
INTERACTION OF STATE AND RELIGION IN THE RUSSIAN EMPIRE AND USSR PHILOSOPHICAL, SOCIOLOGICAL, HISTORICAL AND LEGAL ASPECTS

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(Received 7 January 2017, revised 18 April 2017)

Abstract

The study of the interaction of religion and state is determined by the fact that religion is one of the basic postulates of human life; it conducts the man since the beginning of civilization, penetrating into all spheres of his life and shaping his mind. Different stages of the Russian state are characterized by various forms of interaction of the state and religion: from the complete subordination of religious denominations to the state to their complete removal from public affairs. Religion, which was formed as a social institution of society, continuously generates the Institute of human existence, affecting social and political stability of the society, social and cultural situation. The role of religion and its importance for society and its impact on it, its relationship with the state as a social regulator, determines the relevance of the research. This article researches interaction of state and religion, the entity of this interaction, which is considered from the point of view of philosophical, sociological, historical and legal comprehension.

Keywords: religion, social institution, state, church, relations

1. Introduction

Religion is a very important element of the spiritual sphere of humanity. It is that social institution, which has a significant impact on its development, penetrating into all spheres of human existence, occupying the important place in the life of any person, affecting his mind. Currently, the influence of religion is increasing the social relations of society. The problem of interaction of the state and religion is one of the most difficult in the Philosophy of law. In the history of any state the Church has always taken an active part in building of the state.

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It should be noted that the history of state-church relations in Russia was different: from the close cooperation to conflicts and mutual claims. The modern Russian state is the state in which a variety of factors influence the religiousness of the population.

The social regulators of the state development are religion and law. Religion is the traditional institution of the protection of moral principles of the society. The norms of law, as well as religious norms define the rules of human behaviour in society, what we can do and should do, what is forbidden to do and what penalty may be applied for violation of these rules. The main factor of the penetration of the norms of religion and the norms of law into society is to determine the type of interaction of the state and religion. The state is a powerful structure, which has the sovereign authority to decide the issues of social organization on the national scale, to define the relationship with the outside world [1]. The main elements of social order, enshrined by the Constitution, regulate the relationships between the citizen and the state, their mutual rights and obligations, the state's attitude to the public institutions and different phenomena, one of which is religion. Thus, Article 28 of the Constitution of Russian Federation says: "Everyone is guaranteed the freedom of conscience, freedom of religion, including the right to profess individually or in community with others any religion or not to profess any, to freely choose, to have and to disseminate religious and other beliefs and to act in accordance with them." Religion is an outlook and attitude, it defines the basic criteria of good and evil, religion creates value-world view, which is a holistic understanding of the origins and the meaning of existence of world and every person. Religion also forms the beliefs of many people, their views of themselves, their place in the world, their attitude to what is happening. It also gives spirituality to the public relations. Such influence of religion impacts on the state. The state and religion have always been linked; their interaction affects the society and contributes both to personal and public good. So, the necessity for thorough research of the interaction of religion and state, their features, is very important.

In addition, nowadays there is an increase in the heterogeneity of the confessional space. The confessional space of the country is gradually formed under the influence of such factors as political, economic, historical, ethnic, etc. The process of changing of confessional field leads to the deep research of Church-state relations. The peaceful coexistence of all religions is very important, it is impossible without confessional dialogue.

So the state should play a great role in the social control of this interaction. Freedom of conscience and religion is one of the fundamental human and civil rights. It should be noted that the implementation of this right in modern conditions has great importance because the social status of religion has significantly changed, the role of religion is increasing in society and the impact of religion on current social process is also increasing. Today, when there is a constant increase of public interest to religion as the most important social and cultural phenomenon, on the one hand, and the separation of religious associations from the state is declared, on the other hand, an active cooperation

of the state institutions with religious associations is taken place. The religious groups have the right for free realization of their activity in socio-cultural, merciful and charity, socio-political, economic and commercial spheres [2]. At all levels of government new forms of interaction and cooperation in various spheres of public life began to arise, the state organs are also working with religious associations. The relations between the state and religious groups are the complex of historically evolving and changing forms of interactions and relationships of the state institutions, including government and administration, public institutions and organizations, on the one hand, and religious associations (religious organizations, religious groups, governing or coordinating bodies of the spiritual educational institutions), as well as the institutions and enterprises of religious organizations on the other hand [3]. The problem of relations between the state and religion will always be urgent; the research of Church-state relations from the point of view of other sciences will get closer to solving this problem. The ideas of the place and the role of religion in society, the role of the state in relation with religion lay in the basis of such interaction. The research of state-confessional relations in terms of philosophical, sociological, historical and legal interpretation will reveal the nature of the relationship.

