

RESEARCH ARTICLES

Spiritual Education in Russia: Law and Theology

Educación espiritual en Rusia: derecho y teología

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Summary

It is impossible to imagine modern life without education. It allows a person to learn something new, to know the reality around, to realize their abilities, to reveal their talents, to find a vocation in life. Education is not only the process of learning new information, but it is also the upbringing and development of the individual, their exposure to the world and national culture, the formation of a certain system of values. Currently, there are several problems in education, like in any other public sphere, that cause active discussion in society and require resolution at the legislative level. This article presents a legal study of spiritual education, taking into account its legal regulation and implementation in Russia at the present stage. The authors of the article consider the most important aspects of the implementation of the right to spiritual education in Russia and conduct a comparative legal analysis of the Russian legislation on spiritual education. The article considers the types of educational organizations that provide religious education and their educational programs, describes the foreign experience of religious education, and conducts a systematic analysis of educational standards of higher education. The authors identify current problems in the field of organization and implementation of religious education, give recommendations for their solution, and indicate areas for improving legislation on religious education. It is concluded that the introduction of subjects teaching religion in educational institutions is legal in compliance with the principle of voluntary choice of education.

Keywords: Theology, Right To Education, Church And State, Trends In Education, Church And Education.

Resumen

Es imposible imaginar la vida moderna sin educación. Le permite a una persona aprender algo nuevo, conocer la realidad que lo rodea, darse cuenta de sus habilidades, revelar sus talentos, encontrar una vocación en la vida. La educación no es solo el proceso de aprender nueva información, sino también la educación y el desarrollo del individuo, su exposición al mundo y la cultura nacional, la formación de un cierto sistema de valores. Actualmente, existen varios problemas en la educación, como en cualquier otro ámbito público, que provocan una discusión activa en la sociedad y requieren resolución a nivel legislativo. Este artículo presenta un estudio legal de la educación espiritual, teniendo en cuenta su regulación e implementación legal en Rusia en la etapa actual. Los autores del artículo consideran los aspectos más importantes de la implementación del derecho a la educación espiritual en Rusia y realizan un análisis legal comparativo de la legislación rusa sobre educación espiritual. El artículo considera los tipos de organizaciones educativas que brindan educación religiosa y sus programas educativos, describe la experiencia extranjera de la educación religiosa y realiza un análisis sistemático de los estándares educativos de la educación superior. Los autores identifican problemas actuales en el campo de la organización e implementación de la educación religiosa, dan recomendaciones para su solución e indican áreas para mejorar la legislación sobre educación religiosa. Se concluye que la introducción de asignaturas de religión en las instituciones educativas es legal en cumplimiento del principio de elección voluntaria de la educación.

Palabras clave: Teología, Derecho a la Educación, Iglesia y Estado, Tendencias en Educación, Iglesia y Educación.

Introducción

The purpose of this research is to assess the role of religious education in secular schools and its legal status in the Russian education system. It is assumed that citizens of the Russian Federation can receive religious education not only in spiritual education institutions but also in state educational institutions by developing educational programs with religious

content while observing the principle of voluntary choice of education. The research objectives are legal analysis of Russian legislation on religious education; analysis of the foreign experience of religious education; study of types of Russian educational organizations that provide religious education; consideration of educational programs on religious education; system analysis of educational standards of higher education in the field of religious education; research of current problems in the field of organization and implementation of religious education; determination of ways to solve them; identification of areas for improving legislation on religious education.

The attitude to religious education in modern Russian practice is ambiguous, since the church in Russia is separated from the state, and the choice of religion is one of the constitutional freedoms guaranteed by the state (Lavrentieva et al., 2020). There is a question of the legality of introducing religious education in secular schools and even kindergartens, the legal regulation of religious education, and the way to implement religious education in educational institutions (Skuratov et al., 2019). All these issues are actively discussed at the state level. Discussions are held, ideas are proposed, and current legislation is amended. At the same time, the right to religious education is not canceled, since it is a fundamental and inalienable right of every person and is guaranteed by the European Convention on Human Rights (Article 2 of Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950). Therefore, one of the tasks of the state is to implement this right by issuing legal normative or individual orders by authorized state and non-state bodies and officials.

