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Research Article

CONSTITUTIONAL FRAMEWORK TRANSFORMATION TO REINFORCE INTERETHNIC ACCORD

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This paper explores constitutional reforms that occurred in Russia and some countries of the Euro-Asian Region aimed at interethnic accord solidification and protection on the way to national unity among other things; it also reveals terminological ambiguity in the field of interethnic relations. The following methods are used: a technical legal method, a systems analysis method, synthesis and test methods are used in the research. The main results of constitutional transformations in the field of interethnic relations are reconsidered in the paper; national and international acts that enable interethnic accord solidification are analyzed; the value of interethnic relations are revealed. The authors state the following results: 1) two approaches to the term 'interethnic' have been illustrated; 2) various practices of terminology application have been demonstrated based on regulatory acts and documents; 3) the main results of Russia's 2020 constitutional reform and constitutional reforms in the field of interethnic relations made in other countries have been provided; 4) the analysis of regulatory enforcement in the field of interethnic accord has been conducted; 5) the role of interethnic accord as a constitutional and universal human value for social and economic development of the state has been explained.

Key words: interethnic accord, tolerance, interethnic peace, nationality, constitutional values, Russia's constitutional reform, national unity

Introduction

Interethnic accord, or peace, as a long-awaited value in a series of wars, coups and revolutions of the 20th century is now something to protect on both national and international levels. However, the issue with unity of the terminology used is obvious: what lies behind the term 'interethnic' and is whether there is a difference between 'peace' and 'accord'.

It is not easy for undefined terms to exist in the legal field. Such common terminology defies interpretation. As a rule, terms like this have several meanings and are considered approximate. Therefore, based on a subjective perception, the current state of interethnic accord can be seen differently by individuals: for some of them, the state of social relations is connected with smoothing out conflicts, while others ee interethnic accord as complete mutual understanding combined with interaction, and still others will say that this issue doesn't have any impact on their lives. However, the latter make a mistake. Interethnic accord is one of the public law fundamentals, a constitutional value for intra-state relations. When there



is no interethnic accord, the future of the country may be put at risk, because there is no way to build an integral legal system when there is discord. All this calls for an obligation by the state to guard interethnic accord by ensuring national unity through legal regulation.

The purpose of this research is to analyze the demand for establishing interethnic accord in domestic and foreign policies that has increased over the last five years in the states of the Euro-Asian Region and is currently being achieved through constitutional reforms.

The main focus is on the Russian legal system, since the policy aimed at harmonization of interethnic relations, protection of fellow countrymen is actively conducted within the country, support is provided for Russian native speakers and culture-bearers living abroad. In addition, the research includes a review of terminology on this topic, revealing its ambiguity with certain examples, showing differences in the application practice.

This purpose will allow a grasp of the meaning of interethnic accord in the legal system and assessment of the directions for peace consolidation in the state and beyond.

Materials and methods

Research of statutory concepts in either theoretical or practical application is impossible without resorting to methods of analysis and synthesis. A define method and a comparison method are actively used in this research to explore the terms 'inter-ethnic' and 'interethnic', 'interethnic accord' and 'interethnic peace', 'accord', 'peace' and 'harmony', as well as other variants that can be found in legal acts and documents and in practical application (political statements by heads of states, reports and reviews of various bodies).

The analysis is based on laws and regulations of the Russian Federation, including program and strategic documents (Strategy of the State National Policy, National Security Strategy, Strategy for Countering Extremism). Along with Russian legislation, the acts of Euro-Asian Region states (Belarus, India, Kazakhstan, the Kyrgyz Republic, Moldova, Uzbekistan and other countries) are used for analysis with a comparison method.

At the same time, the research is aimed at exploring constitutional reforms that have occurred in Russia and some other countries in recent years, because these reforms have plotted a new vector for understanding interethnic accord.

Taking cross disciplinary terminology in the field of interethnic relations into account, the authors refer not only to the works of constitutional practitioners and legal theorists, but also to the works of sociologists and political scientists. The theoretical literature containing hypotheses and deductions on this issue made before actual amendments are introduced into the Constitution, as well as papers by theoreticians trying to conceptualize the results of today's reform for the territory of the entire country or a certain region serve as the necessary materials for this work. Consequently, the updated content of program and strategic documents and practical application of the current rules are analyzed.