2. The philosophical and sociological approaches of the problem of the relations between religion and state

The problem of Church-state relations has been actively considered by Russian researchers from the middle of the XIX century. For example, the position of the Conservatives was determined by the principle of 'Autocracy, Orthodoxy, Nationality' - the basic foundations of the theory of official nationality. Autocracy was proclaimed as the most important factor that contributes to the stability of society; Orthodoxy was considered to be the spiritual foundation of society; nation is the unity of the Tzar and the people and it means the lack of grounds for social conflict [4]. Early M.A. Bakunin's philosophical reflections about the interaction of religion and the state are reflected in the treatise 'High-school speeches of Hegel. Translator's foreword'. The thought that the state was unthinkable without religion is firstly mentioned in this treatise. In whole, M.A. Bakunin was convinced that religion cannot be separated from the problems of socialization and policy, so that there is an inextricable link between the state and religion [5]. B.N. Chicherin in his philosophy assigns a special position to the Church, since religion is the moral support for the majority of citizens, it regulates their conscience, strengthens their morality. The need of religion gives the inner strength to resist various temptations of the life. Also, morality leads to the unity of people; each person is a member of a single moral world.

The representatives of radicalism (A.I. Herzen, N.P. Ogarev, A.I. Chernyshevsky) as the supporters of the secular state criticized the existing state-Church relations, they suggested to stop the interference of state in Church affairs, because they believed that the state used Church to implement its policy

and people's oppression. Russian philosopher I. Ilyin gives great importance to the perfect regulation of social relations. According to him, the law must coordinate with the demands of morality and be the preparatory stage and support, but morality must give the profound significance to law. The norms of morality are closely related with the religious norms. Moral norms, based on the voice of conscience, are defined by religious norms and by the fundamental laws of religion (commandments). Religious norms, being the expression of the God's will, do not cancel or change the norms of morality, but give them a special effect and complement them. In his work 'The fundamentals of the state structure. The Draft of the Basic Law of the Russian Empire' [6] Ilyin says, that the justice requires that the law should maintain equality and balance between people for the dignified existence. Legal norms should coordinate with morality and justice issued from religious norms. The state should take measures to establish and consolidate the respect for legal standards in legal consciousness of every individual. The state should focus on strengthening positive attitude of citizens to the legal consciousness as a guide to operate. The citizens should understand the need of laws for stability of the society.

On the other hand, the state should offer the laws aimed at the realization of the rights and freedoms of the citizen in society, those laws that will be consistent with the norms of morality and justice that will cause in society the desire to act in accordance with them [7]. Law governing requires the state's recognition of the law priority; it is responsible for failure to fulfil obligations. And since the majority of the population confesses a particular religion, adhering to the rules dictated by this religion, the registration of religious norms can be very effective to eliminate gaps of legislation. Thus, the relations of the state and religion are reduced to the fact that the laws issued by the state should be based on the norms of morality and justice having been emanated from religion. This condition is the key to a dignified existence of citizens and the stability of society.

Modern philosophical vision of religion defines it as social institution, which aims at the formation of the main landmark life of a believer. Today religion plays the spiritual and creative function, where morality is the moral core of social development. It is fundamentally important for the execution of this function the interaction of religion and the state. The creative function of religion is not possible in the case of the subordination of religion to the state, the transformation it into an appendage of state, the loss of the status of the highest moral principles, and vice versa, the absorption of the state by religion, thus religion gets official status, and the state does not guaranteed the freedom of religion. Thus, from the philosophical point of view the essence of Church-state relations has its roots in religious norms containing moral foundations of society, its spirituality, which have an influence on morality. The state, which is aimed at the organization of human activity, creation of favourable conditions for the life and development its citizens, it must manage social processes, making laws based on moral standards.

The need to study the sociological approach of the issue of the interaction of the state and religion is caused by the great role of religion at this moment, their features of functioning of religion in Russian society. The sociological approach allows us to consider the interaction of the state and the Church as a social and cultural phenomenon. In its integrity and completeness we can distinguish an axiological aspect (values, cultural norms), institutional-organizational (the implementation of the mechanism, mainly through social institutions, government, Church and secular organizations or by individuals) and social and practical aspects [8]. Thus, we can conclude that religion contains a spirituality which is directed to a person, so it has the social aspect. Thereby religion performs the function of social integration aimed at social structures and cultural aspects [9].

