

## Religion and law: a vector of interrelationship in modern conditions

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### ABSTRACT

The article analyzes the specifics of the relationship between religion and law in modern conditions. The nature of the influence of globalization/glocalization transformations on the phenomena of religion and law is revealed, and the current vector of their interrelationship, the guarantee and provision of the realization of religious rights and freedoms, is established. The peculiarities of the relationship between the norms of international, European and national law and their role in ensuring and protecting religious rights and freedoms are clarified. It has been established that the recognition of democracy as a key form of organization of modern societies contributes to the implementation of effective legal tools for guarantees, ensuring the implementation and protection of religious rights and freedoms, and restoring the value of the religious-legal connection. In this context, problematic issues were considered: defining the limits of religious rights and freedoms; resolution of religious rights conflicts; restoring the value of religious rights and freedoms; correlations of individual and collective religious rights and freedoms; guarantees and provision of religious rights and freedoms of minorities; correlations of national and international law of religious rights and freedoms; restoring the value of religious rights and freedoms.

Organizational, normative, procedural and other obstacles that prevent the solution of these problems in Ukraine are identified: a) external (full-scale war with the Russian Federation); b) internal (insufficient institutional capacity of executive authorities; low level of effectiveness of judicial branch reform; high level of corruption; politicization of the legal space and the preference of political expediency and populist slogans over the rule of law and the rule of law; conflicts of legislation, etc. It has been established that overcoming these obstacles and solving the outlined problematic issues at different levels of the legal field (international, European, nationwide (Ukrainian)) will determine the establishment of inter-church dialogue and dialogue between the state and the church, which would be based on the principles of tolerance, mutual respect, understanding, observance of freedom of conscience and the right to choose, which will contribute to the democratic progress of Ukraine and its entry into the European family of nations with equal and full rights.

### Introduction

Religion and law are genetically connected with human history. They were formed, improved and transformed together with it. The question of the relationship between religion and law was not left out of the attention of thinkers, philosophers, lawyers, theologians of both the distant and recent past: ancient (Plato, Aristotle, Stoics, etc.) and medieval philosophers (Blessed Augustine, Thomas Aquinas, etc.), thinkers of modern times (B. Spinoza, S. Orzechowski, T. Hobbes, J. Locke, H. Skovoroda, T. Jefferson, T. Paine, B. Franklin, etc.), representatives of Classical German Philosophy (I. Kant, G. Hegel and others) and various directions and currents of philosophical, legal and religious thought of the 19th, 20th and 21st centuries.

Religion and law performed and perform a similar cultural-historical role in different space-time coordinates. They are means of social regulation and regulation in society, means of preserving and organizing traditions

and customs, and driving forces of social progress, which determine the trajectory of the evolutionary development of the human community.

Today, humanity stands on the threshold of a new world order. The defining feature of the modern world community is the interdependence of peoples and states. The political, economic, legal, social, cultural, and religious existence of each state gradually become integral structural elements of a single world order. The globalization of the information space, the introduction of global standards in engineering and technology, the deepening of the international division of labor and production cooperation determine new problems, such as the global ecological security of humanity, threats of world war, terrorism, uncontrolled migration processes, devaluation of human life, etc.

Globalization metamorphoses and processes of the modern liquid world determine the change of ideas about religious systems, and the beginning of the third millenni-

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um was marked by a new outline of a new religious model, a civilizational one. National-ethnic and cultural components are gradually pushed to the background of social life. Under the influence of these processes, the internationalized reproductive cycles of a religious component acquire qualitative transformation, and this component demonstrates the level of its functionality corresponding to conditions, merging with the economy, politics and law.

The modern way of being of religions, first of all, manifests itself in the unification and commercialization of religion and in the spread of popular religiousness. The global boundaries of the unification of religion are determined primarily by means of mass communication, for which there are almost no borders. And as is known, traditional religions were formed in societies that existed within certain boundaries. In contrast to them, today, thanks to modern technologies in the field of communication and transport, religions cross any specific time and space boundaries.

The new system of global communications makes every country even more vulnerable to external penetration. New problems caused by globalization undermine the importance of the nation-state and cause the emergence of new forces on the world stage that challenge national power, namely transnational or multinational corporations, transnational associations: professional, cultural and ethnic, religious movements or trends that cross borders and combine with each other. In this context, manifestations of local resistance to globalization processes are observed. However, in our opinion, "local" and "global" are not oppositional components of the world system, but appear as its mutually complementary and mutually determined integral parts.

