

FEATURES OF THE IMPLEMENTATION OF ETHICAL STANDARDS IN INTERNATIONAL PRACTICE

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Abstract:

The scientific article summarizes the current aspects of the application of ethical standards at the international level. In the course of this analysis, the author identified the features of the ethical norms (regimes) themselves in the activities of parliaments of foreign states, and the features of the requirements of the international community to states in the construction of parliamentary ethics. All this has led to the relevance and relevance of this study.

Keywords:

Ethics, ethical norms, ethical culture, ethical regime, parliament, parliamentary ethics, deputy.

The concept of ethics is closely related to the concept of value. At the same time, parliamentary ethics is a type of professional ethics that regulates relations arising in the course of legislative and other parliamentary activities, as well as extra-parliamentary activities related to the performance of the functions of the people's representation. Sometimes this concept is also assigned such a concept: "Management ethics — a system of ethical knowledge focused on management activities"[1]. The goal of parliamentary ethics is to strengthen democratic values.

An effective study of all aspects of parliamentary ethics implies the need to refer to international experience in the application of a particular legal category, and in our case, these are ethical norms (regimes).

It should be noted that the achievements of science in the definition of parliamentary ethics clearly lead us to the definition of a more meaningful concept, such as "Ethical Culture" (Ethics Culture). It should be noted that this term was proposed by the World Organization of Parliamentarians against Corruption (hereinafter referred to as the GP), which denotes a special parliamentary system that includes an ethical regime (Ethics and conduct regime). Consequently, this term is actively used in the foreign practice of the activity of parliamentarians[2].

The concept of "ethical culture" largely reveals in practice the "ethical regime", through which a whole set of principles, norms of parliamentary activity, and mechanisms for their implementation and regulation in the work of members of Parliament are implemented.

The main problem of determining the content of the modern parliamentary ethical culture is the conflict between individual and normative ethics, the ethics of preferences and the ethics of restrictions. "Ethical regimes" are largely based on the ethics of restrictions and norms. On the other hand, the ethical culture is aimed at prevention, prevention of possible conflicts, so the very idea of an ethical culture is based on the ethics of preferences. However, despite the fact that the GOP states that the effectiveness of an ethical culture depends only on the parliamentarians themselves, it is not advisable to abandon these rules.

To correctly determine the priorities and direction of the parliamentary ethical culture, it is necessary to determine its basic values, the basis of which lies in the idea of public service, different for the culture of each particular state, which are expressed in the principles of the application of ethical rules. But many norms of these principles need mechanisms for

implementation - all this creates a special ethical infrastructure in parliamentarism, based on the concept of "ethical regime"[3]. The purpose of the ethical regime is to establish clear standards of conduct among parliamentarians. The development of ethics and behavioral patterns involves more than just written rules or principles and regulations. This means political agreement with the very purpose of the ethical regime and building a culture to support it.

The ethical regime can assume three components of the model of application of ethical norms:

1) a code of conduct that defines ethical standards. An example of a Code of Conduct is the "Seven Principles of Public Policy" in the UK[4].

2) rules of conduct that specify ethical standards and give the code practical force. The rules of conduct specify the norms of the codes. For example, in the UK, the principles expressed in the code, such as openness, integrity, accountability, in the rules of conduct, regulate the following violations: the concealment or withholding of financial information about a political party or about an individual parliamentarian, the withholding of information about financial relations with various organizations. Compliance with the principle of impartiality ensures control over actions that lead to a conflict of interest, regulates the activities of lobbyists, etc.

3) the regulatory committee, which monitors the practical application of the rules, exercises its powers in three main forms:

независимо independent investigation of offenses. This involves the creation of a special judicial system that controls the parliamentary system of regulation;

деятельность acting as a regulatory committee in the Parliament, which is created by the Parliament itself. Its Chairman (State Comptroller) may not be a deputy, but the other members of the committee are deputies. This expert is authorized to investigate cases and give advice on the interpretation of the rules of conduct, however, decisions on cases are finally made by a special parliamentary commission;

the activity of the regulatory body in the parliament consists only of deputies who independently maintain order in their environment[5]. However, such a model has critics who argue that in this case, parliamentarians turn from legislators into judges, lawyers and investigators.

Let's look at the example of the parliaments of some states, how the above-mentioned models of the implementation of ethical standards are implemented in practice.

External regulation of parliamentary activity is carried out in Taiwan and India. In these countries, lawsuits may be brought against members of Parliament, they may be deprived of parliamentary immunity and sovereignty, and these issues are also resolved outside of Parliament.

An example of internal parliamentary regulation can be seen in countries such as the United States and Germany. In the event of a violation of the ethical rules, reports on the violation are submitted to a special ethics committee or department, which is responsible for investigating them.