Problematic issues of spiritual education were raised in the fundamental works of P.L. Glanzer (2007), S.G. Zubanova (2016), N. Knyaginina (2017), V.V. Kuchurin (2015), A.A. Timerkhanova (2016), K. Petrenko (2007), and S. Jankiewicz (2017). These works consider the methodology of obtaining religious education, the implementation of which is carried out in the Russian Federation in educational institutions through the development of educational programs with religious content, namely: the study of the foundations of religious cultures and secular ethics, the foundations of the spiritual and moral culture of the peoples of the Russian Federation, theological education and religious education in a secular educational organization in the era of the Bologna education system.

Individual issues of spiritual education are considered in the articles by O.Yu. Kalinina (2019), D. Krosiak (2015), E.M. Miroshnikova (2018), I.F. Paramonov (2019), O.N. Petyukova (2010), and B.Yu. Polevoy (2017). The authors prioritize the formation of the concept of national security of the Russian Federation for the protection of cultural, spiritual, and moral heritage, historical traditions, and norms of the public life of the Russian Federation. According to the authors, in order to preserve the cultural heritage of the peoples of Russia, the state should pursue an active policy in the field of spiritual and moral education of the younger generation, as well as counteract the negative impact of the illegal activities of illegal religious organizations, sects, and missionaries by disseminating theoretical knowledge in educational institutions.

Methods

The methodological basis of the research was a set of scientific methods of cognition, such as system, statistical, comparison, qualitative and quantitative analysis, legal, comparative-legal, logical, and dialectical.

We studied the materials and key sources of various scientific literature on the proposed topic and analyzed the normative legal acts of the Russian Federation, including the main provisions of the Federal Law "On education in the Russian Federation" of December 29, 2012, No. 273-FL and the Federal Law "On freedom of conscience and religious associations" of September 26, 1997, No. 125-FL. This allowed studying the issues of religious education in

more detail, compare secular educational organizations and spiritual education organizations, study educational programs with a religious component implemented in these organizations, and identify problems arising in the field of religious education.

The main method of research was the method of qualitative and quantitative analysis of the content of documents in order to identify or measure various facts and trends of spiritual education in Russia. The activities of spiritual education organizations that implement educational programs aimed at training ministers and religious personnel of religious organizations were analyzed. With the consent of a relevant centralized religious organization or a leading or coordinating body authorized by a centralized religious organization, they have the right to implement educational programs of secondary vocational education and higher education under the requirements of federal state educational standards (FSES), as well as additional professional programs and vocational training programs, which is determined by paragraph 9 of Article 87 of the Education Law, paragraph 3 of Article 19 of the Law on Freedom of Conscience.

The legal method made it possible to reveal that, according to paragraph 3 of Article 19 of the Law on Freedom of Conscience, religious education organizations that implement educational programs aimed at training ministers and religious personnel of religious organizations, issue diplomas of education and qualifications, the form of which is independently established by these organizations. The qualifications specified in such educational diplomas entitle their holders to perform the functions of ministers and religious personnel of religious organizations. Spiritual education organizations that implement educational programs under the requirements of FSES and (or) additional professional programs and professional training programs, issue documents on education and (or) qualifications to persons who have passed the state final certification or final certification following Law on Education [According to paragraph 3 of Article 19 of the Law on Freedom of Conscience]. In 2014, the Ministry of Education and Science of the Russian Federation issued Orders No. 124, 125, and 317, according to which, FSES of higher education were approved in the following areas of training:

- 48.03.01 "Theology" (undergraduate level) (approved by order of the Ministry of Education and Science of the Russian Federation No. 124, 2014);

- 48.04.01 "Theology" (graduate level) (approved by order of the Ministry of Education and Science of the Russian Federation No. 125, 2014);

- 48.06.01 "Theology" (postgraduate level) (approved by the Ministry of Education of the Russian Federation No. 317, 2014).