From such a point of view, the issue of clarifying the specifics of the relationship between religion and law in new, modern conditions is brought into focus. There is already a significant amount of works within the framework of Ukrainian religious studies (by Ukrainian religious scholars A. Aristova, M. Babij, V. Yelenskyi, A. Kolodnyi, O. Sagan, L. Fylypovych, P. Yarotsky, etc.). However, these studies are mostly related to the analysis of the problematic field of religious freedom and freedom of conscience. However, in this context, it would be worthwhile to find out the peculiarities of the relationship between religion and law through the prism of guarantees and the provision of religious rights and freedoms more deeply, on the basis of an interdisciplinary approach.

Therefore, the purpose of this article is to find out the specifics of the impact of modern social transformations on the phenomena of religion and law and to establish the current vector of their relationship. To achieve the purpose, it is necessary to do the following tasks:

- to determine the place of religious rights and freedoms in the relationship between religion and law;
- to find out the specifics of the relationship between the norms of international, European and national law and their role in ensuring and protecting religious rights and freedoms;
- to identify problematic issues and obstacles in the relationship between religion and law;
- to determine the conditions for an increase in the level of effectiveness of the interaction between religion and law and promotion of the democratic progress of Ukraine.

### Research methods

The research has an interdisciplinary religious nature and has been conducted on the border of philosophy of religion, jurisprudence of religion and political science of religion. The theoretical and methodological basis of the article was the research of modern Ukrainian religious scholars (A. Aristova, M. Babij, V. Yelenskyi, A. Kolodnyi, O. Sagan, L. Fylypovych, P. Yarotsky, etc.), philosophers (E. Bystrytskyi, S. Krymskyi, M. Popovych, A. Yermolenko, etc.), legal scholars (B. Andrusyshyn, O. Merezhko, N. Onishchenko, V. Pylypchuk, Yu. Shemshuchenko, etc.), political scientists (V. Horbatenko, O. Babkina, etc.). To fulfill the tasks and achieve the purpose, general philosophical research methods have been used, in particular, the descent from the general to the particular and vice versa, and the phenomenological method has been used to understand the essence of the relationship between religion and law as a phenomenon. The method of comparative analysis has helped to clarify the specifics of the relationship between the norms of international, European and national law in the modern conditions of globalization/glocalization. The application of the method of document analysis has made it possible to find out the essence of legal norms related to the regulation of socio-religious relations.

The research has been carried out in compliance with both general scientific principles, namely objectivity, historicism, worldview pluralism, and specific religious principles – beyond-denominational character and tolerance.

### Results of Research

Modern realities and trends of social life (which have become even sharper in the conditions of the full-scale "hot" war of the Russian Federation against Ukraine) determine social, political, cultural, economic, ecclesiastical and other aspects of religious transformations in the world and Ukraine. In all these processes, law (international and national one) plays a key role, because it is the main regulator of social relations. The paradigm of legal understanding, dominant in a certain society, determines the content and nature of law in it. In turn, this directly affects the state of guarantees, provision and implementation of religious rights and freedoms, which form a vector of the relationship between religion and law in modern conditions.

Currently, the measure of the growing convergence of the two poles, global and local ones, is glocalization, which contributes to the formation of a single legal space, which in a certain way "blurs the boundaries" between national legal systems of both the same legal family and different ones, primarily due to the development of international law, the functioning international organizations and interstate associations. At the same time, international and national law are not isolated systems, they form a single universal system within which their interaction and interpenetration take place.

In this context, in the field of interaction between religion and law, a number of problematic issues are emerging with growing multifacetedness and acuteness, which require an adequate response and, accordingly, their proper solution from the state and civil society.

One of these issues is defining the limits of religious rights and freedoms.

Since the limits (restrictions) of religious rights and freedoms are a set of all phenomena that outline the content and scope of religious rights and freedoms and include, in particular, legal norms established by international or national law, then, accordingly, the rule-making

activity of international or state bodies determines certain restrictions (limits) of religious rights and freedoms. In modern conditions, the struggle for the boundaries of these rights primarily for the legal consolidation and legal interpretation of the types of these boundaries (natural/biological, objective/subjective, justified/unfounded, state/non-state, individual/collective, legal/illegal ones, etc.) is actualized. The solution to this issue should take into account the main trends of modern geopolitical transformations.

