

POLITICAL INSTITUTIONS OF PARLIAMENTARISM IN THE PROCESSES OF CONSTITUTING THE LOCAL CHURCH OF UKRAINE

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Abstract: The article analyzes the influence of the political institutions of parliamentarism on the formation of religious policy regarding the constituting of the Local Church of Ukraine, in the context of which the study of legislative activity is carried out in synchronous and diachronic (within the time limits of the formation of independent Ukraine) segments. Particular attention is focused on the presentation of the facts of parliamentary communication during decision-making and interaction with civil society. Based on the definition that the Profile Committee of the Verkhovna Rada of Ukraine is an important instrument of the parliament in the implementation of religious relations, the character of political communication of parties and representatives of civil society during the discussion of the relevant draft laws "On freedom of conscience and religious organizations", "On freedom of religion and religious organizations" was studied, as well as "On Amendments to the Law of Ukraine "On Freedom of Conscience and Religious Organizations"", and others. It was revealed that the politicization of the religious environment complicated the law-making process, and Ukrainian politicians and religious organizations perceived the content of draft laws on the regulation of state-church relations in different ways. The article pays special attention to the influence of the parliament on religious policy regarding the autocephaly of the Orthodox Church after the start of the Russian-Ukrainian war and its actualization after the large-scale invasion in 2022. In particular, the article shows how parliamentary activity was implemented in relation to state influence on the policy of the Orthodox Church autocephaly, which was identified by state bodies as a priority in 2016.

Keywords: political institution; parliamentarism; religious policy; Verkhovna Rada of Ukraine; Local Church of Ukraine; parliamentary communications; strategic communications.

1 Introduction

Ukraine's gaining of independence led to different approaches to the formation of the state's religious policy. Its vector directly depends on the level of functioning and autonomy of social institutions that have a high degree of trust and legitimacy, formed traditions, and also ensure the historical stability of their transmission to subsequent generations and the ability to integrate different political elites. It is a fact that religion occupies an important place in the social life of modern Ukraine, which is not overlooked by political figures and in the processes of the political system transformation. In the context of the development of the Ukrainian political system, state authorities - the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, central and local executive bodies - pay considerable attention to religious and church issues. They determine the principles of state religious policy on a political basis and the mechanisms of its implementation in Ukraine. As a structural element of the political system, political institutions reflect the interests of socio-political and social groups and communities. Nowadays, the need to study the role and place of political institutions, primarily parliamentary ones, which influence the formation of religious policy and religious processes in Ukraine within the limits of their constitutional powers, is becoming urgent. They mainly include the parliamentary system, the executive system, the civil system, and the political party system. In particular, the institution of parliamentarism as a representative body of state power regulates relations with society and performs a law-making function, which is focused on creating laws and representing the interests of various social groups in the state.

At present, the problems of state-confessional relations are quite multilayered and belong to a wide field of interdisciplinary research. The influence of religion on the factors of ethnic, national, and civilizational identification has been studied, in particular, in the works of S. Huntington. The object of special attention of Ukrainian political scientists who study religious topics is Ukrainian Orthodoxy with a complex of intraconfessional contradictions that have arisen in the last two decades, as well as the peculiarities of the formation of relations between church official organizations and state institutions.

Certain representatives of scientific circles have repeatedly considered the possibility of forming a single independent united local church in Ukraine. It is obvious that mutual understanding of the Orthodoxy of different jurisdictions and confessions is possible only on the basis of the imperatives of mutual respect and tolerance, as well as studying and adopting the practices of developed countries based on the provision of human rights. The above mentioned processes are considered in monographic editions, for example, by S. Zdiuruk, A. Kolodny. Transformational processes in Orthodoxy were the object of interest in the dissertation studies of a number of scientists: L. Prokopchuk ("*Transformational processes in the Orthodox confessions of Ukraine*"), N. Ishchuk ("*Social adaptation of Orthodoxy: a philosophical analysis*"), Yu. Nedzelska ("*The norms of life of an Orthodox layman and their transformation under the conditions of a secularized society*"), A. Marchyshak ("*Transformation of Orthodoxy in the globalized world: The post-Soviet context*"). These issues are covered in scientific publications, the authors of which consider it necessary to establish state-church relations, although without a comparative excursion into the practice of democratic (EU and the USA) and totalitarian (Saudi Arabia, Iran) countries - for example, the monograph edited by I. Tymoshenko "*State - church relations: world experience and Ukraine (historical and political analysis)*" and the work of the head of the Department of Humanitarian Policy of the National Institute of Strategic Studies S. Zdiuruk "*Socio-religious relations: Challenges for Ukraine in the 21st century*".