Lastly, considering the active participation by the United Nations (hereinafter – UN) in peace establishment for the international community, its universal acts and documents are also among the materials used for this research (the Charter of the United Nations, the Declaration on the Preparation of Societies for Life in Peace, the United Nations Declaration on the Rights of Indigenous Peoples, the 2030 Agenda for Sustainable Development, and others) along with the sources approved by regional international organizations (the Charter of the Commonwealth of Independent States (hereinafter – CIS), Declaration of Alma-Ata on Promoting Independent and Pluralistic Asian Media (1992), the Agreement on Humanitarian Cooperation of the State Parties of the Commonwealth of Independent States of 2005, and others).

Results

In 2020, a block of amendments aimed at maintaining interethnic accord and peace was introduced into the Constitution of the Russian Federation, including:

- reinforcing national unity (Part 2, Art. 67.1 of the Constitution of the Russian Federation),

- recognizing the Russian language as the language of a state-forming nation included in the multinational union of peoples of Russia with equal rights (Part 1, Art. 68 of the Constitution of the Russian Federation),



- introducing a constitutional guarantee for legal protection of culture (Part 4, Art. 68 of the Constitution of the Russian Federation),

- protecting peoples' cultural identities and ethnic communities (Part 2, Art. 69 of the Constitution of the Russian Federation),

- preserving ethnic, cultural and linguistic diversity (Part 2, Art. 69 of the Constitution of the Russian Federation),

- establishing and supporting the all-Russian cultural identity (Part 3, Art. 69 of the Constitution of the Russian Federation),

- adopting measures to maintain and reinforce international peace and security, ensure peaceful coexistence between states and nations (Art. 79¹ of the Constitution of the Russian Federation),

- setting a special goal for the Security Council of the Russian Federation founded in particular to promote national interests and security and to maintain civil peace and accord (clause (g), Part 1, Art. 83 of the Constitution of the Russian Federation),

Obviously, these changes are primarily supposed to be implemented within the state. As for foreign policy, the term 'international peace and security' is used in the Russian legislation that complies fully with international treaties.

In fact, there is a risk of misinterpreting such concepts as 'peace' and 'accord' in international and national regulatory acts and, therefore, of misinterpreting the area of their application. The problem is that the term 'interethnic' as such has a dual interpretation.

I. The term 'interethnic' is used to define the relations between nations – states. Such an approach is vividly represented in the name of the international organization 'United Nations'. The name professes the unity of nations (countries) willing to co-exist in peace and accord. In this case, the interpretation should enable the state to establish foreign policy in compliance with peace and security requirements.

II. The term 'Interethnic' is used to demonstrate the relations between nationalities or ethnoses within the country. The term 'inter-ethnic' is also mentioned in the legislation. It should be emphasized though that in terms of its content, the term 'interethnic' includes a much broader range of people, including people of different ethnic and religious background. However, it should be noted that terms 'interethnic' and 'inter-ethnic' are seen as synonyms in the Russian legal system.

This dual interpretation has been established as a result of translation nuances ('nation' referring to state, people and nation; 'international' referring to 'between countries'). It is also impossible to ignore how complex the perception of interethnic relations structures is, when issues of nationalities and ethnic affiliation are so vague. Not every individual is ready for national self-identification. Moreover, no one has to.

In this regard, when interpreting some regulatory or other documents, it is necessary to rely upon the document's context and to take the goals and subject of regulation into account.

Analysis of national and international acts has allowed identifying the following ways to refer to 'interethnic\international peace and accord' in various meanings:

1. The use of the term 'international peace' is always focused on the foreign policy of the state and peaceful interaction. A classic case is any fundamental international treaty. Preambles to the UN Charter and the Helsinki Final Act of 1975 include statements regarding maintaining peace when conducting foreign state affairs.

There is a highly unambiguous rule about the measures on reinforcing international peace and security in the Constitution of the Russian Federation (Art. 79¹ of the Constitution). According to Art. 51 of the Constitution of India, the state maintains international peace and security by fulfilling four obligations. India as a sovereign state shall (1) ensure peace directly, (2) establish fair relations with other countries based on respect (Author's Note: in the Article, the word 'nations' is used to refer to states as a confirmation of suggested approach I to the term 'interethnic'). Moreover, the Indian state (3) fulfills international commitments and (4) encourages dispute settlements in international bodies.