We accept and support the opinion of J. Russ, French researcher, that "the popular expression 'policy of human rights' is characterized by a special ambiguity and vagueness: because, the policy of 'resistance' is generally understood by it – then it turns out that the concept of law includes a negative meaning, and the right is understood as an opportunity to defend against any encroachment by the state" (Ryus, 1998: 574). However, law should be understood differently: as a symbolic force, as a system of rules that regulate people's relationships with each other. Therefore, the politics of human rights is not "only about preaching strict observance of the fundamental rights of the individual (purely restrictive vision), but also about understanding the Law as a force that fills public space with meaning" (Ryus, 1998: 574).

Since the restriction of religious rights is carried out, for the most part, by state bodies, and the primary bearers of these rights are believers who unite in religious organizations, then the question arises about the relationship between the church (religious organizations) and the state (state bodies), about the limits of their mutual influence and cooperation.

For example, part 3 of Article 35 of the Constitution of Ukraine clearly states that the church and religious organizations in Ukraine are separate from the state, and the school is separate from the church, and no religion can be recognized by the state as mandatory (Konstytutsiya, 1996). Article 5 of the Law of Ukraine "On Freedom of Conscience and Religious Organizations" is similar. According to this Article, the state: protects the rights and legitimate interests of religious organizations; does not interfere in the activities of religious organizations carried out within the limits of the law; does not allow establishing any advantages or limitations of one religion, creed or religious organization over others; does not allow religious organizations to perform state functions; prohibits religious organizations from participating in the activities of political parties, providing them with financial support, nominating candidates for state authorities, campaigning or financing the election campaigns of candidates for these bodies; forbids a religious organization to interfere in the activities of other religious organizations, to preach enmity, intolerance towards non-believers and believers of other faiths in any form (*Pro svobodu...*, 2022).

Therefore, the state determines the limits of its powers in relation to religious organizations, and on the other hand, grants religious organizations certain rights and obligations. Therefore, the church must function within the legal field created by the state, and legal regulation and activities of state authorities cannot narrow the scope of religious rights defined by these boundaries.

However, there are a significant number of gaps in the legal frameworks of many modern states (including Ukraine), which determine conflict-generating and conflict situations in the religious sphere, which is too sensitive

for social perception and understanding. Therefore, from time to time, the issue of solving/regulating various issues that, in one way or another, are openly/veiledly related to religious rights and freedoms, is becoming increasingly acute.

For example, according to the Constitution, God was introduced into the legal field of Ukraine and acquired legal subjectivity, because the Preamble speaks of responsibility to Him/His intercession, etc. (*Konstytutsiya, 1996*).

Therefore, he (God) is endowed with the ability to have subjective rights, to perform legal duties and bear legal responsibility (in world judicial practice there are already many cases of lawsuits against God for violation and improper fulfillment of obligations). Unfortunately, there is no definition/explanation of the status of God as a subject of legal relations in the Ukrainian legal sphere. The problem is that the interpretation, understanding, explanation of the essence of the transcendent can be diverse, close and opposite, depending on the bearers of one or another historical worldview. We would like to remind you that Ukraine is the secular state, and the society is multi-confessional and multi-religious. In society, there are various religions (monotheistic, polytheistic one or without any "god") with their God/Gods. What kind of God does the Basic Law of the state refer to? The question remains legally open and can be interpreted only at the level of the personal opinions of the creators of the law.

Therefore, the question of God's legal identity in terms of Ukrainian law is a serious, not only theoretical-legal, philosophical-legal, but also legal-practical problem. Ignoring this issue and not solving this problem by means of legal techniques carries a potential threat to the entire legal system of Ukraine, and this threat can become urgent at any time in conflicts in various fields of law – civil, criminal, economic, land, financial law, etc., which can determine legal chaos and further destabilization of the social (religious, cultural, etc.) situation. After all, a positive resolution of the question of the existence of God in the Basic Law of Ukraine can contribute to the legal proof of this fact in any Ukrainian court by referring to the preamble, which, in particular, states that the Verkhovna Rada adopted the Constitution on behalf of the Ukrainian people "being aware of the responsibility before God" (*Merezhko, 1999*).