The purpose of this article is to investigate the influence of political institutions of parliamentarism on the formation of religious policy regarding the attempts of constituting of the Local Church of Ukraine. The main tasks are the study of legislative activity in synchronous and diachronic segments, the implementation of parliamentary communication when making decisions, and in interaction with civil society.

2 Materials and Methods

The methodology of research determines an objective descriptive approach, according to which the subject of research is considered independently of the will of individuals, based on the search for facts that determined the events under study. As part of this approach, general scientific methods of content analysis and discourse analysis are used. In the course of the study, an institutional approach was also used, which predetermined the consideration of state-confessional relations at the level of interaction between government institutions and religious associations.

3 Results and Discussion

Institutes of executive power are represented by state bodies and officials who manage public affairs. The highest body in the system of executive bodies in Ukraine is the Cabinet of Ministers of Ukraine (Government of Ukraine), which exercises executive power directly and through ministries, other central bodies of executive power, and local state administrations. The government directs, coordinates, and controls the activities of these bodies. It is responsible to the President of Ukraine and the Verkhovna Rada of Ukraine, controlled and accountable to the Verkhovna Rada of Ukraine within the limits stipulated by the Constitution of Ukraine [8].

The institute of citizenship defines the mutual rights and obligations of the state and the citizen. At the same time, the institution of political parties ensures the orderliness of relations formed in the process of creating political organizations and the interaction between them [7]. Therefore, a component of their activity is the coordinated functioning of the state with all its administrative structures and institutions, activities of political parties and movements, activity of public and political opinion,

functioning of mass media, diverse influence on the part of political elites and political leaders.

An important structural unit of the political system of Ukraine is the Verkhovna Rada of Ukraine, which has constitutional powers, in particular, to regulate social relations in the field of religion. First of all, this is expressed in the determination of the principles, methods, and mechanisms of formation and implementation of state-church and inter-confessional relations [3]. The regulatory function in the formation of the religious policy strategy is included in the authority of the parliament to listen to the annual and extraordinary messages of the President of Ukraine, where the issues of state-church and interfaith relations are raised. In addition, the Verkhovna Rada of Ukraine directs activities in the religious sphere through the mechanism of parliamentary hearings and inter-factional parliamentary associations on church issues.

An important instrument of the parliament in the implementation of religious relations is the relevant Committee of the Verkhovna Rada of Ukraine, which is formed from the number of people's deputies of Ukraine to carry out legislative work in separate areas, preparation and preliminary consideration of issues that are within the powers of the Verkhovna Rada of Ukraine, and the performance of control functions [9]. State policy in the field of freedom of conscience and religious organizations is implemented by the specialized committee of the Verkhovna Rada of Ukraine on culture and spirituality: "The committee, acting as an active defender of the principle of equality of all churches and religious organizations in Ukraine, has always taken into account the position of religious organizations in its legislative work and will continue to take into account the position of religious organizations" [18]. The Profile Committee carries out preliminary consideration of proposals for holding parliamentary hearings on religious issues.