The statistical method allowed analyzing the implementation of standards, which are a set of requirements required for the implementation of the main professional educational programs in the field "Theology". The comparative legal method allowed establishing that undergraduate education is allowed only in higher education institutions, graduate education is allowed only in higher education institutions and scientific organizations, and postgraduate education is allowed in higher education organizations, organizations of additional professional education, scientific organizations, and outside organizations. Undergraduate, graduate, and postgraduate programs in theology are implemented within the framework of the relevant confessional theology (Christian, Islamic, Jewish, and Buddhist). Educational subjects, courses, disciplines (modules) in the field of theology are taught by teachers from among those recommended by the relevant centralized religious organization.

The comparative method revealed that religious education in most countries takes place not only in the school curriculum, but also at the level of higher education, and the training of students in higher education organizations is conducted in the world's leading universities.

The system method allowed identifying the areas of the professional activity of graduates who have completed the undergraduate, graduate, and postgraduate programs, which include: the system of theological knowledge, traditional spiritual values of society and man, theological education, science and enlightenment, religious culture and philosophy, the sphere of state-confessional, inter-confessional, and social relations, practical aspects of the life of confessions and their corresponding social activity. Graduates who have mastered the undergraduate, graduate, and postgraduate programs in the direction of training "Theology" can conduct research in the history and theory of religion, religious and philosophical problems of human existence and modern civilization, coordinate international and interfaith programs in the region and the municipality, carry out expert advisory activities for various organizations, resolve conflict situations at the interfaith level, work in archives and museums, libraries, study religious cultural heritage, search for the necessary information in libraries, electronic catalogs, and online resources, conduct educational work with children and youth, in groups of social adaptation and rehabilitation. Logical and dialectical methods allowed conducting this research and conclude that the introduction of subjects teaching religion in educational institutions is legal while observing the principle of voluntary choice of education.

Results

It was argued that receiving religious education is a basic and inalienable right of citizens, which is implemented in the Russian Federation in educational institutions by mastering educational programs with religious content, namely, in the form of studying the basics of religious cultures and secular ethics and the basics of spiritual and moral culture of the peoples of Russia, theological education and religious education. Relations in the sphere of religious education in Russia are regulated by the Constitution of the Russian Federation, the Federal Law "On Education in the Russian Federation" of December 29, 2012, No. 273-FL, the Federal Law "On Freedom of Conscience and Religious Associations" of September 26, 1997, No. 125-FL, and other normative legal acts. Thus, the Federal Law "On Freedom of Conscience and Religious Associations" of September 26, 1997, No. 125-FL establishes the right of everyone to receive religious education of their choice individually or jointly with others.

It was revealed that in Europe (Finland, Poland, Germany) and the United States of America, religious education takes place not only in the school curriculum, but also at the level of higher education, and the training of students in higher education organizations is conducted in the world's leading universities. In some countries, it is a subject of choice. For example, it is mandatory to teach religion in Poland and Finland. It is possible to refuse to study religion in the Greek and Italian Republics. The exception to this rule is France, where education in public schools is completely secular. Religious education takes place not only in the school curriculum in most countries, but also at the level of higher education, and the training of students in higher education organizations is conducted in the leading universities of the world, such as Sorbonne (France), Harvard University (USA), Princeton University (USA), Yale University (USA), Friedrich-Schiller University of Jena (Germany), and University of Tübingen (Germany). There are three faculties of theology – Catholic, Islamic, Protestant – in the University of Helsinki (Finland), which preserved the Lutheran theological faculty.

It was established that religious organizations may, following their statutes and the legislation of the Russian Federation, establish their educational institutions. Namely, the spiritual education organizations that have the status of non-profit organizations and are entitled to implement educational programs of secondary vocational education and higher education following the requirements of FSES, additional vocational programs and training programs [p. 3 Article 5 of the Law on Freedom of Conscience].

In order to improve the legislation, all contradictions that arise in the process of implementing religious education should be eliminated by fixing the legal mechanism and its implementation through the introduction of enabling norms into federal legislation, which, due

to their dispositivity, can be implemented by subjects of educational relations, allowing them to freely, at their discretion, choose any way to implement their right – in a state, municipal, or private educational institution with a religious component, as well as to demand protection of this constitutional right in case of its violation.

Discussion

Legal regulation of religious education in Russia

One of the main measures of social development is education. The scientific community focuses on education as a socially significant element of society, which it sees as one of the ways out of the crisis currently being experienced by the world civilization, overcoming which requires deep changes in people's consciousness and behavior.