Such a legal recognition of God, in our opinion, conflicts with Article 35 of the Constitution, which enshrines the right of everyone to freedom of worldview and religion, which includes the freedom to practice any religion or not to practice any religion, to conduct individual or collective religious cults without hindrance and ritual rites, conduct religious activities. Freedom of worldview is proclaimed in the Constitution. But which one worldview – scientific, religious, mythological, philosophical, artistic one? Or what worldview? The concept of worldview, in our opinion, needs additional legal clarification, and believing/not believing in God remains a personal, individual choice of everyone. We would like to remind that in this article, in addition, it is determined that the church and religious organizations in Ukraine are separated from the state, and the school – from the church, and no religion can be recognized by the state as mandatory.

Other concepts appeared here, namely: "church", "religious organizations", "religion". These concepts are used in the legal framework for the regulation of socio-religious relations and are actively used in legal practice, espe-

cially in court. However, during the existence of the Ukrainian state, they (church, religious organizations, religion) were never legally defined. In addition, the position that the church and religious organizations in Ukraine are separated from the state, and the school – from the church, remains vague. After all, the question arises whether the school is separated from religious organizations. Therefore, the lack of proper legalization of the categorical and conceptual apparatus in the legislative base of Ukraine, which defines religious subjects of legal relations, can determine, or even determines, various conflict situations.

Under the conditions when the legislative branch of the government of Ukraine proved to be “incapable” of the legal solution of terminological problems in the religious and legal field, which determine legal collisions and conflicts, then the solution of some of them is taken over by another branch of government – the judicial branch, decisions of which determine not only limits of state intervention in the affairs of the church in the conditions of the coexistence of secular and religious dimensions of a democratic society, how Ukraine positions itself, but in fact forcibly resolve disputes with a religious component.

When solving such conflicts, it is important to apply a plurality of approaches, principles, methodological clichés, new paradigms, etc. Because, as the Ukrainian researcher prof. A. Aristova states: “in modern times, religious conflicts are more and more distinctly acquiring new features and characteristics: not the usual explosive, but the provoked-explosive (let’s call it ‘quasi-explosive’) nature of occurrence becomes inherent in them; artificial mobilization of mass religious feelings and their manipulation; the increasing level of cruelty of the actions of the participants and organizers, the use of means of violence and methods of fighting; the tendency to ultra-fast and extraterritorial escalation beyond the limits of the local outbreak; professionalization of actions of conflict parties (high degree of organization, well-thought-out tactics and strategy of actions, technical equipment); growing militarization (increasing share of terrorist and military actions); internationalization (involvement of external actors in internal confessional conflicts, including foreign compatriots, political and financial centers, international structures, diplomatic services, etc.)” (*Aristova, 2016: 11*).

Therefore, first of all, it is necessary to find out the specifics of the influence of the conflict-causing religious factor on the processes of modernization and neo-modernization of the modern state and the modification of the institutions of the state and civil society. And in the resolution of religious conflicts, it is worth turning to mediation at both the local and international levels more often. After all, under certain circumstances, in the current geopolitical conditions, mediation is more efficient and effective than court practice.

There are a number of other shortcomings and gaps in the current legislation, which contribute to the blurring of the boundaries of religious rights and freedoms, determine conflicts with religious signs, and therefore they need to be eliminated as soon as possible, including by harmonizing national legislation with international normative acts. The reasons for this often are the low level of preparation of regulatory and legal acts and the professional incompetence of their creators, shady rule-making, neglect of religious expertise (by the way, the very concept of “religious expertise” and the procedure for its conduct also require legal interpretation and regulatory con-

solidation), disregard of conclusions and analytical notes of religious scholars by state bodies.

In the modern conditions of the relationship between religion and law, the issue of correlation of individual and collective religious rights and freedoms and guarantees and ensuring the religious rights and freedoms of minorities is also becoming urgent.