Cooperation between the Verkhovna Rada and religious organizations at the legislative level was not always productive. In particular, in 2003, during the preparation of the draft of the new Law of Ukraine "On Freedom of Conscience and Religious Organizations", the Chairman of the Verkhovna Rada V. Lytvyn postponed consideration of the draft law due to the politicization of this issue by some representatives of religious organizations [15]. However, the Verkhovna Rada Committee on Culture and Spirituality received an alternative draft law "On Freedom of Religion and Religious Organizations" from People's Deputy L. Hryhorovych, which, according to the Regulations of the Verkhovna Rada of Ukraine, had to be considered simultaneously with the government draft [10]. In connection with the protests of religious organizations, consideration of draft laws was postponed four times, and in the end the Verkhovna Rada rejected them. People's elected officials decided that "these documents are not prepared properly and therefore create a conflict situation in the Verkhovna Rada and a certain tension in society" [15].

However, attempts to reform religious legislation did not stop. In 2004, the draft Law of Ukraine "On Freedom of Religion and Activities of Religious Organizations" was submitted for consideration to the Verkhovna Rada of Ukraine by I. Stoyko, a People's Deputy from the "Nasha Ukraina" ("Our Ukraine") faction [20]. The presentation of the draft law was criticized by Metropolitan Volodymyr (Sabodan), who in a letter to the Chairman of the Verkhovna Rada of Ukraine V. Lytvyn insisted not to submit it to the parliament for consideration, as it is less democratic than the current law. During 2004-2005, the parliament limited its activity in this area to consideration of changes to certain articles of the current Law.

In 2005, the Verkhovna Rada rejected the project of the Law "On Amendments to the Law of Ukraine "On Freedom of Conscience and Religious Organizations"" submitted by People's Deputy O. Turchynov [21]. In the same year, the draft law "On Amendments and Additions to the Law of Ukraine "On Freedom of Conscience and Religious Organizations"" by People's Deputy of the Socialist Party of Ukraine V. Spivachuk was registered. In response to the previously rejected bill project,

People's Deputy O. Belorus from the BYU (Block of Yulia Tymoshenko) faction noted that the latest draft law "may lead to tension in inter-church relations and, as a result, in society. In addition, if adopted, it will become a legal basis for prosecuting citizens on the basis of religion" [21].

The preparation of the new Law in the field of state-church relations began in 2006. To develop a new version of the Law "On Freedom of Conscience and Religious Organizations", a working group was created, which included representatives of the Ministry of Justice, the All-Ukrainian Council of Churches and Religious Organizations, the Department of Religious Studies of the Institute of philosophy of the National Academy of Sciences of Ukraine, the International Association of Religious Freedom, the Institute of Religious Freedom, the Ukrainian Center for Economic and Political Research named after O. Razumkov, and other non-governmental organizations. However, the new law did not receive approval from various political and religious forces. Representatives of certain churches made a proposal to postpone the date of submission of the mentioned project for consideration by the Verkhovna Rada "in view of the unfavorable political situation and the politicization of religious issues" [15].

Therefore, the Verkhovna Rada of Ukraine, through the Profile Committee and people's deputies of Ukraine, can significantly influence the formation of the foundations of religious policy and ensure control over the observance of rights in the sphere of freedom of conscience and religion. However, the politicization of the religious environment complicated the law-making process, and Ukrainian politicians and religious organizations themselves perceived the content of draft laws on the regulation of state-church relations in different ways. The inconsistency of a number of laws that were considered by the Verkhovna Rada of Ukraine led to the escalation of conflicts, public unrest, which was accompanied by protests outside the walls of the Ukrainian parliament. Participation in the protests by representatives of various religious organizations and political forces led to the aggravation of both religious and political confrontation in Ukrainian society.

The question of the autocephaly of the Orthodox Church in Ukraine, which was one of the main issues in the work of the Committee on Culture and Spirituality, caused special tension within the walls of the Verkhovna Rada. However, the acquisition of local status by the Orthodox Church was a priority in the work of the Verkhovna Rada during P. Poroshenko's presidency. In the summer of 2016, the Verkhovna Rada of Ukraine published the "Address of the Verkhovna Rada of Ukraine to His Holiness Bartholomew, Archbishop of Constantinople and New Rome, Ecumenical Patriarch regarding the granting of autocephaly to the Orthodox Church in Ukraine", which became a significant step in striving of the then president pro-government political forces to receiving Tomos. People's deputies were convinced that in the conditions of armed aggression by the Russian Federation, only "autocephalous status can become the basis for overcoming the existing church division in the country and preserve the integrity of the Ukrainian people, which will allow them to take their proper place in the family of local Orthodox churches" [5].

