

## THE ROLE OF THEOLOGICAL EXPERTISE IN PROBLEM SOLVING OF STATE-CONFESSIONAL RELATIONS IN RUSSIA

*S. Astapov*

*Southern federal university. Rostov-on-Don, Russian Federation*  
*National research nuclear university "MIFI". Moscow, Russian Federation*  
[science-almanac@mail.ru](mailto:science-almanac@mail.ru)

In modern Russia the actuality of constant observation, evaluation and forecasting of interethnic and inter-confessional interaction is conditioned by modernization processes dynamism also including the spheres of ethnical and religious relations, despite of their existing inertial traditions potential. Ethno-confessional relations act as important constituents of the national security, as an ethnical so national factor often produce conflict and extremist moods. Not numerous theological community could play its positive role in conflict decreasing and conflicts precaution in the sphere of state-confessional relations, if state and religious organizations could see experts in theologians, whose conclusions are accepted in the quality of qualified recommendations, according to these or that social questions.

Two normative documents activated theologians-experts function: Federal law of RF from 27 of July 2002 No 114-FL "About extremist activity opposition" and Order of Justice Department of RF from 18 of February 2009 № 53 "About state theological expertise". The first according to religious organizations activity approved participation necessity of theologian specialist in materials expertise with extremism features, the second one – defined indispensable participation of scientists- theologians in activity of expert councils according to state religious expertise conducting under Justice Department of RF and its departments in the subjects of RF.

The participation of theologians in forensic examinations appeared to be a momentous event for theological society. Firstly, religious organizations representatives showed interest to this society. It was expressed in that religious organizations attorneys, the literature of whom was admitted to be extremist, became looking for such experts among theologians, who could ably perform on the defense side. Thirdly, religious expertise educed collisions in religious materials estimation, connected with difference of religious discourse material and secular discourse of society law-enforcement system. Such-like collisions led to the law-enforcement practice advance.

However preliminary examination from the religious community side is appeared to be more rational, than advance of normative acts in relation to religious unities activity in the wake of collisions appearing in law-enforcement practice.

Theological expertise of legal norms, related to the religious unities activity, – is not the only sphere of state-confessional relations, where presence of theologians professional experience would be useful. Offers of physical and juridical persons act as religious expertise objects, besides the projects of regulatory act according to the questions of inter-confessional relations, containing in their appeals to the regulatory bodies, and also data of opinion polls and other monitoring events, mass media materials gathering according to the same questions. The role of religious expertise of such-like materials consists in clearing of their significance, and in a row of cases in – competence establishment from positions of religious discourse specificity, polyconfessional situation in secular (or post-secular) society.

Key words: religious expertise, regulations, multi-religious situation, the authorities, the media, the Russian Federation subjects.

In modern Russia the actuality of constant observation, evaluation and forecasting of interethnic and inter-confessional interaction is conditioned by modernization processes dynamism also including the spheres of ethnical and religious relations, despite of their inertial traditions potential existing. Ethno-confessional relations act as important constituents of national security, as ethnical so national factors often produce conflict and extremist moods. In this respect one can notice from one side rather often claims of law enforcement agencies to these or that religious organizations, but from the other (less often) – about leading cases, initiated by religious organizations, including European Court by human rights, about violation of conscience freedom and other freedoms of believers by law enforcement agencies. Not numerous theological community could play its positive role in conflict decreasing and conflicts precaution in the sphere of state-confessional relations, if state and religious organizations could see experts in theologians, whose conclusions are accepted in the quality of qualified recommendations according to these or that social questions.

Nowadays the religious organizations representatives, firstly, see in theologians either continuators of scientific atheism traditions, or Russian Orthodox Church apologists, perceiving the last

one as obtaining protection from government side. Secondly, without knowing, what theologians do besides teaching, they do not consider appeal to theologians in the quality of useful for them in the government-confessional relations sphere. From the side of governmental structures relation to the researchers-theologians occurs only in rare cases of religious expertise conducting necessity. But year by year these resorts occur more often that gives right to consider the religious expertise as an instrument in government-confessional relations, efficiency of which grows year by year.