3. Historical and legal approach of the problem of relations between religion and state

M.O. Shakhova defines the relations between the state and religion as “the complex of the historically evolving and changing forms of linkages and relationships of state institutions, on the one hand, and institutional formations - confessions (religious communities, spiritual and administrative centres, religious institutions) on the other hand. In the basis of this relationship legislatively fixed ideas about the role of religion and religious groups in society, their functions, on the scope and competence of all data subjects’ relations are laid.” [10] Historical and legal approach reveals the state policy towards religion. The whole history of the Russian state is confirmed by the fact that religion had a great influence on the affairs of the state and, on the contrary, the state influenced the religion. The government has introduced Christianity to strengthen the Grand ‘s power. Christianity was adopted in Russia in 988, thus the interaction of Church and the state was aimed at strengthening the centralized power of the Grand. The combination of the dominant role of the Grand’s power in the Church dispensation was replaced by a voluntary self-limitation of power in favour of the Church [11]. The development of law had led to the search for new approaches to the legal regulation of state-Church relations.

The reforms of Peter the Great opened a new period in the history of the Russian state, as well as in the interaction of the state and religion - the period of desecration of the Tzar as the messenger of God. Peter the Great led a hard-line policy against the Church, making it as the part of the bureaucratic system of absolute monarchy. During this period, the Church obeyed the State, the confirmation of it was the establishment of the Holy Synod, and also the edition ‘The rules or statute spiritual board’, which defined the legal status of the Orthodox Church in Russia. This document permeated the idea of impossibility and even the inadmissibility of any spiritual authority except the public authorities. The law ‘Spiritual regulations’ being passed by Peter the Great in 1721 stated new form of the state-religious interaction. Thus a new basis for

interaction of the state and religion was created: 1) the emperor had become the source of the highest power in the Orthodox Church, the authority of the Church was derivative from the state power; 2) the emperor exercised his authority in the Church under the state legislation; 3) The Holy Synod became an organ of administrative power of the emperor; 4) the Church organization became the part of the state apparatus, his Office. So the state power of the monarch was placed over the Church [12]. Legal regulation of interaction of the state and religion was necessary not only to determine the legal status of the Church and also of its property. The Church had lost manorial rights in the process of secularization of Church lands. Peter the Great consistently sought to transform the Church into a part of government, the task of which was only to influence people. Religious policy of Peter the Great stimulated the process of religious self-determination of Russian society, so the crisis of the Church mind lead to the necessary consequence such as the increase of the religiosity.

The issues of expansion of the state, of joining the non-Christian peoples were also important for the Russian state in the XVII century. The principles of state-Church policy in the XVIII century towards the incorporated nations to the state can be seen on the example of the christening of the Buryat nation (the Buryats are the nation traditionally living in the East Siberia). The Irkutsk diocese, which had been opened in the XVII century, actively spread Orthodoxy among the Buryats. During this period, the christening of the Buryats was voluntary. The first Buryats who adopted Christianity were predominantly poor, so they christened and they received benefits from the payment of tribute for christening. These measures were taken in order to create from the baptized peoples the reliable social support in their public administration.

The February Revolution of 1917 introduced this issue in line with the freedom of conscience. The Provisional Government issued a decree 'On freedom of conscience', according to which "every citizen of the Russian government is ensured freedom of conscience" (Collection of Laws and Government orders issued under the Government of the Senate, 1099, article 1950). The Ministry of confessions was established, which controlled the observance of religious denominations legislation, as well as it assisted them. Considering the interaction of religion and the Soviet state, as well as the interaction of religion and the Communist Party, the founders of scientific communism put forward the idea to separate the Church from state; religion should be a private matter. The party's program, adopted in 1919, consolidated the position to seek to the liberation of the working people from religious prejudices, to organize scientific and educational work and anti-religious propaganda, trying not to offend the feelings of believers. These relationships were reflected in Soviet legislation. From the beginning Soviet socialist legislation undermined the social roots of religion.