The issue of the unity and autocephaly of the Orthodox Church was the main topic at the meeting of the Chairman of the Verkhovna Rada of Ukraine A. Parubiy with the secretary of the Holy Mountain monastery Athos Kutlumush and Hierodeacon Chrysostom, who at that time were in Kyiv. As A. Parubiy noted at this meeting, the Appeal to Patriarch Bartholomew regarding the autocephaly of the Ukrainian Church "is not only a matter of a religious nature, but also a matter of national security, because there is both military aggression and interference in the spiritual space" [12]. At the same time, the Chairman of the Verkhovna Rada of Ukraine noted that "Parliament, secular authorities do not intend to interfere or regulate religious life" [12].

Andriy Parubiy also in the international arena manifested his active support to the granting of autocephaly to the Ukrainian Orthodox Church. In particular, the Chairman of the Verkhovna

Rada, while in Georgia on the occasion of the celebration of the independence of the First Republic of Georgia, noted that he “plans to discuss the issue of supporting the autocephaly of Ukraine with the President of Georgia, the Speaker of the Parliament, and His Holiness Patriarch Ilya II”. He expressed hope for assistance from the Georgian Orthodox Church in this process: “we are very much counting on the support of both the Patriarch and the Georgian Orthodox Church for the aspiration of Ukraine and all Ukrainians to create a Ukrainian Orthodox autocephalous church” [14]. Ukraine's desire to create a Local Church in the face of Russia's military aggression was shared by certain circles in the United States of America, claiming that “Putin's hybrid war has many components, where the military component is important, but the informational and humanitarian ones are no less important, and he uses these spheres effectively and dangerously” [2]. Brownback, the US State Department's Special Envoy for International Religious Freedom Affairs, noted that “Ukraine faces a big issue - the autocephaly of the Ukrainian Local Orthodox Church. We do not interfere at the stage of making a decision on granting the Tomos on the autocephaly of the Ukrainian Orthodox Church, but ... we will be happy to help” [2]. Citing these facts of support, however, it should be noted that the prerogative of making final decisions on matters of ensuring citizens' rights and national security belongs to national authorities, subject to consultations with representatives of civil society and taking into account all systemic factors, in particular the level of support for certain denominations from Ukrainian society, participation of the confessions themselves in social processes, their civil position during Russian war aggression, participation in humanitarian volunteer activity, etc.

Already in 2018, A. Parubiy presented in the parliament a draft Resolution on support for the appeal of the President of Ukraine to the Ecumenical Patriarch Bartholomew regarding the granting of a Tomos on the autocephaly of the Local Orthodox Church in Ukraine: “The President of Ukraine appealed to the Parliament to support his Appeal to the Ecumenical Patriarch with a request to grant the Orthodox Church in Ukraine Tomos on autocephaly” [18], which created a precedent that is of interest for further research both in international law and in public and common law. The Chairman of the Verkhovna Rada noted that the Parliamentary appeal after a long time gave impetus to the consideration by the Ecumenical Patriarchate of the issue of Autocephaly of the Local Orthodox Church in Ukraine. At the same time, he said, the address of the President of Ukraine continues and develops the process of creating the Local Ukrainian Orthodox Church, the previous milestone of which was the Address of the Verkhovna Rada of Ukraine dated June 16, 2016 regarding the granting of autocephaly to the Orthodox Church in Ukraine: Patriarch Bartholomew claimed that Church canons state every nation, every Independent State has the right to its own independent Church [18].