In this context, the fundamental document for the world community among the main international legal documents in the field of ensuring religious rights and freedoms is the UN Charter, the norms of which establish the principle of non-discrimination of a person on the basis of religion or beliefs, which is the legal basis of civilized legal regulation in the socio-religious sphere on international level in modern conditions. In particular, the UN Charter states that the UN aims to “To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” (Clause 3 of Article 1), promotes “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion” (Article 55), encourages “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” (*Statut Organizatsii Obiednanykh Natsiy, 2008*).

As for European law, it is genetically related to international and national law and lies between them. In European law, on many issues, the principle of its priority is applied to the national legislation of the member states of the relevant organizations. The designated states should not adopt legal acts that are inconsistent with the requirements of European law. And this is one of the features that distinguishes European law from international law. The key principle of international law is the sovereignty of the state and it is aimed at resolving conflicts between states, and at the heart of European law is the priority of the interests of communities and the Council of Europe and deepening integration. Within the framework of European organizations, provisions of international law are increasingly being replaced by their own law and autonomous legal order. In fact, European law is a new system of legal norms that forms a new legal order, independent and different from international law. In our opinion, European law appears as a variant of the regulatory solution to the problem of the “global – local” dichotomy in terms of the relationship between international and national law in general and, in particular, the correlation of individual and collective religious rights and freedoms.

Thus, the European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms), which was adopted on November 4, 1950 and ratified in Ukraine on July 17, 1997 regulated the issue of the right to freedom of thought, conscience and religion by Article 9. This article specifies that: “1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights

and freedoms of others" (*Yevropeyska konventsija z prav lyudyny, 1997*).

So, in the Convention (European law), compared to the Charter of the United Nations (international law), in the section on religious rights, the correlation of individual and collective, private and public is indicative and the circumstances of limitation of religious rights are determined. It is important that this Convention has not only a declarative character, but also a practical dimension. After all, it created a specific effective mechanism for the protection of rights – the European Court of Human Rights, which protects violated human rights by considering specific complaints submitted by individuals, groups of individuals or non-governmental organizations.

We should note that, unlike international law (UN), European law (the European Court of Human Rights) also grants religious rights and freedoms to legal entities (religious organizations). It more widely discloses and details various aspects of religious rights, especially by means of case law and judicial rule-making due to the granting of appropriate legal identity to religious organizations, recognition and guarantee of not only the rights of individuals, but also the religious rights of legal entities (religious organizations).

In this context, we should pay attention to the conclusion of Ukrainian researchers H. S. Yermakova and V. I. Polevoy that "the evolution of EU law demonstrates the presence of two trends: expansion of freedom of conscience and freedom of activity of religious organizations; establishing cooperation with religious organizations and promoting the development of interfaith dialogue.[...] European acts in the field of regulation of religious freedoms are derived from international legal acts of a global nature, but at the same time they also contain a number of features dictated by the specificity of the cultural, mental and religious environment of the historical development of Europe" (*Yermakova, Polevyi, 2021*).

As we can see, the globalized, changing modern world is becoming increasingly open to interactions and mutual influences between its various elements, pluralistic and multicultural ones. Various religious traditions coexist freely in it. But at the same time, there are manifestations of discrimination against certain groups of people, which are called minorities. Increasingly, minorities experience political, cultural, economic oppression, and even genocide.

Globalization processes affect the religious rights and freedoms of religious/ethno-religious minorities in the countries of the world, affect the nature of their activities, the attitude towards them by the state, society, citizens, and religious majorities. On the other hand, the internal religious, cultural, economic, political situation in the state and society forms the uniqueness and inimitability of the phenomenon of these minorities. In the context of the specifics of the guarantees and provision of religious rights and freedoms, the activity of religious minorities can be both constructive (support of state programs, social service, promotion of raising the level of public and individual morality, interreligious, international, intercultural dialogue, etc.) and destructive (self-isolation, indifference to social processes, intolerance, aggressiveness and aggression towards representatives of other religions, anti-state, anti-social activities, etc.). For the most part, the content of the activities of religious minorities depends on the legal provision of religious freedom.

The democratic state and social courses of its development chosen by Ukraine determined its ethno-national and religious variety and diversity, where such phenomena as ethnic, national and religious minorities, which play an ambiguously important role in the formation of a new system of value orientations, occupied a prominent place in the spiritual life of society. It is noteworthy, for example, that on December 2, 1991, the first states that recognized Ukraine as an independent state and established diplomatic relations with it were Poland (Poles are a national and religious (Catholic) minority in Ukraine) and Canada (Ukrainians are a national and religious (Orthodox) minority in Canada).

