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The phenomenon of “Soviet atheism” and its consequences or the family law of Ukraine

Zjawisko „sowieckiego ateizmu” i jego konsekwencje dla prawa rodzinnego Ukrainy

Key words: “Soviet atheism”, state, law, family law, marriage, divorce.
Słowa kluczowe: „sowiecki ateizm”, państwo, prawo, prawo rodzinne, małżeństwo, rozwód

Abstract

The article examines the concept and features of the phenomenon of “Soviet atheism” and its impact on the formation of family law in Ukraine. The impact of “Soviet atheism” on religious rules, statistics of religious beliefs in various historical periods were analyzed. The influence of “Soviet atheism” on the development of family law in the Ukrainian Soviet Socialist Republic (Ukrainian SSR) and its consequences for marriage and family relations were thoroughly analyzed. The peculiarities of reforming family law in independent Ukraine in order to de-Sovietize it were clarified. It was established that since independence, Ukraine has been clearing its legislation of Soviet influence. At the same time, the phenomenon of “Soviet atheism” has left its mark on the new Family Code of Ukraine. If so, the authors argue that when family law changes, it is necessary to establish values that are based on religion and have existed in Ukraine for centuries.

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Streszczenie

Artykuł analizuje pojęcie i cechy zjawiska „sowieckiego ateizmu” oraz jego wpływ na kształtowanie się prawa rodzinnego w Ukrainie. Przeanalizowano wpływ „sowieckiego ateizmu” na reguły religijne, a także statystyki wierzeń religijnych w różnych okresach historycznych. Dogłębnie przeanalizowano wpływ „sowieckiego ateizmu” na rozwój prawa rodzinnego w Ukraińskiej Socjalistycznej Republice Radzieckiej (Ukraińskiej SRR) oraz jego konsekwencje dla stosunków małżeńskich i rodzinnych. Wyjaśniono specyfikę reformy prawa rodzinnego w niepodległej Ukrainie w celu jego desowietyzacji. Ustalono, że od uzyskania niepodległości Ukraina oczyszcza swoje ustawodawstwo z wpływów sowieckich. Jednocześnie zjawisko „sowieckiego ateizmu” odcisnęło swoje piętno na nowym Kodeksie rodzinnym Ukrainy. Jeśli tak, autorzy argumentują, że przy zmianie prawa rodzinnego konieczne jest ustanowienie wartości opartych na religii, które istnieją na Ukrainie od wieków.

1. Introduction

The phenomenon of “Soviet atheism” and its impact on the modern values, understanding of the law, legal and political system of post-socialist states is an insufficiently researched subject. Scholarly efforts have related only to a selection of the historical facts of its application and enforcement. This, therefore, determines the need for more in-depth studies of the phenomenon of “Soviet atheism” and its impact on the values of modern Ukrainian society. Among the traditional values in Ukraine there have always been those such as the family, marriage, the importance of marriage and the stability of marital relations, the birth and upbringing of children in a family with two parents, the priority of maintaining of marriage over its dissolution. The state policy of “Soviet atheism” significantly influenced the formation and further development of the system of family law of the Soviet Union, the Ukrainian Soviet Socialist Republic and later left its “imprints” on the family law of modern Ukraine. Family law itself was always the focus of Soviet rule and was one of the priorities for regulation in order to oust religion from human life.

The peculiarities of the phenomenon of "Soviet atheism" and its influence on the formation of family law in Ukraine are examined in this article. At the same time, the authors conducted a comparative analysis and drew conclusions about the influence of "Soviet atheism" on the formation of family law in the Ukrainian Soviet Socialist Republic and in independent Ukraine.