Two normative documents activated theologians-experts function: Federal law of RF from 27 of July 2002 No 114-FL “About extremist activity opposition” and Order of Justice Department of RF from 18 of February 2009 № 53 “About state theological expertise”. The first one according to religious organizations activity approved participation necessity of theologian specialist in materials expertise with extremism features, the second one – defined indispensable participation of scientists-theologians in activity of expert councils according to state religious expertise conducting under Justice Department of RF and its departments in the subjects of RF.

Expertise objects and challenges, subjects and expertise order, requirements to terms and expertise results formatting are established in the appendix 1 “The state religious expertise order realization” to the Justice Department order “About state religious expertise”. The objective side of deal and research challenges connected with it, defined by the given document, induced methodological questions from scientists-theologians, who participated in the expert opinions preparations. The main from them was that presented object typology is appeared to be unscientific, that means, it does not allow to conduct research systematically and rationally [8]. And only the third challenge from free gets into theologian competence – “correspondence verification of declared forms and methods of religious activity under state registration to methods of its actual activity” [3]. The other two are: “organization religious character determination on the basis of constituent documents, information about foundations of its doctrine and practice correspondent to it” and “verification and estimation of its credibility of information, containing in the documents presented by religious organization, according to the basis of its doctrine” [3] can be solved not only by theologians, however it is not clear, what these determinations can bring. As one can write everything in constituent documents (that is why other challenges are also introduced), but information credibility verification, represented in documents presented by a religious organization, cannot be realized by religious studies methods.

Thinking about this collision Moscow theologian E. Elbakyan writes: “There is absolutely unclear, how a theologian should examine “authenticity” of information” about religious organization doctrine bases, contained in documents. Does that mean that an expert should doubt in the fact that the given religious organization authentically develops foundations of its doctrine, relying on sacred texts? As in reality it can have absolutely other doctrine, which “covers up”, and does not place in any written sources and secretly deliver “from mouth to mouth”?...» [8].

My experience of participation in Expert council under the Justice Department Management of Russian Federation in Rostov region testifies about the fact that theologians, in reality, work through only solving of the third challenge. Placeholders, entering the council solve the two others, and solve more qualified, than theologians could do this. Then an informative confrontation of performed challenges occurs, where the criterion is the given theologians.

Last years in Russia there was a wave of lawsuits which acknowledged texts of various religious organizations to be extremist literature. Today the extremist materials federal list of RF Justice Department counts more than three and a half thousand of titles [7]. The texts of Islamic and non-conventional religious movements (if consider the literature of religious content) take the huge volume of this list. Judicial decisions about acknowledgment the material to be extremist were taken on the basis of experts and expert commissions conclusions, more often psycho-linguistic-theological. Resorting to the theologian, as to the specialist, for an expert conclusion delivery or its including into commission of forensic examination with extremism feature already became a norm. But the row of judicial decisions was appealed on the basis of the fact that religious expertise was conducted by incompetent specialists.

Institute of court experts-theologians has not been formed yet in Russia. Those specialists who are considered to be theologians by representatives of law enforcement agencies are attracted to expertises. Besides, absence of judicial theological expertises methods puts the theologian in front of two problems: how to practice his knowledge (and, as consequence, which methods of science he should use) for concrete challenges solving, following questions, put in front of the expert, and how to avoid evaluative judgements which an expertise requires, but scientific ethos of a religion researcher prohibits. This is a problem for the theologian to determine its role as a court expert, and it is still considered to be acute [for detail see 1].

The participation of theologians in forensic examinations appeared to be a momentous event for the theological society. Firstly, religious organizations representatives showed interest to this society. It was expressed in that religious organizations attorneys, the literature of whom was admitted to be extremist, became looking for such experts among theologians, who could ably perform on the defence side. Some religious organizations (Jehovah's Witnesses, Scientists) became leading purposeful work on contacts establishing with theologians. They cataloged all theological departments and university subdivisions, where training on "religious studies" direction takes place, writing was established with a row of them and they became regularly send them their materials.

Secondly, there aroused a question about is the expert, who is entrusted theological expertise, appeared to be a qualified theologian: does he have a work experience in his profession, scientific works, related to the subject of research and etc. There a criticism of religious expertises emerged in the theological community. This is in whole a positive phenomenon, as allows seeing competence of the experts-theologians. Together with this it became apparent that often theologians, obtaining grants from religious organizations, non-conventional for Russia, are critics of the expertises. Moreover, criticism often beat beside professional competence, but brought grist to the confession mill, the materials of which were admitted to be extremist. This occurred in that cases, when a theologian, conducting forensic examination, noticed presence of a sign of object and pointed to its general for any religion character, whereas a lawyer qualified the presence of this characteristic in the quality of characterizing extremism character of the given object. In the result, an expert-theologian got reproaches in unprofessionalism from his colleagues, who inattentively read research part of the expert opinion.