It should be noted that education has achieved significant success in the era of digitalization. In Russia, not only the organizations of secondary and higher education began to actively develop, but also secondary specialized education began to gain popularity, which was not so long ago considered as education for the weakest students. Today, school graduates do not hesitate to go to college, master a profession, and after receiving the education they enter institutions of higher education, thereby demonstrating the classical Bologna system, formed many decades ago in the West.

In world practice, religious education has always been an integral part of school and university education, long before the first religious educational institutions appeared in Russia. The organization and implementation of religious education in Western countries depend on the type of state-confessional relations.

According to P.L. Glanzer and K. Petrenko, three types of state-confessional relations in democratic countries can be distinguished:

- 1) "partial establishment model", when one religious group is dominant, is part of the state apparatus and its activities are funded by the state (for example, England and Greece);
- 2) "strict separationism model" when all religious groups are separated from the state and exist as part of civil society and rarely receive direct government funding (for example, the USA);
- 3) "pluralist or structural pluralist model" when a wide range of religious groups are recognized as official state entities and both religious and secular charities and schools are funded by the state (for example, the Netherlands, Germany, and Australia).

At the same time, P.L. Glanzer and K. Petrenko do not include Russia in any of the presented types, thereby emphasizing the uniqueness and originality of the religious order on the territory of the Russian Federation (Glanzer, Petrenko, 2007).

Relations in the sphere of religious education in Russia are regulated by the Constitution of the Russian Federation, the Federal Law "On Education in the Russian Federation" of December 29, 2012, No. 273-FL, the Federal Law "On Freedom of Conscience and Religious Associations" of September 26, 1997, No. 125-FL, and other normative legal acts. Thus, the Federal Law "On Freedom of Conscience and Religious Associations" of September 26, 1997 No. 125-FL (hereinafter – the Law on Freedom of Conscience) establishes the right of everyone to receive religious education of their choice individually or jointly with others. The state establishes guarantees and mechanisms for the implementation of human rights and freedoms in the field of education, creates conditions for the development of the education system, and protects the rights and interests of participants in the educational sphere.

Obtaining a religious education is an inalienable right of citizens, and the authorities should take into account the interest of the population in this education.

Implementation of religious education in spiritual education organizations

According to the Law on Freedom of Conscience, at the written request of parents or persons replacing them and with the consent of children studying in state or municipal educational organizations, educational organizations, based on a decision of the collegial governing body of an educational organization in agreement with the founders, may provide a religious organization with the opportunity to teach children religion outside the educational program (paragraph 4 of Article 5 of Federal Law No. 125-FL of September 26, 1997 (edited on December 2, 2019) "On Freedom of Conscience and Religious Associations"). Thus, although the subject "Fundamentals of the Spiritual and Moral Culture of the Peoples of Russia" is mandatory in the curriculum of basic general education and is included in the compulsory part of the curriculum, the school administration has the right to place this subject in the block of extracurricular activities (Article 87 of the Federal Law of December 29, 2012, No. 273-FL (as amended on March 1, 2020) "On Education in the Russian Federation").

For example, in SBGEI Gymnasium No. 1541, Moscow, the subject "Fundamentals of the Spiritual and Moral Culture of the Peoples of Russia" is implemented through integration into the academic subjects "Literature", "Fine Arts", and "Music". As follows from the explanatory note published on the school website (<https://gym1541.mskobr.ru>), in order to strengthen the practice-orienting component of the educational process, some of the issues of the subject area "Fundamentals of the Spiritual and Moral Culture of the Peoples of Russia" were included in the block of extracurricular activities in the form of a system class hours aimed at developing the ability for spiritual development, moral self-improvement, fostering tolerance, respect for religious feelings, people's views or their absence, and the implementation of projects aimed at studying the characteristics of the culture of the peoples of Russia.