2. Inclusion of 'peace' as an independent concept into the text requires referring to the context, since the word may be a part of both intrastate values and external commitments.

For example, the purpose of the 1984 Declaration on the Right of Peoples to Peace adopted by the UN General Assembly is exclusively to establish peace on Earth as a whole. The Declaration on the



Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples adopted by the UN General Assembly in 1965 and the Declaration on the Preparation of Societies for Life in Peace of 1978 are aimed at supporting two areas: a favorable domestic policy and stopping the arms race on the international arena. In a similar way, double measures are implied by the word 'peace' used in the 2030 Agenda for Sustainable Development. The goal is external reduction in the scale of violence and internal social integration based on respect for people of various origins and ethnic background.

As for the national acts of supreme juridical force, for example, the Constitution of the United Arab Emirates provides for establishment of the Supreme Council for maintaining the peace and security of the Union (Art. 141 of the Constitution of the UAE). In a similar way, the powers of the Russia's President and the country's national body – Security Council – are articulated: to ensure civil peace and accord in the country.

Let us consider some examples of opposing interpretations. It has been established in Constitutions of the Republic of Kazakhstan and the Kyrgyz Republic that the Parliaments of these countries have the right to decide on their own whether Armed Forces need to be involved to maintain peace and security outside the countries' territories, but to fulfill international commitments (clause 5, Part 1, Art. 53 of the Constitution of Kazakhstan and clause 3, Part 4, Art. 80 of the Constitution of the Kyrgyz Republic). The Preamble to the Constitution of Moldova states the intention 'to live in peace and accord with all the nations of the world', which is also how external enforcement of the rule manifests itself.

3. To refer to the term 'interethnic accord' is typical not only for the Russian legal system, but for other countries as well. This term is not used directly in the Russian Constitution, where only the principle of accord is enunciated, but the concept is articulated in program and strategic documents. Reinforcement of the spirit of interethnic accord and religious tolerance is declared in strategic acts of Uzbekistan. According to the oral and written positions of Kazakhstan leaders, interethnic accord in the context of today's global challenges is also considered a fundamental value (Yespolova, 2019: 57).

In terms of combining nationality and religious matters, the exact wordings of the highest document in the Kyrgyz Republic are interesting. According to Part 4, Art. 21 of the Constitution of this state, interethnic and interreligious accord is ensured on its territory, which is equal to legal protection of interethnic accord. The term 'interethnic accord' is not usually used in universal international documents. The accord of people within the state or peace in inter-ethnic relations is more likely to be mentioned in reports of such UN bodies as the Human Rights Council or the Committee on the Elimination of Racial Discrimination. However, on the territory of the CIS or within the framework of certain international treaties between post-Soviet states, interethnic accord has been recognized as the highest political, moral and human value for almost 30 years already (the Ashgabat Declaration on Development of Cooperation and Enforcement of Trust in the Relations between the State Parties of the Commonwealth of Independent States of 1993). Additionally, for the purpose of interethnic accord harmonization, the Memorandum on Cooperation in the Field of Migration of July 8, 1994, and the Agreement on Humanitarian Cooperation of the State Parties of the Commonwealth of Independent States of 2005, were entered into.

4. Establishment of 'harmony' in the documents can be seen directly as accord or as the result when reaching interethnic accord. For example, according to the Constitution of India, citizens shall promote harmony and the spirit of fellowship among all Indian people, while overcoming any religious, linguistic, regional and social barriers ((f) of Art. 51A).

Additionally, harmony as a result is referred to, no matter how rarely, by international bodies in their reports and memoranda. For example, in the Concluding Comments on the $8^{th} - 10^{th}$ Periodic Report of Kyrgyzstan of May 30, 2018, the aforementioned UN Committee spoke about the need to reinforce interethnic relations in the country. The state is advised to take all possible measures 'to provide various ethnic groups with the opportunity to live in harmony together (clause 20)'. Today, we can see that these and other comments by international bodies about Kyrgyzstan have become the premise for the 2021 constitutional reform in the country.