The co-authors of the project were the speaker of the Verkhovna Rada A. Parubiy, the first vice-speaker I. Gerashchenko, the leaders of the factions A. Gerasimov (“Block of Petro Poroshenko”), M. Burbak (“People's Front” faction), Yu. Tymoshenko (“Fatherland” faction), O. Lyashko (Radical Party faction), O. Berezyuk (“Samopomich’ (Self-Help) faction), as well as the president's representative in the Verkhovna Rada, member of Block of Petro Poroshenko faction I. Lutsenko, and other parliamentarians. Thus, the Verkhovna Rada of Ukraine decided to support the precedent-setting appeal of the President of Ukraine to the Ecumenical Patriarch Bartholomew on the granting of a Tomos on the autocephaly of the Local Orthodox Church in Ukraine.

Instead, people's deputies from the Opposition Bloc (V. Novynskyi and O. Dolzhenkov) initiated a submission to the Constitutional Court, where they declared that they consider the Verkhovna Rada's resolution to support the appeal of the President of Ukraine Petro Poroshenko to grant autocephaly to the Ukrainian Local Orthodox Church illegal: “Ukrainian Orthodox Church, which has a canonical connection with universal Orthodoxy, did not appeal to Patriarch Bartholomew

with a request to grant autocephaly to the Orthodox Church in Ukraine, and neither the President of Ukraine nor the deputies of the Verkhovna Rada of Ukraine were authorized to do so. The question of granting church autocephaly belongs to the competence of canon law, and not to the competence of state laws. Autocephaly is granted to the church, not the state, and therefore the Church, not the state, should initiate or ask for this status [4]. In addition, the Supreme Court of Ukraine received lawsuits protesting the actions of state bodies in the process of acquiring church autocephaly. The first lawsuit was from the religious organization “Religious community of the Ukrainian Orthodox Church at the church named after St. Nicholas of the Berdyansk Eparchy of the city of Berdyansk, Zaporizhzhia region” to the Verkhovna Rada of Ukraine, where the plaintiff requests that the Verkhovna Rada of Ukraine's resolution No. 241-VIII dated April 19, 2018 “On support of the appeal of the President of Ukraine to the Ecumenical Patriarch Bartholomew on the granting of a Tomos on the autocephaly of the Orthodox Church in Ukraine” be declared illegal and annulled. Also, the Verkhovna Rada of Ukraine received statements from the Horodnytskyi St. George's Male Stavropygian Monastery and Bishop Makarivskyi, Vicar of the Kyiv Metropolitanate, Vicar of the Tithe Monastery of the Nativity of the Most Holy Theotokos of the City of Kyiv of the Ukrainian Orthodox Church to the Verkhovna Rada of Ukraine regarding recognition of the resolution as illegal and cancellation of it [1].

In response to an appeal regarding state interference in the sphere of religious relations, the Constitutional Court noted that “it is not within its competence to evaluate such documents from the point of view of constitutionality, since Resolution of the VRU dated April 19, 2018 No. 2410-VIII certifies the political position of the parliament, supporting the appeal of the President of Ukraine to the Ecumenical Patriarch with a request to provide the Orthodox Church of Ukraine with a Tomos on autocephaly” [16]. Today, however, the processes taking place indicate the need for the development of mechanisms for expanding the competences of the Constitutional Court of Ukraine, to ensure the possibility of providing a constitutional assessment of draft laws adopted by Verkhovna Rada on such important issues of national security, including against the background of preventing the emergence of tensions and divisions in society, especially in conditions of the need to defend the country against armed aggression by the Russian Federation.