The decrees of the Soviet government cancelled all national and religious privileges and restrictions, the soviet decrees removed the functions of registration and dissolution of marriage from the Church, the questions of upbringing and education, and they eliminated the property right of the Church

on the means of production. The Decree of the Council of People's Commissars of the RSFSR 'On the separation of Church and state and school from Church' was signed in 1918. It stated that every citizen could profess any religion or no religion, and at the same time the citizens were not deprived of all kinds of rights in connection with religion or no religion. The Soviet legislation never provided any responsibility for the views and beliefs, including religious, any activities related to religious needs. The contents of the Lenin's decree about freedom of conscience became the constitutional principles of the Soviet country. The Constitution gave political rights to all workers regardless of their attitude to religion and belief. Thus, according to the Article 39 of the Constitution of the USSR citizens, USSR had full socio-economic, political and personal rights and freedoms, proclaimed and guaranteed by the Constitution and Soviet laws.

The political culture of the Soviet society began its formation in the conditions of sufficient confrontation with religious groups which disapproved the October Revolution. In this regard, religious denominations which were in alliance with the Provisional Government were perceived as counter-revolutionary forces. In addition, the Soviet state was created on the basis of one-party political system (March 1918), when all the other parties (non-Bolshevik) were declared as 'enemies of the people' and were repressed. The II All-Russian Congress of Soviets of October 26, 1917 adopted the Decree on Land, which proclaimed the nationalization of all land in the country, and the Church and monastery lands were also nationalized. A wave of mass demonstrations of the faithful and the clergy against the decree of the Church separation from the state, swept across the country and it was particularly strong in the winter-spring of 1918. The civil war affected the nature of the Soviet laws. According to the article 65 of the Constitution of the RSFSR in 1918 the clergy was deprived the right to vote [13]. In Soviet Russia in 20-30th years the struggle with religion changed the Article 4 of the Constitution of the RSFSR, especially freedom of religious propaganda was replaced by freedom of religious confessions. The fundamentals of Soviet legislation on religious denominations which were specified by the decree of January 20, 1918 'On the separation of Church and state and school from Church', were fleshed out in a number of legal acts, the most significant of which was the decision of the Central Executive Committee and Council of People's Commissars of the RSFSR, 1929 'About Religious Associations'. The paragraph 3 of the Decree provided that "religious society is a local association of believers who have reached the age of 18, the same cult, religion, direction or sense, in an amount not less than 20 persons united to jointly meet their religious needs" (Decree of the Central Executive Committee, SPC of RSFSR, 1929), all religious groups had to register as a religious community or faith groups, the procedure of registration of rights and duties of religious associations was also defined.

The freedom of conscience was also guaranteed by the administrative legislation, family and civil legislation. For example, the norms of administrative law guarded the rights of Soviet citizens and religious associations which were related to the realization of freedom of conscience and established the

administrative responsibility for violation of legislation on religious cults. The Family Law stipulated that the church marriage and the agreement of parents on children's religious affiliation did not entail legal consequences. The Civil Law enshrined the fundamental stating that religion had no effect on the volume of civil capacity. In the Soviet state religion was not a source of law. Any branch of law did not reproduce the religious norms and authorize their use outside the Church. Legal consciousness and norms were not affected by the religious ideology, religion did not influence the law-making process, therefore, the ratio of legal and religious system could not be regarded as interaction in the Soviet state, it was most like a unilateral impact of law to religion.

The next stage of the state-Church relations is characterized by including the religious organizations in the process of democratic reforms, which are closely connected with democratization of society, with renouncement of monopolistic ideology and beginning of the formation of constitutional state. According to the adopted amendments to the Constitution and the Law on Elections of People's Deputies of December 1, 1988, the right of citizens to elect and to be elected, regardless of their attitude to religion was underlined. Article 39 of the Act says that any member of public organization including religious leaders may be nominated to the candidate for people's deputies (The Act on Elections of People's Deputies, 1988). At the April Plenum of the Central Committee of the CPSU in 1985, strong and precise execution of the constitutional provisions on freedom of conscience and religion was adopted, and it was denoted in registration of religious denominations, in the resolution to Church communities to build and acquire necessary buildings, in reopening of closed churches, etc. Thus, the state had asked the Church to overcome the ideological crisis.