Nevertheless, as noted by N. Knyaginina and S. Jankiewicz (2017), the issue of studying the foundations of religious cultures and secular ethics and the foundations of the spiritual and moral culture of the peoples of Russia as a compulsory subject in public schools is often found in judicial practice in the field of education and religion. The authors cite the example of 2013 when the applicant filed a lawsuit with the Supreme Court of the Russian Federation that the normative act of the Ministry of Education and Science of the Russian Federation, following which the course was introduced as mandatory, contradicts federal legislation of the Russian Federation, and the corresponding resolution violates the child's right to study other religious disciplines. The Supreme Court of the Russian Federation did not find any inconsistency with the legislation of the Russian Federation in these acts and, consequently, refused to satisfy the applicant's claim. In its decision, it referred to the Decision of the European Court of Human Rights (ECHR) of December 7, 1976, in the case of Kjeldsen, Busk Madsen, and Pedersen v. Denmark, which explains that Article 2 of Protocol No. 1 of the European of the Convention for the Protection of Human Rights and Fundamental Freedoms does not prohibit education and training of a religious or philosophical nature and does not allow parents to protest against the inclusion of such education or training in the school curriculum (Article 2 of Protocol No. of the European Convention on the person and fundamental freedoms: 1950). At the same time, the European Convention obliges the state to ensure the proper provision of religious education and training. The state must ensure that such information is included in the curriculum in an objective, critical, and pluralistic manner. The state should respect the religious and philosophical beliefs of parents and should not seek to inculcate principles that should be regarded as disrespectful to the religious or philosophical beliefs of parents (Convention for the Protection of Human Rights and Fundamental Freedoms: 1950).

The Supreme Court of the Russian Federation also pointed to Article 87 of the Law on Education, which allows for the inclusion in the main curriculum of such subjects, courses,

disciplines, or modules that are aimed at gaining knowledge about the basics of the spiritual and moral culture of the peoples of the Russian Federation, moral principles, historical and cultural traditions of the peoples of the world in order to form and develop a personality. The Supreme Court of the Russian Federation noted that the named course provides a choice, i.e. allows students (up to the ninth grade – their parents) to choose among the proposed module that reflects their religious interests or beliefs (Federal Law No. 273-FL, 2012).

The Decision of the ECHR in the case of *Lautsi and others v. Italy* of March 18, 2011 (ECHR judgment, 2011) received wide response, in which the applicants argued that the placement of the crucifix in the classrooms of Italian public schools violated their right to the education of their children following the religious and philosophical beliefs of their parents. It is noteworthy that the position of the Administrative Court of Italy and the ECHR did not initially coincide.

The ECHR immediately noted that the crucifixion is nothing more than a religious symbol, and concentrated on the duty of the state, in a neutral and impartial manner, to maintain harmony and tolerance in a democratic society, especially between representatives of different religious beliefs (Al Ali et al.: 2019.). This duty does not exclude the discretion of the state within the education system to inform students about religion and philosophy, while developing critical thinking skills, in particular concerning religion, in a calm atmosphere free from preaching. Concerning the impact of crucifixion on the children of the applicants, the ECHR did not find specific grounds for this, indicating that crucifixion itself is a passive symbol and cannot be compared in its influence with preaching or prayer or participation in other types of religious activity. The ECHR also noted that, in fact, children from Muslim families were not prohibited from wearing headscarves to school. At the request of followers of other religions, acquaintance with their religions and relevant religious holidays could be organized in schools. The applicants themselves, as parents, retained the opportunity to educate and enlighten their children following their religious (or anti-religious) and philosophical convictions (ECHR judgment, 2011).

As noted by D. Kroslak, in its final decision in the case "*Lautsi and others v. Italy*" on the issue of the presence of religious symbols in public places, the ECHR recognized the broad powers of the Council of Europe states that signed the convention (margin of appreciation). This decision also confirmed that, under the given conditions in the field of religious freedom, Europe remained a mixture of different "flavors and colors", that is, different approaches to the issue of religion and especially religious symbols in public places. In his opinion, this is the best way to prevent possible cultural conflicts that have acquired extreme forms and can lead to centrifugal tendencies in society (Kroslak, 2015).