2. The essence of the phenomenon of "Soviet atheism" and its influence on modern religious views of Ukrainians

At the beginning of the twentieth century in Ukraine, religion was part of everyone's life. Traditionally, a large part of the population professed Orthodoxy, and in Western Ukraine also Catholicism. According to statistics, in 1914 there were 9,071 churches in the Ukrainian territories that were part of the Russian Empire, mostly in Podolsk (1188) and Poltava (1,287) provinces, where 10,565 priests and 1,832 deacons served (Babenko 2017). In addition, the sphere of family relations was regulated mainly by customary and religious norms. There was only a partial regulation of family relations by formal laws, which mostly repeated the canon law or established its direct effect. The legislation accepted the church rite of marriage (Ozel' 2017, 66). Professor O. Pavlov noted that the entire institution of the current Orthodox marriage law is the joint product of the church and the state (Pavlov 1901, 605). However, a few years later, the situation changed significantly due to Soviet policies based on the introduction of atheism and neglect of the rights of believers.

What is the phenomenon of "Soviet atheism", and did it influence the modern religious views of Ukrainians? Atheism is a normal phenomenon for any state on the condition that freedom of religion is guaranteed. At present, many states are quite secularized, but they are by no means hostile to religious views. The difference between "Soviet atheism" is the attempt to eradicate religion from human life by any means (Hurzhy 2017, 84). It was also compared to "militant atheism",

and N. Berdyaev noted that anti-religious propaganda was the primary task of Soviet philosophy (Berdiâev 1932, 32).

The Soviet policy of enforcing atheism was particularly aggressive in the 1920s and 1930s, making use of various means (administrative, forceful, repressive, propaganda, coercive, etc.). Religion was widely proclaimed to be the cause of most social problems. Atheism in the Soviet Union was seen as freeing people from superstitions, mistakes, and as the only correct system of views.

At the heart of “Soviet atheism”, were Marx’s views and assessments of religion as “opium for the people”, the struggle against which was recognized as socially oriented. In the Soviet Union people were not judged politically according to knowledge of Marxist doctrine, but according to fidelity to the state; they were not condemned because of anti-Marxism, but because of anti-Sovietism (Bercken 1985, 269). Lenin justified the importance of “radical atheism”. According to him, state policy should be based on “the broadest scientific, educational and anti-religious propaganda”, while initiating persecution of the clergy for supporting the monarchy, holding funeral services for the executed royal family, etc. (Babenko 2017). Beemans Pierre J. writes:

Most of the revolutionaries drew their attitudes towards religion primarily from the vehement anti-clericalism of Russian tradition, not from historical materialism of Engels and Lenin, and so their methods tended to be far more direct. Finally, the country was in such chaos that no effective programme of mass propaganda or atheistic studies could be set up (Beemans 1967, 234).

The Soviet authorities tried not just to destroy religion, but also to replace it so that a semantic vacuum would not form in people’s minds (Hurzhy 2017, 86).

The term “scientific atheism” was established during the Soviet period which was seen as the assertion of scientific views on nature, the universe and the place of man in society. Ukrainian scholars today still discuss what the concept of “scientific atheism” means and its scientific

dimension and impact on society (Kysel'ov 2018, 110-112).

Panich O. believes that:

Scientific atheism should be understood as a phenomenon of Soviet culture that had political, scientific and practical dimensions. The political dimension consisted of resolutions of the Communist Party of Soviet Union and decisions of local party bodies in the field of atheistic work, which directed the activities of the centers of scientific atheism, formulated the goals of atheistic propaganda... The scientific dimension was oriented on the study of religion for the purpose of its "scientific critique", the use of applied religious studies, the justifying of the philosophy of scientific atheism as a worldview paradigm. The practical dimension of scientific atheism embraced education and propaganda in order to spread anti-religious views, atheistic education (Panyč 2015, 24).

