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THE INFLUENCE OF RELIGIOUS PRINCIPLES ON THE FORMATION OF LEGAL IDEOLOGY

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The article clarifies the influence of the religious factor on the formation of the legal ideology of Ukrainian society in modern realities, which often has an ambiguous and contradictory character in the formation of the newest mechanism for the realization of human and citizen rights and freedoms. The approach to the religious factor based on the principle of political theology makes it possible to use the factor of religious organizations and the church in the process of building a nation-state in Ukraine, which is of great importance for the formation of a strong, democratic and legal state, which is capable of protecting national interests and resisting threats to national security. This approach also makes it possible to consider Ukrainian religious organizations and churches as an element of Christian civilization, where there is a place for Catholics, Orthodox and Protestants. This approach creates a platform for cooperation within Western institutions (EU, NATO) of states dominated by different Christian denominations.

It has been proven that Christian norms and religious legal awareness are formed in objective conditions and closely interact, and thus influence legal awareness, shape the perception of members of society about their rights and obligations, about the proper legal order. From its side, legal consciousness affects religious norms, determines the practice of their application in the interests of believers, religious communities in the realization of their religious interests by the latter, determining the nature of law enforcement, rule-making activity, the mechanism of legal regulation, etc. That is, Christian norms act as the most important regulators of various social relations, factors in the formation of legal norms, the attitude of individuals to legal institutions and the manifestation of illegal or lawful behavior.

It was noted that the influence of religious organizations and churches is changing and transforming into new ideas, legal and political. The structural component of ideology is the religious basis, and this does not apply exclusively to theocratic and clerical states, since religious norms have become the basis of the moral foundations of society. Despite the fact that in the digital age, religious values, although they lose their former meaning as a “sacred image” of the world, and even if they do not have a direct impact on the legal system, they still play an important role in legal life, because the European legal culture was created under the

influence Christianity, the Christian view of the world. And modern European legal systems function in a social system that has absorbed Christian religious values.

Keywords: law, religion, ideology, legal ideology, religious ideology, religious factor, religious norms, Christian principles, human rights and freedoms, religious organizations, church, legal order, functions of religion, functional similarity of law and religion, state-religious relations.

Formulation of the problem. In the conditions of a full-scale war between Russia and Ukraine, the spiritual and value determinants of national statehood acquire special significance, among which the religious factor occupies an important place. Religious organizations and the Church are an important component of national life. In the context of the search for value orientations and the establishment of the value foundations of modern global civil society, it is appropriate to determine the interdependence between traditions and innovations, to search for ways to resolve the conflict between the usual axiological constants and innovative values. The study of the transformation of religiosity in such critical times (in particular, the realities of war in Ukraine) objectifies the transmission of religious tradition, contributes to the understanding of historical experience, mental attitudes of social consciousness, the expression of the matrices of the further legal development of our state and the formation of religious and national identity.

The relevance is also enhanced by the dynamics of the transformation of religious culture and the change in value orientations of Ukrainian society. The genesis of religious phenomena and processes in the context of complex social transformations of the postmodern era and war realities in Ukraine requires a qualitatively new conceptual understanding. The church and religious organizations in Ukraine are separated from the state, but today they are extremely active participants in social relations and legal relations. The influence of religious norms and ideology on the formation and development of the mechanism of recognition, guarantee and implementation of human rights is significantly significant, and religious organizations and the church play an important role in the modern life of Ukrainian society, making maximum efforts to solve pressing problems.

Analysis of research and publications. The articulated problem is of interest to specialists in many fields (jurisprudence, history, religious studies, cultural studies, psychology, sociology, etc.), despite this, many unsolved questions remain. The problem of the relationship between religion and law was the subject of consideration in the works of many scientists, among whom it is worth highlighting A. Baumeister, E. Bystrotska, V. Blihar, O. Vovk, O. Danilyan, R. Dworkin, E. Yevgrafova, A. Karas, M. Kozyubry, M. Kravchuk, S. Maksimova, O. Minilicha, M. Nikyforak, E. Tkachenko, S. Rabinovycha, S. Slyvka, V. Formanyuk, L. Filipovych, H. Khvoynytska, V. Shafirova, S. Tsebenko, etc.