Although the term "religious minority" is absent in Ukrainian legislation, Article 11 of the Constitution of Ukraine states that the state promotes the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine (*Konstytutsiya, 1996*). Therefore, the term "religious minority" / "ethno-denominational minority" in the Ukrainian context should be used as a conditional or operational one.

In our opinion, the relations of minorities with the majority and their attitude/perception of the history and culture of the country of minorities' stay directly affects the legal situation in society and the state. Those religious minority organizations that have strong, established ties with the religion of the motherland are less- / or anti-Ukrainian-centric. This thesis is confirmed by the conclusion of the Ukrainian researcher S. Zdioruk that ethnic communities whose contacts with the Ukrainian-speaking environment are reduced to a minimum produce a relatively "closed" way of life and build "relationships between their members almost exclusively on the basis of the cultural traditions of their ancestors. And religion plays the role of an important factor in their awareness of their own identity, and also serves as a powerful connecting link with the historical homeland, from which various help comes, etc. [...] The indicated tendency [...] conditions the opposition of different cultures and faiths, and therefore does not contribute consolidation of the Ukrainian people on the basis of democratic integration of national and religious minorities into Ukrainian society" (*Zdioruk, 2005: 547-548*).

The nature of such relations directly depends on ensuring religious freedom in general and the rights and freedoms of religious minorities in particular. The low level of legal protection and even a slight restriction of religious freedom in turn determine the tendency to their social isolation, "canning" their spiritual and cultural life, separating it from the spiritual and cultural progress of the whole society.

Ukraine maintains diplomatic relations with many states (the Republic of Poland, Uzbekistan, Hungary, Romania, etc.). Agreements and treaties on friendship and cooperation were signed with them, in which issues related to the functioning of ethnoreligious communities were not left out. For example, Article 18 of the Treaty between Ukraine and the Republic of Uzbekistan "On friendship and further deepening of full cooperation" (1998) states that "The High Contracting Parties shall assist persons of Ukrainian nationality in the Republic of Uzbekistan and Uzbek nationality in Ukraine in the preservation and development of ethnic, linguistic, cultural and religious identity, as well as contribute to solving the problems of voluntary return of deported persons to

Ukraine. For this purpose, the High Contracting Parties conclude separate agreements" (*Dogovir...*, 1998).

Agreements and treaties of Ukraine on friendship and cooperation with other states are similar in content and are aimed at protecting the ethnic, cultural, linguistic and religious identity of the respective national minority. At the same time, regardless of this, in the bilateral relations of Ukraine with some states (for example, Hungary), the latter still have many pretentious problematic issues, especially of a territorial nature. Therefore, ethno-religious minorities, especially in places where they live compactly, can become and sometimes do become means, tools and leaders of destabilizing situations in the regions.

Ukraine is located in the southeastern part of Europe where three geopolitical massifs intersect, namely: Euro-Atlantic, Eurasian and Islamic ones. This is a unique cultural and civilizational space, which has its advantages, but also creates big problems. However, these problems caused by the geopolitical location of Ukraine and its internal ethno-religious diversity still, even in the conditions of a full-scale hot war (with the use of linguistic, national, religious, etc. factors) of the Russian Federation against Ukraine, remain mostly latent / have a local character, but under certain conditions, they can turn out to be a "time bomb", the explosion of which can have serious consequences on a planetary scale with even greater force.

The safeguard against this powerful explosion (global conflict, world war) and internal spiritual disintegration and chaotization of Ukraine remains the secular nature of the Ukrainian state and the fact that its interstate relations are based on respect for human rights and freedoms, including conscience, religion and beliefs, recognition of personal freedom to practice any religion, provision of full opportunity to actually use the rights and freedoms of religious/ethno-religious minorities, the right to manage their own destiny, etc.

### Discussion of Results

The above-mentioned problems often determine the devaluation of religious rights and freedoms, which further determines the devaluation of both law and religion. An effective factor in restoring the value of religious rights and freedoms is the establishment of legal boundaries between values and anti-values, in creating conditions for ensuring religious values and their achievement, in preventing the establishment of anti-values in the religious and legal sphere. And here it is necessary to expand the system of means (legislation, court practice, mediation, etc.) of achieving this goal.

