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Historical Sciences

LEGAL BASICS OF STATUS OF THE ORTHODOX CHURCH IN RUSSIA

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Abstract:

The article is devoted to the history of relations between the state and the Church. In the history of the Church there are many dramatic pages: rivalry and open confrontation, the desire of the Church authorities to subdue the state power and the struggle of the state for a way out of the influence and control of the Church. Special attention is paid to the relations of secular and Church authorities, which permeate the history of many States. These relations served as the basis for the development of various philosophical theories, changes in social ideas about the functions of religious ideology. In recent years, the influence of the Church and religious norms and values on the life of society in post-socialist States has increased markedly.

This is to some extent due to a significant change in living conditions and approach to religion as the most important unifying force and factor of spiritual and moral revival of Russia. It is shown that today in Russia there is a consolidation of religious denominations and freedom of religion is the highest value.

Keywords: Law, history, church, canon, society.

I. INTRODUCTION

A sharp increase in interest in religion is a very characteristic feature of the spiritual life of Russia in the last decade. It should be noted that in many countries of the world the approaching end of the Millennium is associated with apocalyptic prophecies about the "End of the world", and especially because of the deepening problems of ecological, demographic and other planetary nature, threatening all life on Earth. In Russia, the common concern about future catastrophes was combined with the specific negative phenomenon of a prolonged social crisis, which seemed to be predicted by religion.

Interest in religion in Russian society is growing for other reasons. This is natural and understandable for millions of citizens who have recently converted to faith in God, and yesterday were still far from religion and knew little about its history, dogmas and cults. But most believers are now in dire need of objective knowledge of religion after more than half a century of anti-religious propaganda.

II. METHODOLOGY

The methodological basis of the article is general scientific methods (analysis, synthesis, abstraction and concretization), as well as private scientific methods (formal legal, comparative historical, comparative legal, problem chronological), which made it possible to identify the patterns and characteristics of the legal status of the Russian Orthodox Church in Russia.

These research methods were applied with due regard for the principles of historicism, systemic nature and complexity.

III. DISCUSSION

The topic continues to be considered by Russian and foreign scientists. Article 14 of the Constitution States that " the Russian Federation is a secular state. No religion may be recognized as state or compulsory. Religious associations are separated from the state and equal before the law"- in fact, the Orthodox Church of the Moscow Patriarchate occupies a high position among religious communities. Documents on cooperation and mutual assistance with the ministries of education have been signed.

It follows that religious associations are not equal, but on the contrary. Their legal status is different, since the exercise of rights and obligations by religious associations depends directly on the social significance and influence of religious associations. But the largest religious organization in Russia is the Russian Orthodox Church, which accounts for about 60% of registered religious associations - 926 monasteries, 38 educational institutions, 136 brotherhoods and sisterhoods, 5 missions.

Even in the preamble of the Federal law "on freedom of conscience and religious associations" it is said: "the Federal Assembly of the Russian Federation, recognizing the special role of Orthodoxy in the history of Russia, in the formation and development of its spirituality and culture, re-specting Christianity, Islam, Buddhism, Judaism and other religions, which are an integral part of the historical heritage of the peoples of Russia, adopts this Federal law."

But why the Orthodox Church in the first place, and other religions simply "respect"? Indeed, the preamble to the Constitution of the Russian Federation States that the people of the Russian Federation are multi-ethnic and therefore many religions are professed. The decree of the RSFSR " on the separation of Church from state and school from Church " of 1918 consolidated the right to profess any religion or not to profess any. We are imposed one religion that is contrary to the Constitution of the Russian Federation and the RSFSR resolution.

E. Shostrom in his book "anti-Carnegie, or manipulative man"argues that the modern man is a manipulator, regardless of his social status. Highlighting a special place in the Orthodox Church, we are simply manipulating. This is to ensure that the Russian Orthodox Church expands and slowly "evicts" all other religions. But legally or not, no one cares because this affects ordinary people who do not care about some specifications.

It can be assumed that if such a policy of the state continues, the Russian Orthodox Church will become not just recognized, but the state Church with the right to resolve issues that have nothing to do with religion.

Then Archpriest Vladislav Tsypin in his work: "the legal status of the ROC in the modern Russian state" he defined the status of The Russian Orthodox Church in accordance with the Constitution of the Russian Federation and the Federal law "on freedom of conscience and religious associations", and to choose those provisions that do not contradict the views of the Church. For example, having studied para-graph 2 of article 4 of the Law, the Archpriest noted that "the separation of religious associations from the state does not entail any restrictions on members of such associations in civil and political rights, including the right to participate in the management of state Affairs".