5. The lack of references to verbatim phrases like 'interethnic peace and accord', 'interethnic accord', 'inter-ethnic accord' and other previously articulated similar versions do not attest to the fact that the act does not regulate this matter at all. Since the issue of peaceful relations among the people living in a country depends on several mutually related rights and obligations, legislators usually resort to the minimum – they simply declare a non-discrimination principle in the regulatory acts. Descriptive regulation can be found



much less often in legislation. For example, the non-discrimination principle is detailed in the Constitution of India (Art. 15).

The international community also acts in a similar manner. For example, one of goals established in the UN Charter is maintaining international peace and security. Meanwhile, the interethnic issue is also documented in the UN Charter as 'respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion (Part 3, Art. 1)'.

Discussion

In the context of multiple approaches to interethnic relations in general, it is quite difficult to reach a common denominator. However, some common approaches still have been developed in theory and practice.

For example, there is a documented definition of peace in the UN system. According to the Resolution of the UN General Assembly of December 19, 2016, peace is 'a positive dynamic process based on extensive participation, where dialog is encouraged, conflicts are resolved in the spirit of mutual understanding and cooperation, and socio-economic development is ensured'. This document is unique in its own way, since it has managed to unite domestic and foreign policy. In these two areas, peace is the lack of conflicts (international and civil wars, armed clashes within the country and beyond). It is also fair to say that the meaning of peace does not come down to a lack of conflicts. On the contrary, it should be noted that conflicts are a given, they cannot be avoided. This is rather about effective ways to settle, overcome conflicts. Some criteria that imply not power methods, but unification of nations through cooperation, mutual help and interaction are suggested for conflict settlement. A preventive mechanism for crisis situations is no less important.

Moreover, defects in the system of interethnic peace within the state lead to stagnation in the social and economic development of society. And this is a two-way street. When there is no modernization, society can lose its national identity. In this case, interethnic conflicts intensify (Yuki, 2021: 1–2).

All the aforementioned explains why countries must treat interethnic relations as constitutional values and guarantee their protection, even if this requires constitutional framework transformation along with some reforms of executive government agencies, civil society or certain areas of life. For example, mass media plays a major role in establishing the image of interethnic accord in the state, therefore, legal control over the freedom of mass media will most likely be reconsidered (Tovmasyan, 2020: 38).

Interethnic accord has been recognized as a part of political relations that must be built based on the principle of solidarity and lead to national unity (Hoffman, 2015). Subsequently, the term 'interethnic accord' was studied in different sciences. For example, in sociological studies, the concept was articulated through the theory of communication (Drobizheva, 2018). Nowadays, when law, sociology, political and other sciences are combined, an integrative definition can be found in the form of the interethnic accord concept meaning an internally consistent state of social relations that provides for integration of national and ethnic groups based on objective common interests and civil identity (Martynov & Purtova, 2019: 46–47).

The foundation was laid for reform in Russia in 2012 with the Strategy of the State National Policy of the Russian Federation approved by a Decree of the President of the Russian Federation. In 2015, along with a basic document, a responsible federal executive authority was restored under a new name – Federal Agency for Ethnic Affairs. New goals and objectives were established in the Strategy, and the entirety of changes aimed at implementing the course on national unity was eventually reflected in the revised version of the Constitution of 2020.

The Strategy defines that the Russian nation is reflecting all the ethnic, cultural and linguistic diversity of the country. Interethnic relations and national-cultural needs are defined; political priorities are set with the ultimate goal to maintain interethnic peace and accord. Subsequently, these provisions were reflected in Federal Law No. 131-FZ 'On the General Principles for the Organization of Local Self-Government in the Russian Federation' of October 6, 2003, where municipal entities, aside from rural settlements, were given the task of creating conditions to take measures to support interethnic and interreligious accord, to preserve languages and cultures of peoples, to help migrants adjust, and to take preventive measures against inter-ethnic conflicts (Malkovets, 2018).



However, not all the transformations conducted in 2020 have harmonized the legislation. On the contrary, currently, some areas have appeared where further consideration in theory and practice is required.

1. According to Part 3, Art. 69 of the Constitution of the Russian Federation, fellow countrymen have the right to preserve the all-Russian cultural identity secured by law. However, the Strategy focuses on the all-Russian civil identity. The difference might be explained by the fact that civil identity is shaped, among other things, through the stable legal connection with the state, i.e., citizenship, while not all fellow countrymen are citizens. However, even without citizenship, fellow countrymen can still remain bearers of Russian culture. This has been confirmed by a few studies according to which the all-Russian identity consists of many components and includes national, cultural and territorial identity (Drobizheva, 2017: 27).