In view of the above, the analysis and suggestions of the Ukrainian religious scholar prof. O. Sagan deserve attention. In his opinion, European approaches to solving problems in the field of freedom of conscience and the functioning of religious institutions, the dominance of court decisions on these and other issues will continue to contribute to increasing the role of associations of religious organizations, which should gradually become coordinators of inter-church initiatives. These organizational changes will become a determinant of a new model of state-church relations, which will change the philosophy of state-church relations. The basis of this model will be the partnership of the state and the church/religious organizations, which will facilitate the transition of religious organizations from the status of "special" (dominant churches under the care of the state) to the status of "average" institutions of civil society.

The proposal of O. Sagan regarding the liquidation of the central body for religious affairs, which exists in modern conditions, and the introduction instead of the Ombudsman Institute for Freedom of Conscience with the powers of the central body of executive power and vertical in all regional centers (analogous to the Commissioner of the Verkhovna Rada of Ukraine for Rights person). This will contribute to the self-organization of Churches, which is the most effective factor influencing the government and society (*Sagan, 2017: 43*). And "a system of mutual obligations which are enshrined legally," emphasizes O. Sagan, "will also help to remove the problem of anti-state propaganda and agitation, instilling in believers' hostility to other religious or political (primarily pro-Ukrainian) beliefs, etc. which is currently manifested in the activities of representatives of individual Churches" (*Sagan, 2017: 44*).

In our opinion, the proposed option for solving problems in the field of freedom of conscience and the functioning of religious institutions will be an effective factor in tolerating inter-religious relations and restoring the value of religious rights and freedoms.

In this context, we also support the statement of the Ukrainian religious scholar Prof. A. Kolodny, that the same factor can be civil religion, which forms a new sacred value – the unity of the country, the unity of the Ukrainian people. The specificity of civil religion is that it "does not so much lead a person to God as introduces them to the sphere of tolerant and creative socio-political and ethno-national spheres of existence. [...] has not so much a worldview as a social character. [...] is not focused on the afterlife, not on clarifying the problems of the fate of the human soul, but on the question of a person's being in society and satisfying their needs in a favorable social environment" (*Kolodnyi, 2017: 89*). "If the worldview core of civil religion is faith in a higher Power, the Almighty, the actual sacralized social and political structures perceived with a sense of patriotism, which are considered as a means of achieving the Divine goal, act as a kind of object of worship in it," – emphasizes A. Kolodny (*Kolodnyi, 2017: 90*).

In our opinion, in this way, civil religion prevents the establishment of anti-values in the religious and legal sphere and promotes the restoration of the value of religious rights and freedoms.

The recognition of democracy as a key form of organization of modern societies contributes to the introduction of effective legal tools for guarantees, ensuring the implementation and protection of rights and freedoms. Religious rights and freedoms certainly occupy an important place among them. At the level of international and European law, their implementation is legally guaranteed. At the same time, each country takes into account its own legal and cultural-historical contexts on this issue. Therefore, the generally accepted principle of freedom of conscience and religion is specifically implemented in one or another system of national legislation. In modern conditions, this principle is implemented on the basis of the multivariate relations between religion and law, which are outwardly manifested in different models of state-church relations: a) legitimation of the state church/religion; b) legalization of the status of traditional churches/religions; c) partner neutrality in relations between the state and religious organizations; d) separation of the church/religious organizations from/and the state.

As for the Ukrainian state, the vectors of its foreign policy and internal legal doctrines are aimed at the execu-

tion, first of all, of national tasks, on the one hand, in interstate relations, and on the other hand, through participation in universal and regional international organizations in the interests of the Ukrainian people – citizens of Ukraine of all nationalities. Ukraine implemented and continues to implement legal standards into national legislation (in particular, those related to religious rights, freedom of worldview, religion, etc.), which are enshrined in international legal acts (the Universal Declaration of Human Rights, adopted and proclaimed by the resolution of the UN General Assembly on December 10, 1948; Convention on the Protection of Human Rights and Fundamental Freedoms, signed on November 4, 1950 by the governments of the member states of the Council of Europe; International Covenant on Civil and Political Rights, adopted on December 16, 1966 by the UN General Assembly; Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, adopted and proclaimed by the resolution of the UN General Assembly on November 25, 1981, etc.).