At present, Russia is considering a draft of a new FSES of Primary General Education, from which elective modules of the discipline of Foundations of Religious Cultures and Secular Ethics are excluded, namely "Fundamentals of Orthodox Culture", "Fundamentals of Islamic Culture", "Fundamentals of Buddhist Culture", "Fundamentals of Jewish Culture". Instead, it is planned to introduce the general discipline "Foundations of the religious cultures of the peoples of Russia." A draft of the new FSES of basic general education has also been published, where, in the subject area of the Fundamentals of Spiritual and Moral Culture of the Peoples of Russia, which, in accordance with the documents of the Ministry, is a logical continuation of the Foundations of Religious Cultures and Secular Ethics, the teaching of religious cultures at the choice of the student's family is not provided.

According to the statement of the Synodal Department of Religious Education and Catechesis of the Russian Orthodox Church in connection with the publication by the Ministry of Education of the Russian Federation of new draft standards for general education (published on September 18, 2019, on the website <https://pravobraz.ru>), this refers to an alleged attempt to eliminate the possibilities of education children, taking into account the ideological and cultural

needs of the child's family in state and municipal educational organizations. Instead of the expected expansion of the teaching of religious cultures, pedagogically grounded teaching at all levels of the school, the draft of the new FSES simply presumes to eliminate this practice. All planned innovations deprive Russian citizens of the right to provide general education for their children under their religious beliefs, which is enshrined in the legislation of the Russian Federation and international humanitarian law (Article 2 of the Protocol No. 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950).

In other words, the ambiguous attitude of the state to the teaching of religion in state educational institutions is obvious. On the one hand, the state supports and strengthens the right of citizens to study religion. On the other hand, it deprives them of the opportunity to choose which religion they want to study in accordance with their religious beliefs, claiming "strict separationism model" in relation to religious education.

As noted by S.G. Zubanova, the articles of the Law "On Education" are undoubtedly aimed at creating more favorable conditions for the possibility of religious education, enlightenment, and education in the educational institutions of Russia. However, law enforcement practice remains very burdened with many problems associated with the undeveloped mechanism for applying the law, with the absence of conditions for its implementation, and there are also other problems. Thus, for example, from the organizers of the process of religious education in a secular school, one can often hear about such a widespread problem: the opening of electives in Orthodoxy at school or the opening of departments of Orthodox theology at a university provokes conversations that preference is given to one religion and that it is necessary to open similar educational areas in Islam, Judaism, or Buddhism. That is, it is easier for the head of an educational institution not to open any elective practice so that there are no such claims from the public (Zubanova, 2016).

Conclusion

Thus, the secular nature of education in state and municipal educational organizations does not exclude religious education, in which religious disciplines are present, informed by participants in educational relations, without prejudice to the mandatory part of the main educational program of the federal state education system (such as in Germany or France), but, at the same time, restrict the founder in providing educational services in areas of a specific religious nature. A striking example is the comparison of two areas of training – "Theology", which is more secular in nature and is accredited in the leading spiritual academies of Russia at all levels of training, and "Training of Ministers and religious personnel of religious organizations", which is key to the training of religious personnel, but is not accredited, which causes difficulties in finding employment for future graduates of such organizations.

It is recognized that adjusting by the Education Act the educational activity of state, municipal, and private educational institutions, the federal legislator is obliged to consider that possible limitation of equal rights to receive religious education should meet the requirements of justice, be adequate, proportional, proportionate, and necessary for the protection of fundamental constitutional values, including rights and legitimate interests of each believer to ensure consistent regulation of relations in this sphere, so that the public objectives of the state, imposing on religious organizations and parents professing a particular religion and want to raise their children in accordance with its values, do not lead to undue restriction of freedom of religion, receiving religious education are available and not obstructed.

In the legal aspect, there are contradictions between the objective need for the state and society to improve the level of education, spiritual, moral, and creative development of each person, meet their needs and interests, and form a new type of educational environment based on traditional Orthodox values, on the one hand, and real constitutional and legal relations that constitute the ideological, political, organizational, social, and economic conditions for the

formation of these public relations, which are prerequisites for the implementation of the constitutional right of citizens of the Russian Federation to receive religious education, on the other. In our opinion, these contradictions should be eliminated by consolidating the legal mechanism and its implementation through the introduction into federal legislation of authoritative norms that, due to dispositiveness, can be implemented by the subjects of educational relations, allowing them to freely, at their discretion, choose any method of exercising their right in the state, municipal, or private educational institution with a religious component, as well as demand protection of this constitutional right in case of its violation.

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