The purpose of the article to find out the influence of the religious factor on the formation of the legal ideology of Ukrainian society in modern realities, which often has an ambiguous and contradictory character in the formation of the newest mechanism for the realization of the rights and freedoms of a person and a citizen.

Main material presentation. Considering the current trends in the development of the state, we trace the significant role of the religious factor in the Ukrainian space. Religious organizations and the church organically adapted to the culture of the Ukrainian people, filled it with inner content, ideological meaning, establishing the conceptual core of this culture [1, p. 54]. It is religious organizations and the church that lead in the rating of the trust of society, therefore, consideration of the relationship between religion and law will allow to find out the influence of the religious factor on the formation of the legal ideology of modern Ukrainian society. This is caused primarily by the growing public interest in religion, the basis of which is a church or a certain community as a social institution that does not undergo significant ideological transformations. Secondly, the principles of their formation, organization and

functioning are a structural element of the individual's socialization. Thirdly, the formation of modern legal systems is significantly influenced by religious organizations and the church as separate organizations and religion as an element of the formation of legal awareness of society.

The British thinker E. Smith in his work "National Identity" defined the religious criteria on the basis of which religious identity is formed. Considering religious identity as a certain political phenomenon, the researcher identifies the basic factors that affect the characteristics of religious policy and increasing the trust of society:

1) religion, like politics, mostly addresses the community, not a specific subject. "Mazdakism of the 5th century n. e. in Sassanid Persia was actually a movement for social justice for the lower strata of the population, but in general it spoke to everyone. Similarly, Anglicanism in England in the 18th century. was aimed at meeting the needs of the upper and middle classes, but at the same time it was open to every Englishman" [5, p. 77];

2) communication as a means of communication not only with adepts, but with society in general for the purpose of expanding authority;

3) an emphasis on common history, historical memory, rituals, mythology and heroics, which strengthens the authority of the government as the defender of national traditions and the rightful heir of the historical heritage;

4) institutions through which the role of state-building is intensified, which justify transformations, reforms, lateral actions through the use of non-traditional innovative methods, and also with the help of symbolic language, certain meanings are promoted for the sake of a new understanding;

5) war as a form of test for religious institutions, when there is no opportunity to hide one's own vector of religious policy and relations with the authorities (domestic and authoritative representatives of other countries) [5, p. 81].

These factors certainly contribute to a comprehensive study of the role of the religious factor in the formation of legal ideology, however, a certain weakening of religion in the public sphere, the loss of control of individual spiritual leaders over religious institutions, the desacralization of the sacred indicates that the modern policy of religious institutions is imperfect and a process of certain reformatting is underway the role of religious organizations and the church in modern society. Although religiosity and trust in the church increase (as an indicator of stress) during war, the role of religious institutions declines significantly due to the establishment of the digital age, which promotes the ideology of consumerism (where things have replaced God).

Of course, in the context of complex social realities, the activity of religious organizations is intensified due to active social movements in the public space, so a number of scientists point to such a phenomenon as the formation of "public religion", which has two most common definitions. The first is the protection of the rights and freedoms of citizens, when the right to faith and freedom of religion are values that should be defended. The second involves the protection of the right to private life, when faith has a personal private character, and religious coercion is considered a violation of the right to privacy [3, p. 71].