The question is, first of all, about such characteristic, as exceptionalism propaganda. According to the Federal law "About extremist activity opposition" [6] religious exceptionalism propaganda appears to be a characteristic of extremism. The theologian shows that any religious texts, pointed to spread of ideas and social behavior norms, specific for a certain confession, differ with proclamation and demonstration of own confession exceptionalism. Opposition of own religion to the others – is one of the essential characteristics of religion in whole. Confessional (religious) identity is formed on the basis of believer groups opposition to the others. Naturally, theologian finds in texts utterances about exceptionalism of the given confession.

Such-like collisions led to the law-enforcement practice advance. Resolution of plenum of Russian Federation Supreme Court emerged from 28 of June 2011 № 11 "About judicial practice on criminal cases about crimes of extremist direction", specifying notions significance of "exceptionalism propaganda", "superiority propaganda" and etc. In response to attempts (naturally, not theologians) of finding extremist utterances in the texts of Holy Writs, a law, moving beyond the scope of expertise objectives of four canonical religious texts: Bible, Coran, Tanakh and Ganjur was accepted [4]. Thus, religious expertises contribute to Russian legislation perfection.

However preliminary examination from the religious community side is appeared to be more rational, than advance of normative acts in relation to religious unities activity in the wake of collisions appearing in law-enforcement practice. This relates to the law mentioned above. Is "Holy Writ translation of New world" of Jehovah's Witnesses considered to be Bible, or Bible can only be called the book, where the word Bible is written? Which translation of Coran should be considered as the genuine one? (Question is meaningless for Muslims, but significant for the experts, as there was a decision of Oktyabrski district court of Novorossiysk city from 17 of September 2013 to prohibit the conceptual translation of Coran into Russian language, accomplished by E.Kuliev). These

and similar questions will emerge in front of experts, if trivial decision from religious studies, would not be accepted that all texts, acknowledged by Holy Writ in religious organizations, registered on the territory of Russia, are come out beyond the frame work of expertise material objects with characteristics of extremism. This denotes that acknowledgment of any material, containing quotations from Holy Writs to be extremist, do not make these quotations to be extremist.

Also theologians have many questions according to “insult of believers religious feelings” – the basic concept of Federal law from 29 of June No 136-FL “About” alterations introduction to the article 148 of Russia Federation law code in order to oppose to insult of citizens religious feelings” [5]. What feelings of believers should be considered as religious? Does the insult of believers irreligious feelings come under the law force? If for instance, neopaganism organized heathen temple, but orthodox Christians demolished it with indignation, who and which feelings were abused? Why can only the representatives of traditional and numerous religious communities be abused? There such idea can be formed that the insult fact itself and reaction to it appear to be in its turn a kind of PR-actions. The analysis of the given situation is remarkable for Rostov theologian A.V. Matetskaya: “Initially a group of insult believers is rather small, the names of insult people can be unknown at all, but after getting the event into mass media sphere the reaction to offence comprises mass audience, besides not only religious. Social network contributes to psychic infection and implication of the audience into event’s discussions, and involving into situation which traditional mass media could hardly achieve. Thus, nondurable affective society forms, united by the general indignation, insult of believers feeling turns into the reason for small crusade in defense of morality. However this does not mean, if some believers really got into a huff, suddenly confronting with some traumatize event, or if the situation is conceived by interested individuals, and believers play in it corresponding roles, that does not exclude, by the way, identifications with performed role” [2, p. 42].

Theological expertise of legal norms, related to the religious unities activity, – is not the only sphere of state-confessional relations, where presence of theologians professional experience would be useful. Offers of physical and juridical persons act as religious expertise objects, besides the projects of regulatory act according to the questions of inter-confessional relations, containing in their appeals to the regulatory bodies, and also data of opinion polls and other monitoring events, mass media materials gathering according to the same questions. The role of religious expertise of such-like materials consists in clearing of their significance, and in a row of cases in – competence establishment from positions of religious discourse specificity, polyconfessional situation in a secular (or post-secular) society.