In countries such as the United Kingdom and Ireland, parliamentary ethics issues are handled by an independent controller (Ethics Commissioner), who conducts an investigation of the violation, the results are submitted to the ethics committee or department, which decides on further actions against the violator, or on sanctions for the violation.

The role of such a controller (Ethics Commissioner) in the ethical culture of the Parliament is important and responsible. These are not only functions for analytical investigations of violations of ethical standards, but also the identification and refusal to investigate empty or politically motivated cases, training of parliamentarians in standards of conduct and promotion of these standards, as well as the creation of an ethical regime - the interpretation of laws and work on the prevention of violations. In addition, the Ethics Commissioner serves to train parliamentarians in standards of conduct and clarify them, as well as interpret unclear points of the rules[6].

The main concept in the ethical regime is the concept of "conflict of interest".

In accordance with the UN Convention against Corruption of 2003, each State party strives, in accordance with the fundamental principles of its domestic legislation, to create, maintain and strengthen systems that promote transparency and prevent conflicts of interest (Article 7, paragraph 4) [7].

It should be noted that the conflict of interest is not corruption or unethical behavior, however, it creates a large number of potential difficulties that should be understood and understood by members of Parliament. So, the task of the ethical regime in this situation is to show what interests can lead to unethical behavior.

Obviously, the regime of conduct cannot be universal for all parliamentarians. Its implementation is due to a good understanding of the very spirit of the rules, and the attentiveness of parliamentarians. For this reason, the process of advising policy makers - in order to instill an understanding of the purpose of the rules-is very important[8].

The rules that prevent conflicts of interest include three main aspects-transparency, restrictions and prohibitions:

1. Transparency, which is manifested in the search for extraneous interests. This search includes advisory and educational activities on the interpretation of the rules concerning conflict of interest, various educational programs on professional ethics, monitoring to detect extraneous interests in parliamentary activities. In addition, one of the most obvious examples of the principle of transparency is the declaration of interests. Declaration can be divided into two types: voluntary declaration and mandatory declaration. Voluntary declaration of interests is also sometimes used in so-called "honest lobbying". Mandatory declaration of finance or real estate exists in almost all parliaments, and helps to determine the degree of personal interest of the parliamentarian in certain cases.

2. Restrictions. It is assumed that the rules for preventing conflicts of interest should be formed in such a way as to minimize the possibility of a conflict of interest situation. For example, this applies to the rules on the restriction on subsequent employment. In some countries, parliamentarians are prohibited from combining any profession other than research, teaching or writing during the parliamentary term.

In most countries of the world, the prohibition of civil servants to engage in other paid activities, as well as entrepreneurial activities, is in full force and is clearly defined in legislative acts. In the Republic of Uzbekistan, this prohibition also works, but it is not clearly defined in the legislation, creating a kind of web of acts, where some acts have this rule, and others do not. This situation needs to be corrected. This prohibition is justified and necessary in order to avoid cases of official crimes and corruption.

The Constitution of the Republic of Uzbekistan separately regulates the issue of the status of members of Parliament as a special class of civil servants, fixing such a ban in article 88. Let us state the norm: "Deputies of the Legislative Chamber and members of the Senate, working in the Senate on a permanent basis, for the period of their powers may not engage in other types of paid activities, except for scientific and pedagogical" (defined in part 2 of Article 88 of the Constitution) [10].

3. Prohibition of certain actions in and out of Parliament. This group of rules aimed at preventing conflicts of interest is the most numerous and detailed.

As it is based on the practice of the GP, the ways to resolve conflicts of interest through its own conflict of interest prevention strategy are the following three principles::

1. The ability to compromise, regardless of their own preferences

2. Legislators must decide how to maintain an optimal balance between personal and public interests

3. The Code of Conduct should serve as the basis for an optimal solution.

The GOP establishes the following system of building an ethical culture, which is divided into several stages: The

first stage is building a coalition for changes within the parliament, around the needs of ethics and the regime of behavior.

The second stage of building an ethical culture is reaching agreement on ethical principles.

The third stage is the establishment of a system of regulation and ethical education of members of Parliament[11].

In our view, for the practical application of ethical standards, with the prospect of turning them into an active ethical culture of parliamentarians, it is necessary, first, to establish the nature of the problem for which an ethical regime is necessary, and to establish whether it will be effective in solving this problem; second, to establish how the new system will complement other initiatives and change the basic understanding of the rules among members of Parliament, and, third, what measures will be most suitable for achieving their goals.