The head of the Berkeley Center for Religion, Peace and World Politics H. Casanova notes that the concept of "public" involves three dimensions: the state, political society and civil society. Religion can mobilize its own institutional resources for political development through political parties. In addition, it can contribute to strengthening the integrity of the public sphere in civil society by forming a certain discourse (active discussion, debate, public presentation of one's own position on important issues), the participants of which are various religious organizations and churches [4, p. 112]. We can clearly see this on the example of Ukraine, when representatives of religious organizations actively enter the public space and debate topical and socially important issues of our state. Given the democratic principle of information activity in Ukraine, infomedia consumers are witnesses of the development of public religion in the country, however, it should be noted that such public participation can affect both the unification and consolidation of society, as well as its division.

Characterizing public religion, H. Casanova emphasizes certain points of contact between the religion of individualism and the public sphere, when the role of the individual is central in the cosmological world. The division of religion into private and public spheres shows that political, social and economic problems led to the individual's belief in personal potential, and later in religious and theological concepts [4, p. 263].

The modern controversies of religious dynamics were carefully studied by the British scientist G. Davy, who emphasized that research methods should change in accordance with social reality, which demonstrates a new vision of publicity. Outlining the place of modern religion, the researcher singled out three concepts: "faith without affiliation"; "vicarious religion"; "from obligations to consumption". Thus, "faith without affiliation" consists in the fact that the subject declares personal affiliation to a specific religious organization or church, but does not take an active part in its activities (as opposed to "vicarious religion". In her opinion, the definition "substitute religion" is more appropriate – the activity of an active minority on behalf of a passive majority. Religion itself can be soft or hard in form. "This position has won the space between hard and soft variables affecting religious affiliation: faith mostly gains a wider constituency than belonging" [5, p. 262].

The idea of vicarious religion as a form of collective memory is that it is passed down from one generation to another, and religious traditions establish a relationship between them. Accordingly, reducing the influence of the religious factor eliminates the preservation and transmission of traditions. On the one hand, the church, religious organizations as an institution, and on the other – religious communities, are responsible for preserving collective memory through traditions. These powers were delegated to them by the majority of people (the dichotomy of active minority and passive majority), and therefore this form of religion should be understood as "replacement". Religious rituals, which "are carried out by an active minority, but on behalf of the majority, which not only understands, but also fully approves of what the minority does" [5, p. 262].

In the context of considering the role of the religious factor in the formation of legal ideology, attention should be paid to the aspects of religiosity highlighted by H. Devi, which continue to be significant and effectively adapted to modern times: 1) the role of historical churches in the formation of European culture (the construction of religious architectural works, the holding of church holidays or religious rituals, popularization of traditions); 2) historical churches occupy an important place in specific events of the life of modern Europeans (birth, marriage, funeral); 3) a significant change in the religious constituencies (institutions) of the continent that take an active part in public life, in particular, this concerns the model of choice, and not the model of obligation or duty; 4) arrival of groups of people from different parts of the world to Europe. The growing number of Christians from the South of the world, along with significant other faiths, has significantly changed the religious palette of the European continent. Nowadays, ideas about religion should be considered a more private matter; 5) different reactions (aggressive or tolerant, positive) of secular elites of European countries to religious protests and currents, which often acquire vector changes in public or private life; 6) gradual, but growing awareness that religious trends in modern Europe should be considered an "exceptional case", but not a global prototype. Europeans are beginning to realize that Europe is secular not because it is modern, but because it is a democratic environment [5, p. 263].

The general concept of vicarious religion consists in the message "I believe without affiliation". This hidden religion is most often traced in a period of crisis or evolution, when established means of stabilization cease to operate effectively, and individuals and various civil institutions begin to display religious instincts. Usually, society concentrates on several problems: external aggression, corruption, unemployment, protection of health and environment, and others, and when established means cease to work, religious and moral norms gain social value, and religious leaders gain authority. Such a substitute religion can establish both prohibitions (for example, not to vaccinate) and new forms of behavior.