Administrative and law-enforcement systems indifferent in relation to religions (according to their nature and status) are not capable to react to cultural defiances, to intervention of strange for society values from side of some religious unities. They began to react even when not all these defiances and values have already formed some ideology, but when on the bases of this ideology socially dangerous communities and actions appear. Opposition to religions, denying and significantly transforming traditional ethnocultural values of society, should be, first of all ideological. In virtue of the fact that secular state is equally distanced from any religious ideology, it cannot neither realize nor organize this opposition. That is why the leading role in this case – is behind social organizations. The acknowledgement of the social organizations leading role in assurance of rights and freedoms of citizens appears to be one of the characteristics of civil society. In this context, open discussion of society religious-moral values, inter-confessional dialogue, educational work as representatives of traditional religions, so secular scientists, theological expertise sphere enlargement should be encouraged.

#### *References*

1. *Astapov S.N.* Contexts of theological research of the materials in relation to extremism characteristics // *Religion and right.* 2014. No 1 (68).
2. *Matetskaya A.V.* Insult of religious feelings of the believers: Russian context // *The Humanities and social sciences.* 2015. No 6.

3. Order of Justice Department of RF from 18 of February 2009 No 53 “About state theological expertise” [Electronic resource] URL: <http://base.garant.ru/195078>
4. Federal law from 23 of November 2015 No 314 FL “About alteration introduction into Federal law “About extremist activity opposition”” [Electronic resource] URL: <http://rg.ru/2015/11/25txt-dok.html>
5. Federal law from 29 of June 2013 No 136-FL “About alteration introduction into the article 148 of Russian Federation criminal code and separate legislative acts of Russian Federation in order to insult opposition of citizens religious commitment and feelings” [Electronic resource] URL: <http://base.garant.ru/70403758>
6. Federal law from 25 of July 2002 No 114-FL “About extremist activity opposition” [Electronic resource] URL: <http://base.garant.ru/12127578>
7. Federal list of extremist materials of RF Justice Department [Electronic resource] URL: <http://minjust.ru/extremist-materials>
8. *Elbakyan E.* Theological expertise in the sphere of general scientific principles [Electronic resource] URL: <http://www.sova-center.ru/religion/publications/2015/d33340>

### *Литература*

1. *Астапов С.Н.* Контексты религиоведческого исследования материалов в отношении признаков экстремизма // Религия и право. 2014. № 1 (68).
2. *Матецкая А.В.* Оскорбление религиозных чувств верующих: российский контекст // Гуманитарные и социальные науки. 2015. № 6.
3. Приказ Минюста РФ от 18 февраля 2009 г. № 53 «О государственной религиоведческой экспертизе». [Электронный ресурс] URL: <http://base.garant.ru/195078> (Дата обращения: 08.08.2016).
4. Федеральный закон от 23 ноября 2015 г. № 314 ФЗ «О внесении изменения в Федеральный закон «О противодействии экстремистской деятельности»» [Электронный ресурс] URL: <http://rg.ru/2015/11/25txt-dok.html> (Дата обращения: 08.08.2016).
5. Федеральный закон от 29 июня 2013 г. № 136-ФЗ «О внесении изменений в статью 148 Уголовного кодекса Российской Федерации и отдельные законодательные акты Российской Федерации в целях противодействия оскорблению религиозных убеждений и чувств граждан» [Электронный ресурс] URL: <http://base.garant.ru/70403758> (Дата обращения: 08.08.2016).
6. Федеральный закон от 25 июля 2002 г. № 114-ФЗ «О противодействии экстремистской деятельности» [Электронный ресурс] URL: <http://base.garant.ru/12127578> (Дата обращения: 08.08.2016).
7. Федеральный список экстремистских материалов Министерства юстиции РФ [Электронный ресурс] URL: <http://minjust.ru/extremist-materials> (Дата обращения: 08.08.2016).
8. *Элбакян Е.* Религиоведческая экспертиза в свете общенаучных принципов [Электронный ресурс] URL: <http://www.sova-center.ru/religion/publications/2015/d33340> (Дата обращения: 08.08.2016).

**August, 16, 2016**