Religious Extremism in Kazakhstan: Threats of Spreading and Means of Opposition,' *Central Asia & the Caucasus*, 2020, 4, 125-131.

106 G.M. Karassayev, K.A. Yensenov, B.R. Naimanbayev, A.A. Oskembay, H.K. Ermukhanova, 'History of regional relations in foreign political activity of the republic of kazakhstan (1991-2014),' *Journal of the National Academy of Legal Sciences of Ukraine*, 2021, 28:3, 119-128.

107 S.S. Cherniavskiy, M.L. Hribov, A.A. Nebytov, S.M. Kniaziev, S.S. Telenyk, 'The forms of international co-operation in the area of undercover investigations,' *Journal of Legal, Ethical and Regulatory Issues*, 2020, 23:1, 1-9.


108 T. Lovat, 'Addressing religious extremism through theologically informed religious education,' *Journal of Religious Education*, 2019, 67, 103-114.

109 S. Anwar, 'Religious Extremism and the Rise of Talibanization in Swat,' *Journal of Politics and International Studies*, 2019, 5:2, 45-62.

regarding the formulation of sanctions for religious extremist acts. The study also highlighted violations of legislative technique in specific articles, such as Article 174 of the Criminal Code. Nevertheless, the existing regulatory framework in Kazakhstan is considered necessary and justified in combating religious extremism.

Effectively addressing the issue of religious extremism requires a multi-faceted approach involving various institutions. Educational institutions play a crucial role in promoting tolerance, understanding, and critical thinking. Institutions, including religious organizations, can actively engage with communities to foster dialogue, promote social cohesion, and address grievances. Law enforcement and security agencies need to have specialized units or departments focused on countering extremism. Governments can enact and enforce legislation that specifically addresses the issue of religious extremism. Collaboration between countries and international organizations is crucial for sharing knowledge, experiences, and best practices in countering religious extremism. Institutions should address the socio-economic factors that contribute to extremism, such as poverty, unemployment, inequality, and social exclusion.

The comparative legal analysis confirmed the proper regulatory framework in Kazakhstan, especially when compared to other post-Soviet countries. Some states address extremism within their counter-terrorism laws, while others lack specific legislation on prohibiting extremist activities. The study emphasized the need for comprehensive measures to counteract different forms of extremism and provided recommendations for the practical aspect of combating religious extremism by internal affairs agencies in Kazakhstan. However, further research is required to address issues like the narrow and broad understanding of extremist criminal offenses and the theoretical development of a doctrinal understanding of extremism.



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