Religion as a form of collective memory was also pointed out by other famous thinkers, and if this mechanism of memory transmission is violated, society risks self-destruction. The decline of the religious

factor in modern social life is connected not only with its rational nature, but primarily with the fact that it does not fulfill the function of preserving traditions. An alternative to this can be the delegation of these powers to religious organizations and the church, which, together with the intensification of traditions in religious rituals, not only preserve collective memory, but also receive a greater limit of trust in their other activities as well [6, p. 23].

In addition, the approach to the religious factor based on the principle of political theology makes it possible to use the factor of religious organizations and the church in the process of building a nation-state in Ukraine, which is of great importance for the formation of a strong, democratic and legal state, which is able to protect national interests and confront threats to national security. This approach also makes it possible to consider Ukrainian religious organizations and churches as an element of Christian civilization, where there is a place for Catholics, Orthodox and Protestants. This approach creates a platform for cooperation within Western institutions (EU, NATO) of states dominated by different Christian denominations.

The national historical and legal discourse points to the significant influence of Christianity, and, accordingly, religious norms, on the formation and development of law, the reflection of a number of Christian guidelines in national legislation. Religious norms, on the one hand, are a special structural element of the legal system in the material and formal sense, that is, factors that determine the content of the law, the legal system itself, and on the other hand, they are a form of external expression of rules of conduct. In contrast to legal norms, which have a three-element internal structure, religious norms structurally consist of only one part – disposition, and the hypothesis and sanction are implemented on the sacral level, not on the human dimension. The peculiarity of religious norms is expressed by their formal sources, the perception of the law as the will of God caused great respect for sacred books, which are the basic source of religious prescriptions [7, p. 54].

In the context of determining the religious factor in the formation of legal ideology, the position of O. Manilich is correct that “religious norms are the most important regulators of social relations, factors in the formation of legal norms, the individual’s attitude to legal institutions, the assertion of illegal or law-abiding behavior. With the help of religious norms, a certain religious-normative ideology is formed, which, in turn, forms a certain culturally conscious type of person. Due to the content of religious norms, legal norms find their Divine justification in accordance with the prescriptions of the Holy sources in the norms of modern secular and religious law” [8, p. 46].

With the help of religious norms as general rules of conduct, society’s need for approval of the normative principles of the existence and development of a religious community, observance of a cyclical regime, a set of repeated religious relations and processes within a religious organization or church is met. Religious consciousness as a type of general consciousness together with legal consciousness, legal understanding, and legal culture should be recognized as a structural element of the ideological component of the legal system [9, p. 311].

The institutional subsystem singles out the subjective composition, which contains such a structural element as the subject of religious relations, which has certain subjective rights and duties. All religious norms and principles that regulate relations between various subjects of religious relations are objectified and systematized in normative acts that are part of the normative (regulatory) subsystem of the legal system.

The imperative influence of Christianity on state law and its recognition as a legal basis for the regulation of social relations is confirmed by the state status of religion in countries with a religious-traditional legal system. The influence of religious norms on positive law, in particular the legal system of the country, can be carried out in two ways – direct and indirect. The essence of the direct mode is that, together with positive views and doctrines, the ideological basis of the country’s modern legal system, the religious-ethical basis of law-making, and in some cases law-enforcement and law-enforcement activities of state bodies is created. Of course, any state and law have a certain traditional religious basis. The indirect modus involves the influence of the subsystem of religious law on positive law in view of the

existence and functioning of religious norms. The existence of religion and law as regulators of social relations (sometimes identical), their parallel solution of universally important problems and the occurrence of conflicts between them, of course, negatively affects the nature, content, directions and forms of their relationships and interaction.

Christian norms and religious legal awareness are formed in objective conditions and closely interact, and therefore influence legal awareness, shape the ideas of society members about their rights and obligations, about the proper legal order. For its part, legal awareness influences religious norms, determines the practice of their application in the interests of believers, religious communities in the latter's realization of their religious interests, determining the nature of law enforcement, rule-making activity, the mechanism of legal regulation, etc. That is, Christian norms act as the most important regulators of various social relations, factors in the formation of legal norms, the attitude of individuals to legal institutions and the manifestation of illegal or lawful behavior.