### Conclusions

We conclude from all of the above that a number of problematic issues arise in the modern conditions of the relationship between religion and law in the world and in Ukraine, namely: defining the boundaries of religious rights and freedoms; resolution of religious rights conflicts; restoring the value of religious rights and freedoms; correlations of individual and collective religious rights and freedoms; guarantees and provision of religious rights and freedoms of minorities; correlations of national and international law of religious rights and freedoms; restoration of the value of religious rights and freedoms, etc.

However, there are a number of organizational, regulatory, procedural and other obstacles that stand in the way of solving these problems, particularly in Ukraine: a) external (full-scale war with the Russian Federation); b) internal (insufficient institutional capacity of executive authorities, significant opposition of certain interest groups to the passage of European integration bills in the Verkhovna Rada; low level of effectiveness of reforming the judicial branch of government; high level of corruption and imbalance in the activities of newly created anti-corruption bodies; politicization of the legal space and the preference for political expediency and populist slogans about the rule of law and the rule of law; conflicts of legislation; inconsistency and actual uncertainty of the political regime (mixing of heterogeneous features, from democracy and autocracy to anarchy, ochlocracy and oligarchy); conflicts between state bodies, etc.).

Solving the identified problems, overcoming the obstacles that stand in the way of ensuring and protecting religious rights and freedoms will enable the establishment of the rule of the right and the law, the development of freedom of speech, the protection of human rights,

religious rights and freedoms (not only as a subjective right, but also as an important and effective factor in restoring and preserving the historical memory of Ukraine). This will contribute to: a) the establishment of inter-church dialogue and dialogue between the state and the church, which would be based on the principles of tolerance, mutual respect, understanding, observance of freedom of conscience and the right to choose; b) the creation of an established worldview based on the principles of religious pluralism, which would focus not on the phenomenon of religious difference, but on the formation of a new integrity as a polyphony of the multifacetedness of religion.

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## Релігія і право: вектор взаємозв'язку в сучасних умовах

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У статті проаналізовано специфіку взаємозв'язку релігії і права в сучасних умовах. Розкрито характер впливу глобалізаційних/глокалізаційних трансформацій на феномени релігії і права та встановлено нинішній вектор їх взаємозв'язку – гарантії і забезпечення реалізації релігійних прав і свобод. З'ясовані особливості співвідношення норм міжнародного, європейського й загальнонаціонального права та їх роль у забезпеченні й охороні релігійних прав і свобод. Встановлено, що визнання демократії як ключової форми організації сучасних суспільств сприяє впровадженню ефективного юридичного інструментарію щодо гарантій, забезпечення реалізації та захисту релігійних прав і свобод та відновленню цінності релігійно-правового зв'язку. В цьому контексті розглянуті проблемні питання у: визначенні меж релігійних прав і свобод; вирішенні конфліктів релігійних прав; відновленні цінності релігійних прав і свобод; кореляції індивідуальних і колективних релігійних прав і свобод; гарантій і забезпечення релігійних прав і свобод меншин; кореляції національного і міжнародного права релігійних прав і свобод.

Визначені організаційні, нормативні, процесуальні та інші перешкоди, що заважають вирішенню цих проблем в Україні: а) зовнішні (повномасштабна війна з російською федерацією); б) внутрішні (недостатня інституційна спроможність органів виконавчої влади; низький рівень ефективності реформування судової гілки влади; високий рівень корупції; політизація правового простору та перевага політичної доцільності й популістичних гасел над верховенством права і закону; колізії законодавства тощо). Встановлено, що подолання цих перешкод і вирішення окреслених проблемних питань на різних рівнях правового поля (міжнародний, європейський, загальнонаціональний (український) детермінуватиме встановлення міжцерковного діалогу та діалогу між державою і церквою, які будувалися б на принципах толерантності, взаємоповаги, порозуміння, дотримання свободи совісті та права вибору, що сприятиме демократичному поступу України та її входженню на рівних і повних правах до європейської сім'ї народів.

**Ключові слова:** релігія, право, релігійні права і свободи, глобалізація, глокалізація, конфлікт, релігійні меншини, державно-церковні відносини.

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