Nowadays Russia has the legal framework governing the state-Church relations. According to the Article 28 of the Russian Constitution every citizen of the Russian Federation has freedom of conscience, freedom of religion, the right to profess any religion or no religion at all. Every Russian citizen has the right to freely choose, possess and disseminate religious and live in accordance with them (Constitution of the Russian Federation, 1993). Federal Act of September 26, 1997, N 125-FA 'On Freedom of Conscience and Religious Associations', Article 1 states: "This Federal Act regulates legal relations in the field of human and civil rights of freedom of conscience and freedom of religion, as well as the legal status of religious communities, including the characteristics of their civil and legal status". The adoption of this act was a key in determining the Russian legislation on freedom of conscience and religious associations, which in its basic valuable orientations was in line with European standards and we could say that this act reflected the actual state of society. Its adoption has great importance: religious organizations are represented in civil society; the state publicly acknowledges its open attitude to religious organizations. The need for the religious communities' existence is due to the fact that they are conditions of social stability by acting on it through cultural, ethnic and other social spheres.

In particular, the act firstly introduced the concept of a religious group, paragraph 1 of Article 7 stated: “The religious groups in this Federal Act is a voluntary association of individuals formed for the profession and dissemination of faith”. The religious group may function without state registration and acquisition of legal personality. Also part 8, Article 11 of the Federal Act provides the possibility of the state religious expertise. The expertise is conducted by the decision of the registration authority; the subject of it is the recognition of the organization as a religious one and validation of information of its beliefs and practice. The examination tasks include the definition of registered religious organizations on the basis of information on the basic beliefs and the corresponding practices; inspection and assessment of the reliability of these data, which are presented in the materials of a religious organization. Today, holding religious examination is complicated by such facts as the court does not always understand the religious terms and, therefore, it cannot objectively evaluate the activity of religious organizations.

However, there were some problems, according to paragraph 3, article 27 of the Act “Religious organizations that do not have a document confirming their existence in the relevant territory for at least fifteen years, use the rights of legal entity for annual re-registration until a specified period of fifteen years will come”. Thus the constitutional rights of citizens related to such religious organizations are violated. According to the Federal Act of July 13, 2015, № 261-FA ‘On Amending the Federal Act In Freedom of Conscience and Religious Associations’ (Federal Act 2015) new religious organizations will only need to notify in written form to the territorial executive authority of its creation for the state registration, and it is undoubtedly a positive moment. However, the act has established some restrictions, namely “Local religious organizations, which are not part of central religious organization of the same denomination, have not any rights during ten years from the date of state registration, provided by paragraph 3 (in spite of the right to establish educational institutions implementing additional educational programs for adult citizens) and by paragraph 4 of article 5, paragraph 5 of article 13, paragraph 3 of article 16, paragraph 2 of article 18 (in relation to the media), paragraph 2 of article 20 of the Act, and they are not entitled to act as founders of centralized religious organization”. In addition, there are other positive changes of modern legislation on freedom of conscience and religion, which will be the subject of our future research. Thus, the historical and legal approach made it possible to consider the state-Church relations in their progressive movement, identify the steps and features of these relations in various stages of development of the state. The dominant ideology in the state regulated state-Church relations, the ideology itself was in direct dependence to the role of religion in society.

4. Conclusions

The problem of interaction of state and religion is certainly important, as state-Church relations have a major impact on all spheres of society and thereby

they affect the stability of the society. To study this problem, we consider a variety of approaches: philosophical, sociological, historical and legal. Philosophical understanding of interaction of state and religion is in understanding of religion as a system-forming factor of state existence; nation without religion creates new ideology. It is religion which generates moral conviction, which should be used by the state in deciding the public affairs. Religious norms strengthen the norms of morality and justice; they are fixed in norms of law, in acts, so acts are sequel of religious norms, which determine a positive attitude to the law as the obligatory rule, their willingness to act in accordance with them. At present, religion is a social institution, it carries a spiritual function, forms the morality that lies in the basis of the state. Today, the democratic reforms in Russia are continuing and deepening, the general mood in Russian society is developing in the direction of tolerance for different religious beliefs, thereby religion begins to take an adequate place in civil society and in mind of those people who will choose religion as spiritual foundation [14].

Thus, the philosophical, sociological, historical and legal approaches of the study of the problem of relations of the state and religion have led us to understanding of religion as a spiritual foundation of society.

Acknowledgement

This article was written as part of the grant ‘Young scientists of the East Siberian State University of Technology and Management’. The authors would like to thank the rector of VSGUTU, Professor Vladimir E. Saktov, and the Vice-rector of science, Professor Igor G. Sizov.

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