Religious norms determine the formation of a special religious-normative ideology, which generates a culturally conscious, civilized type of person. Difficulties and controversies regarding the determination of the place of religious norms in the system of sources of law lie in the inconsistency of religious and legal norms for the regulation of a whole variety of social relations. However, the ideas, traditions and individual institutions of religious law are reflected in almost all spheres of the modern legal system; the dogmas of religious law are not only contained in the basis of a significant part of modern legislation, but also have a significant influence on the process of development and adoption of normative legal acts.

Conclusions. The influence of religious organizations and churches is changing and transforming into new ideas, legal and political. The structural component of ideology is the religious basis, and this does not apply exclusively to theocratic and clerical states, since religious norms have become the basis of the moral foundations of society. Despite the fact that in the digital age, religious values, although they lose their former meaning as a "sacred image" of the world, and even if they do not have a direct impact on the legal system, they still play an important role in legal life, because the European legal culture was created under the influence Christianity, the Christian view of the world. And modern European legal systems function in a social system that has absorbed Christian religious values.

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ВПЛИВ РЕЛІГІЙНИХ ЗАСАД НА ФОРМУВАННЯ ПРАВОВОЇ ІДЕОЛОГІЇ

У статті з'ясовано вплив релігійного чинника на формування правової ідеології українського суспільства у сучасних реаліях, що нерідко має неоднозначний та суперечливий характер під час формування новітнього механізму реалізації прав і свобод людини та громадянина. Підхід до релігійного чинника за принципом політичної теології дає можливість використати чинник релігійних організацій і церкви у процесі побудови в Україні нації-держави, що має колосальне значення для формування сильної, демократичної та правової держави, яка здатна захищати національні інтереси та протистояти загрозам національній безпеці. Також такий підхід дає змогу розглядати українські релігійні організації та церкви як елемент християнської цивілізації, де є місце для католиків, православних і протестантів. Цей підхід створює платформу для співпраці в межах західних інституцій (ЄС, НАТО) держав із домінуванням різних християнських конфесій.

Доведено, що християнські норми та релігійна правосвідомість формуються в об'єктивних умовах і тісно взаємодіють, а відтак впливають на правосвідомість, формують уявлення членів суспільства про їхні права й обов'язки, про належний правопорядок. Зі свого боку, правосвідомість впливає на релігійні норми, визначає практику їх застосування в інтересах вірян, релігійних громад щодо реалізації останніми своїх релігійних інтересів, зумовлюючи характер правореалізації, нормотворчої діяльності, механізм правового регулювання тощо. Тобто християнські норми виступають найважливішими регуляторами різноманітних суспільних відносин,

чинниками формування правових норм, ставлення індивідів до правових інститутів і вияву протиправної чи правомірної поведінки.

Відзначено, що вплив релігійних організацій та церкви видозмінюються та трансформуються у нові ідеї, правові та політичні. Структурним складником ідеології є релігійна основа, і це не стосується лише теократичних і клерикальних держав, позаяк релігійні норми стали базисом моральних основ у суспільстві. Незважаючи на те, що у цифрову епоху релігійні цінності хоч і втрачають своє колишнє значення “священного образу” світу, і навіть якщо не мають прямого впливу на правову систему, вони однаково відіграють вагомую роль у правовому житті, тому що європейська правова культура створювалася під впливом християнства, християнського погляду на світ. А сучасні європейські правові системи функціонують у соціальній системі, яка увібрала християнські релігійні цінності.

Ключові слова: право, релігія, ідеологія, правова ідеологія, релігійна ідеологія, релігійний чинник, релігійні норми, християнські засади, права і свободи людини, релігійні організації, церква, правовий порядок, функції релігії, функціональна подібність права і релігії, державно-релігійні відносини.