2. The Strategy of the State National Policy has shown several ways to combine terminology that actually attests to the lack of a single established glossary: 'interethnic accord' (clause 4, Section I), 'interethnic and interreligious peace and accord (sub-clause 'e', clause 5, Section I), 'interethnic peace and accord' (clause 13, Section II); 'interethnic (inter-ethnic) accord' (sub-clause 'c', clause 21_1, Section III).

It should be noted there is an additional reference to 'harmonization of interethnic (inter-ethnic) relations' (sub-clause 'd', clause 21_1, Section III).

3. The most controversial issue in the Strategy is the reference to national accord (sub-clause 'a', clause 17, Section III). National accord reinforcement is viewed as the purpose for the state policy, but it is not revealed in the document what this accord is exactly. Let us assume that national accord is the state of peaceful co-existence of the country's people, but the Russian people are multi-national. In view of such an interpretation, it is possible to suggest that it is interethnic (inter-ethnic), interreligious accord and peace that serve as the core underlying national accord.

4. Theoretical reasoning is required for the updated rule of Part 1, Art. 68 of the Constitution of the Russian Federation. It claims that the Russian people are a state-forming nation as Russian native speakers. At the same time, the people form a multi-national union based on principles of equal rights. On the one hand, provisions about the multi-national union support interethnic accord in the country. On the other hand, the declared 'state-forming' people status has some 'dark' consequences. They involve establishment of a potentially conflicting situation in the field of interethnic relations. When the constitutionally secured status of one ethnic group implies domination over another, then under certain circumstances, the latter will inevitably see such a state of affairs as an infringement on their interests based on their ethnicity.

5. Constitutional changes have already caused a review of the State Program of the Russian Federation for Implementation of the State National Policy. All the passports of the Program became invalid on January 1, 2022. Currently, only general provisions remain in the document. Such a situation appears to be a natural consequence of the transformation.

It is also important that in 2021, the national policy received protection in the form of measures implemented within the framework of the Security Strategy. Particularly, the latter included a definition of national security as a state when civil peace and accord, social and economic development, among other things, are maintained in the country. Further, as the text goes, the state of civil peace and accord is elevated to the rank of a national interest. Additionally, the Strategy points to the modern challenge associated with stimulating interethnic and interreligious conflicts both within the country and beyond, when Russian citizens or Russian speakers are subject to ethnicity-based and linguistic-based discrimination abroad.

The great value-based role of interethnic relations has been emphasized by the Russian Constitutional Court. In particular, the highest judicial body of constitutional control has worked out the following points:

- in the case over challenging the constitutionality of provisions in Federal Law No. 114-FZ 'On Counteracting Extremist Activities' of July 25, 2002, the Court held that measures aimed at counteracting extremist activity equally promote reinforcement of interethnic peace and accord, harmonization of interethnic (inter-ethnic) relations and, therefore, can not infringe on the constitutional rights of the applicant (Decisions No. 347-O and No. 245-O of February 17, 2015). In fact, the Strategy for Countering Extremism approved by the Presidential Decree in 2014 is aimed at protecting interethnic (inter-ethnic) and interreligious accord just like the Security Strategy. A new revised version of the Strategy was presented in 2020 to emphasize forecasting of developments in the country and in the world in the field of interethnic relations. No active measures, performance targets and expected results have been provided in the document because of its wait-and-see attitude;

- in the case over challenging the constitutionality of Articles in Federal Law No. 80-FZ 'On Perpetuating (the Memory of) the Victory of the Soviet People in the Great Patriotic War of 1941–1945' of May 19, 1995, the Court explained that the state of interethnic peace and accord serves as a benchmark of sort



against which it is determined whether there is a body of the offense per Part 1, Art. 20.3 of the Code of Administrative Offenses of The Russian Federation for violation of the ban on using Nazi symbols. In other words, it is necessary to establish a threat for accord that has actually caused disharmony of interethnic (inter-ethnic) relations (Decision No. 2923-O of October 24, 2019).