The international experience of the parliamentary regime presupposes many principles for the implementation of ethical norms, such as the 7 Principles of Public Policy in the UK (Committee on Standards in the Public Sphere):

Altruism: it is necessary to act only in the interests of society, financial or other preferences for employees themselves, their family members or friends are unacceptable.

Directness: Public policy makers should avoid any financial or other obligations to organizations or individuals.

Objectivity (impartiality): in cases involving decisions on transactions, contracts, appointments to positions, recommendations given to individuals or organizations, public policy makers should be guided by a choice based on a belief in the real merits of the applicants.

Responsibility, accountability, critical attitude to their work.

Openness in all decisions and actions they take, actions to restrict information only when explicitly necessary.

Integrity: they must declare any private interests related to their public duty and take steps to resolve any conflicts that arise in the defense of the public interest.

Leadership: they must promote and support these principles in order to lead and be an example to others. [12]

Other parliaments have standards similar to the seven principles of UK public policy. In Uganda, altruism, directness, objectivity, responsibility, openness, honesty, and the promotion of good governance are also the main principles. In Ethiopia, the fundamental principles are "loyalty and integrity of employees who should serve as an example to the people of Ethiopia... protection and respect for national interests, and respect for the prestige and dignity of the Chamber" [13].

So, as we have correctly understood, the process of developing ethics of behavior is the formation of an ethical culture that includes clear standards of behavior that are understandable; which members of Parliament treat as legitimate grounds for behavior, and understand the need to comply with them.

In the formation of parliamentary culture, the role of authoritative persons is important, and their support in the process of establishing an ethical system is important. Thus, the chairman of the Parliament can be a key figure in the development of the ethical regime.

In addition, questions of parliamentary ethics should be open to free access - in articles and websites; books and manuals on the interpretation of ethical rules, in printed or electronic form. The GOP notes that such educational programs and sources should be included in the formal induction procedures for all new parliamentarians.

In the Republic of Uzbekistan, the status of parliamentarians is determined by the Law "On the status of a deputy of the Legislative Chamber and a member of the Senate of the Oliy Majlis of the Republic of Uzbekistan". And in terms of ethical rules, this Law is of particular importance. It was determined that joint work on improving the law is one of the most productive types of cooperation between the chambers, improving mutual understanding between senators and deputies [14].

The Law "On the status of a deputy of the Legislative Chamber and a member of the Senate of the Oliy Majlis of the Republic of Uzbekistan" in article 11 defined that a deputy, senator must strictly observe the norms of ethics. It is unacceptable for a deputy or senator to use their status to the detriment of the legitimate interests of citizens, society and the state. In the event of a violation of ethics, the question of the behavior of a deputy or senator may be considered by the relevant chamber or on its behalf by a body of the chamber [15].

A deputy must strictly observe the generally accepted principles of moral and ethical behavior in society, respect the rights, honor, dignity or business reputation of citizens and officials, and refrain from actions that discredit the title of a deputy and damage the authority of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, the interests of the state as a whole [16].

Taking into account the modern requirements of the time, it should be noted that the Oliy Majlis has established a Commission of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on Ethics[17]. The creation of this structure in the Parliament of our country in 2020 determined the state's attitude to parliamentary ethics as the most responsible object of legal and research work. At the moment, it can be argued that parliamentary ethics has more practical value, so some changes are taking place in the state apparatus.

The analysis of international experience in the application of ethical rules, as well as documents related to the content of the ethical regime, allowed us to draw the following conclusions. The totality of ethical norms and their application in the practice of the work of parliamentarians constitute an ethical culture. And its active application and registration in normative acts is an ethical regime.

The concept of "ethical culture" includes both an ethical regime consisting of principles, norms and mechanisms for implementing the rules, and a system of ethical education of parliamentarians. There is no universal ethical regime, as each parliament is unique. The creation of an ethics regime will not solve, by itself, the problems that the institution of parliamentarism faces. These principles and rules, as well as the ways of regulation, are just part of a broader effort to improve the work of the institution of parliamentarism. The success of an ethical regime lies not in its existence, but in the way it is understood, observed, and implemented. Not only the ethical regime itself is important, but also the process of its application.

In the process of establishing an ethical regime, the political conditions of the country, the positions of authoritative members of parliament[18] and many other factors should be taken into account.

The international experience of applying ethical rules in the activities of parliamentarians has shown us not only the level of responsibility for adopting these rules, their implementation in the practice of parliaments, but also the development of the legal and technical design of these rules, and the established traditions of their application on the example of authorities. In relation to the Republic of Uzbekistan, in our opinion, the effectiveness of the ethical rules in the Oliy Majlis would be facilitated by reforms in the civil service, ensuring transparency in hiring to the parliament, as well as strengthening the requirements for the education of candidates for deputies and senators.

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