Another conflict between the institution of parliamentarism and religious organizations arose after the Verkhovna Rada adopted Law No. 2662-VIII “On Amendments to the Law of Ukraine “On Freedom of Conscience and Religious Organizations”” regarding the name of religious organizations (associations) that are part of the structure of a religious organization (association), the management center (management) of which is located outside Ukraine in a state recognized by law as having carried out military aggression against Ukraine and/or temporarily occupied part of the territory of Ukraine. This Law clearly defined three signs of religious subordination: if the statute of a Ukrainian organization mentions subordination to a foreign center; if the charter of a foreign religious center mentions the subordination of the organization in Ukraine; if the statute of the foreign center mentions that the representative of the Ukrainian organization is part of the management of the foreign center [11]. The law establishes that “if within four months (for religious communities - nine months) from the date of entry into force of this Law and/or the entry into force of a law by which a foreign state is recognized as having carried out military aggression against Ukraine and/or temporarily occupied part of the territory of Ukraine, the religious organization (association) did not make the legally required changes to its official name and did not submit the corresponding changes to its charter (regulations) for registration, its charter (regulations) becomes invalid in the part that determines the full official name of religious organization (association)” [11].

Supporters of the OCU enthusiastically met the decision of the Verkhovna Rada, believing that this law will contribute to the prevention and neutralization of real and potential threats to

national security. Instead, the UOC and a group of deputies of the Opposition Bloc challenged the Law in the Constitutional Court of Ukraine. Already in January 2019, they sued a constitutional submission, which the court accepted, but postponed its consideration twice. Two days before the second round of the presidential elections of Ukraine, another meeting of the Constitutional Court on this issue was supposed to take place, but the case was not considered. Taking into account the fact that it is impossible to annul the law through the Constitutional Court, the Ukrainian Orthodox Church filed a lawsuit in the District Administrative Court of the city of Kyiv to declare the order of the Ministry of Culture on conducting a religious examination illegal. The court's decision contributed to securing a lawsuit, which was prohibited from taking any actions regarding the registration of religious centers of the UOC [6].

In the conditions of a full-scale invasion of the Russian army, the Chairman of the Verkhovna Rada of Ukraine R. Stefanchuk announced that the parliament will not vote on the draft law on the prohibiting of the Russian Orthodox Church in Ukraine in order to protect the national security, sovereignty and territorial integrity of Ukraine, prevent collaborationism, stop inciting inter-religious enmity and destabilization of religious environment in Ukraine. This issue has been discussed for a long time within political factions and groups. People's deputies came to the conclusion that during the war they have no right to adopt any law that divides Ukrainian society. According to the speaker, "first, it is needed to see who and how behaved during the war. Because the war is the situation that today shows everyone who is who, that tears off the veils from everyone: from patriots, from pro-Russian politicians. And society can really see who is for Ukraine, and who has other intentions" [17]. Therefore, we can state the emphasis on communication with civil society and religious organizations in the preparation of the legislative framework that will regulate state-church relations on the basis of national interests, including issues of national security, while simultaneously focusing on reaching a reasonable compromise between the interests of the relevant organizations. Such a position, in fact, records the presence of strategic political issues, but the absence of developed mechanisms for solving them.

4 Conclusion

Therefore, the religious policy of the state in the Orthodox environment largely depends on work in the legislative field, including the development of legislative mechanisms involving the Constitutional Court to resolve urgent issues of national security, based on the best practices of world political and legal experience. Laws of Ukraine, which have been adopted by the Verkhovna Rada of Ukraine in recent years, in general meet public demands. However, the implementation of the adopted decisions does not take place to a sufficient extent in practice, which leads to unjustified miscalculations of sensitive areas such as freedom of conscience and freedom of religion within the framework of national policy. This is caused both by the lack of a consolidated position on the degree of state intervention in church relations, by the action of "interest groups", and by the lack of legally established, and therefore civilized and open lobbying mechanisms, in the context of today's wartime challenges. At the same time, the responsibility of the institution of the parliament for making decisions taking into account all procedural aspects is noted, which makes their further delegitimization impossible. In further research, it is worth, in our opinion, to analyze the specifics of the implementation of religious policy both towards the Local Church and towards other religious communities and confessions by executive bodies of state power, taking into account all systemic connections, requirements of international law (in particular, the International Covenant on Civil and political rights), social challenges, and the nearest prospects of Ukraine's acquisition of EU membership.

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