Finally, to demonstrate the evolution of practices of the Constitutional Court of the Russian Federation it is interesting to turn to Decision No. 18-P of December 15, 2004, on a complaint by the Russian Orthodox Party. In those pre-reform years, interreligious relations were not yet objects of the dispute as such in terms of the Court's legal position. The Court only protects civil accord. However, constitutional values represented by ethnic and religious specificities typical for Russian society were supported by the decision. The decision substantiates the need for a special approach to interaction between the state, ethnic communities and religious groups.

Conclusion

A tendency towards constitutional framework transformation can be observed in many states of the Euro-Asian Region. Facing the issues of migration, even European multi-ethnic spaces realize that they cannot avoid working out some legal control mechanism in the field of interethnic accord.

The Russian Federation with its unique polyethnic population that comprises almost 200 nationalities and practically all world religions has gained certain experience in the field of developing legal guarantees and specific measures to protect national unity in the diversity of its cultures. The accumulated experience laid the foundation for the changes in the Russian Constitution and updates in the program and strategic documents.

Over the last five years, other countries have also turned to changing the constitutional framework in order to maintain peace and unity in the country.

Thus, in 2017, the Republic of Kazakhstan updated Art. 39 of Part 2 according to which from now on, any actions violating interethnic and interreligious accord are deemed unconstitutional. The provisions were the government's attempt to protect a constitutional value – the national unity of Kazakhstan. In the context of a multi-ethnic population (over 130 ethnic groups) and an active flow of migrants that cross the borders of Kazakhstan, such changes were inevitable as additional legal guarantees (Jakupov, 2012: 115).

In 2020, provisions regarding a ban on creating militarized associations the actions of which could have spread discriminatory propaganda were reviewed in the Constitution of Turkmenistan.

The 2021 constitutional reform in the Kyrgyz Republic was also partially caused by the need to reinforce inter-ethnic relations, including in light of remarks made by international bodies.

In March 2022, amendments to the Constitution of the Republic of Belarus came into effect. According to them, constitutional values now also included national identity and peace, and establishment of a socially just society was now under legal protection (Preamble).

In 2022, the goal to reinforce the spirit of interethnic accord was set in the Development Strategy of New Uzbekistan before 2026 approved by Presidential Decree No. UP-60 of January 28, 2022. To achieve this goal, the state sets such objectives as support for mass media and the content that cover interethnic relations, creation of ethnic cultural centers, and improvement in the culture of interethnic communication while also reinforcing patriotism. A year earlier, the Strategy of the Republic of Uzbekistan for Countering Extremism and Terrorism established by Presidential Decree No. UP-6255 of July 1, 2021, was reviewed. It also emphasized the need to create interreligious and interethnic tolerance, especially among the rising generation. The required level of tolerance is expected to be achieved due to increased interest in history and culture, as well as in traditions of ethnic groups. Meanwhile, there are just two large ethnic groups in Uzbekistan: Turko-speaking majority and Russian-speaking minority, and, as researchers note, there is no issue with disharmony of national unity as such in the country (Kulueva, Farfieva & Rasulova, 2020: 44–50) which does not mean that legal guarantees are not required though.

Aside from transformation on the national level, the need for interaction between states on the global level is growing as well. Universal international organization usually choose to make a generalized statement regarding the principle of peace. Regional treaties, e.g., those signed within the CIS that propose certain measures for mutual enrichment and acceptance of each other's cultures look much more applicable. In fact, in regional international organizations, member states not only have adjoining borders responsible for migration issues, but also traditional cultural and everyday ties between the represented nations.



The transformations described above are pre-determined by the state national policy as well as by the actual ethnic and religious composition of the population. At the same time, they serve as the legal guarantee for preserving national unity. The lack of transformations can disrupt the balance in the peaceful co-existence of ethnic groups both within the state and beyond. Moreover, peace is the only condition for full-fledged encouragement and protection of human rights. In this regard, states should distinguish the concepts of interethnic peace (accord) and international peace. States are free to choose any definitions, but national unity is always built on interethnic, inter-ethnic and interreligious accord without any discrimination on the already mentioned and other common bases. Such a conflict-free state is impossible without supporting the non-discrimination principle and supremacy of law in general. Therefore, states should continue to reinforce peace within the society while building humanitarian cooperation with each other to spread interethnic accord as a universal human value.

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