"The law prohibits the establishment of religious associations in state bodies, state institutions, local self-government bodies, military units, as well as in state and municipal organizations. From the point of view of basic constitutional human and civil rights, the inclusion of military units in the list is problematic, because, firstly, a significant part of the military personnel who are in military units on a voluntary basis and on conscription, and secondly, the sensitive nature of military units can prevent a soldier from participating in worship outside the unit.

This provision of the law is contrary to the article 2 of the Constitution, according to which "man, his rights and freedoms are the highest value", articles 28 and 17, containing the provision that "in the Russian Federation are recognized and guaranteed the rights and freedoms of man and citizen in accordance with universally recognized principles and norms of international law", since article 18 of the "universal Declaration of human rights", adopted by the UN General Assembly States: "Everyone has the right to freedom of thought, conscience and religion, this includes freedom to change one's religion or belief and freedom to manifest one's religion or belief, either alone or in community with others, in public or private, in teaching, worship and in the performance of religious and ritual orders." Thus, the freedom of conscience guaranteed by article 28 of the Constitution in the light of the 'universal Declaration' includes the prohibition to place a person in such conditions that he will be restricted in the right to participate in religious rites prescribed by the religion to which he belongs."

One can not disagree with all this, but it should be remembered that the Constitution of the Russian Federation also contains paragraph 3 of article 55, which States that "the rights and freedoms of man and citizen may be limited by Federal law to the extent necessary to protect the foundations of the constitutional system, morality, health, rights and legitimate interests of others, national defense and state security."

V. Tsybin also argues that the legislative experience of Germany in the field of establishing the legal status of religious communities, when the Catholic, Evangelical and some other Churches have the status of public corporations, and other religious communities from the state are completely separated and considered as private corporations, can be instructive for the Russian legislator.

In other words, some religious associations are not completely separate from the state and have significant privileges in comparison with other religious associations. That is why German scholars and theologians call the German model of Church-state relations a partial or "limping" division of Church and state.

But hegumen John sees a positive experience of creating Orthodox groups in public charitable societies. And such facts are not isolated. The creation of "Orthodox" children's groups, classes in secular educational institutions and military units of the army threatens to split society and state institutions on religious grounds. This is especially clear to representatives of other faiths.

Thus, The Chairman of the Council of Muftis of Russia believes that "it is impossible in a multinational state to divide the army into regiments by religion. If today creates the Christian shelves, so, in furound you will need to create the Muslim, Buddhist and Jewish shelves. If we have one Fatherland, we must defend it together."

It should be noted that Patriarch Alexy II of Moscow and all Russia in his letter to the diocesan bishops recommended that if attempts to persuade school principals and teachers to introduce teaching of the Foundations of the Orthodox faith are unsuccessful, such a course should be called the foundations of Orthodox culture.

But in some schools introduced teaching "Fundamentals of Orthodox culture. In these examples, the initiative to introduce the doctrine of Orthodox culture comes from both the authorities and the students themselves, which corresponds to the Law "on freedom of conscience and religious associations".

IV. RESULTS

The relationship between religion and politics is obvious. Religion has never been reduced only to faith in God and in the afterlife, to the performance of religious rites. It was social teachings that allowed monotheistic religions to seize the masses and thereby influence the distribution of forces in society. Religion in its own way explains the real world and regulates not real, but imaginary relations between people. Without religious interpretation of purely earthly relations between people, religion would not be able to perform complex social functions, including integrating, would lose its attractiveness, would cease to exist.

The very causes of the emergence of new religious movements, as a rule, were of a socio-political nature. Such movements appeared in response to the pressing needs of public life. In fact, each newly emerged religious sect acts as a socio-political unit, and the system of its views is a new socio-political doctrine that appears in a religious form.

This is essentially the history of the emergence of Christianity, Islam, Buddhism, and other religions. The relationship between the church and the state is largely determined by the level of socio-economic development of the country, the historical traditions prevailing in society. Perhaps several models of such relationships.

In a democratic state, the equality of all religions and churches, freedom of conscience and religion are usually recognized at the constitutional level and in everyday practice. Under these conditions, the church is separated from the state, and the school is from the church, discrimination on religious grounds is prohibited, there are no privileges related to the confession of a particular religion, the church is the guardian of the cultural, historical and moral traditions of the people.

On this basis, it should be noted that The Russian Orthodox Church has a special legal status in the modern Russian state. It is clearly indicated in the preamble of the Federal law "on freedom of conscience and religious associations", "the Federal Assembly of the Russian Federation, recognizing the special role of Orthodoxy in the history of Russia, in the formation and development of its spirituality and culture, respecting Christianity, Islam, Buddhism, Judaism and other religions that are an integral part of the historical heritage of the peoples of Russia, adopts this Federal law."

Also, the status of the ROC is determined by a number of provisions of the Basic law - the Constitution of the Russian Federation. Indirectly, the role of the Orthodox Church is already touched upon in the preamble of the Basic law, which expresses the idea that the "multinational people of the Russian Federation" adopts the Constitution, "honoring the memory of ancestors" and "reviving the sovereign statehood of Russia", thereby declaring the continuity of the new Russia in relation to the Russia in which the Orthodox Church, as is known, enjoyed an exceptionally high status.

V. CONCLUSION

The history of the relationship between the Church and the state is not simple and full of clashes. The main feature of religion is belief in the supernatural, in miracle and worship of it. Religious followers are called believers. The unknowability of God and a number of dogmas, such as, for example, the "Holy Trinity", are recognized. However, the deep mysteries of life are proclaimed unknowable.

The state proceeds from the recognition of the knowability of the world and all its phenomena. It is identified with knowledge based on reliable, true information about nature, society, man and his thinking. The state reduces all unknown, supernatural, miraculous to science-based. From this position, a miracle is a product of blind faith. Scientists often repeat the statement of D. Diderot: "The more they believe, the more miracles". Religious faith is based on feeling, on intuition, scientific activity - on rationality, on the rules of logic: establishing reliable facts, searching for information, finding out the real, natural conditions and causes of the next riddle of nature.

Religious experience is acquired by prayers and other religious experiences. The differences and contradictions between religion and the state are even more sharp in the history of their relationship. Of course, they did not compete on the field of knowledge - religion does not study the world, it explains and develops it, relying on beliefs.

The clashes between the Church and the state were due to the fact that the discovery of the latter violated the picture of the world that had been formed from pre-scientific times on the basis of beliefs and "holy books". At present, the traditional religious force of society is traditional religions. A voice in defense of the family, moral values, and national interests of the country is heard by Orthodoxy. Maintaining stability in the Russian Federation is, in many respects, the merit of traditional religions. The goal of the state in relations with religious organizations is not only lasting inter-religious peace and harmony, not only the preservation of the historically established spiritual identity, national spiritual traditions.

The principle of separation of church and state does not mean that the state should refuse to take into account the positive heritage and experience of traditional religions, and even more so this principle does not imply that the state has no right to cooperate with them in solving social problems. The state, remaining secular, can cooperate with the Church. This is not contrary to the principle of mutual non-interference in each other's affairs.

In those states where one of the religions is declared state, other religions may exist, but their status is more limited compared to the official church. For example, the Government Memorandum of 1918 in the territory of the British colonies allowed the activities of missionary organizations of the Catholic Church, with the status of "recognized societies", i.e. societies whose activities have been certified by the Westminster Archbishop. In Russia, Islam was a "tolerant" religion. The spiritual affairs of the Muslims were assigned to the Ministry of the Interior. Persons of non-Orthodox religion were officially called Gentiles. The transition from Orthodoxy to any other religion was allowed only in exceptional cases. According to the Criminal Code of 1903, "seduction" into the non-Christian faith was subject to criminal penalties of up to three years in prison. The transition to Orthodoxy, on the contrary, was not surrounded by any obstacles and was even welcomed. In some countries, the formal equality of all churches has been established, which is a sign of a democratic society (Ireland, Argentina), since tolerance towards other religions is consolidated. However, this equality is not always respected in practice. In particular, in Italy the government and the Vatican signed a concordat, abolishing the position of the Catholic religion as the only state religion in Italy, the positions of Catholicism are nonetheless very strong.

The future of our country is largely determined and will be determined by its role and place in our life, the Church, which is the religion of the majority and the support of Russian statehood. Therefore, the status of the Russian Orthodox Church should not only be taken into account in the political and cultural life of the country, but also be fully reflected in federal laws.

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