The phenomenon of "Soviet atheism" had its own characteristics, namely:

1. To maintain the separation of state and church with the use of legal norms, significantly limiting the rights of religious organizations. The first document worth mentioning is the "Decree on Land" of November 8, 1917, according to which the church lands were transferred to "township land committees and county councils of peasant deputies for the Constituent Assembly" at whose disposal the land was to be („Dekret o zemle..." n.d.). Thus, church lands were subject to confiscation. On January 23, 1918, a decree was passed separating the church from the state and the school from the church („Dekret ob otdelenii cerkvi ot gosudarstva i školy ot cerkvi" n.d.). On the one hand, this act introduced freedom of religion, as it prohibited the restriction of freedom of conscience or the granting of any privileges on the basis of religion (paragraph 2), established the right to profess any religion or not to profess any (paragraph 3), on the other hand regarding performance at work, citizens were prohibited from evading their duties for religious reasons (paragraph 6) (Bilash, Mendzhul 2020, 5-6). In total, from 1918 to 1924, more

than 120 normative and legislative acts were issued concerning the church in one way or another (Lagoda n.d.). On June 30, 1928, the Central Committee of the Communist Party issued a resolution “On the Religious Movement and Anti-Religious Propaganda”, which emphasized the need to intensify the offensive against religion. However, the system of anti-religious legislation in Ukraine was finally formed after the entry into force of the Resolution of the All-Ukrainian Central Executive Committee and the Soviet of People’s Commissars of the Russian Soviet Federative Socialist Republic dated April 8, 1929, “On Religious Associations” (Ševčuk 2015, 106). The policy of officially recognizing freedom of religion continued, while restricting the activities of religious organizations and persecuting clergy. The Constitution of the Ukrainian SSR of 1929 established that the church was separate from the state, the school from the church, and the freedom of religious “confessions and anti-religious propaganda” was recognized for all citizens („Konstytyciâ (osnovnyj zakon) Ukraïns’koï socialistyčnoï radiâns’koï respubliky” 1929). The Constitution of the Ukrainian SSR of 1978 in Art. 50 guaranteed citizens freedom of conscience, i.e., the right to profess any religion or not to profess any. However, the real changes in the legislation aimed at the actual establishment of freedom of religion are associated with the adoption in 1990 of the Ukrainian SSR Law “On Freedom of Conscience and Religious Organizations” („Zakon SRSR Pro svobodu sovìstì ì relihìni orhanizacii vid 1 žovtniâ 1990 r.” n.d.). One can agree with O. Kyselyov that the change in attitudes toward religion was not so much a logical development of scientific atheism as the result of a change in ideological policy as a whole (Kysel’ov 2017, 96).

2. Mass closure of churches and religious organizations, destruction of religious property and persecution of clergy.

Churches were closed in Ukraine: 1924-1925 – 46; 1926 – 28; 1927 – 58; 1928 – 97; 1929 – 136; 1930 – 234. The state carried out the most serious actions against the Roman Catholic Church during the Famine (Holodomor) of 1932-1933 (Hanzulenko 2014, 66). The active closure of churches also took place in 1933-1934. As a result, at the end of 1936, only 9% of those churches that had existed before the revolution operated in Ukraine (Bunyak 2015, 72-74). The closure of churches was accompanied by the opening of museums, houses of culture, libraries, etc. in their premises. For example, in 1929 a monastery was liquidated on the territory of the Kiev-Pechersk Lavra, and a town museum was established which played an active role in promoting anti-religious propaganda (Marčenko 2020, 480). In addition, icons, religious books and other religious property were burned. In 1937 alone, 3,970 people were repressed in Ukraine on charges of “church and sectarian counterrevolution” (Nikol’s’kyj 2001, 84). Experts note that Protestants were particularly persecuted (Dovbniâ 2018, 7-8), including evangelical Baptists (Panyč 2011, 123-124). In the 1930s, repression against the clergy intensified. According to the archives of the Security Service of Ukraine, from June 2, 1937, to January 15, 1938 alone, 8,246 “churchmen” were arrested. Unfortunately, there are no generalized statistics on the number of clergymen repressed in Ukraine. The following prominent church figures disappeared in the Soviet camps: Archbishop Pakhomiy (Kedrov) of Chernihiv, Bishop Damaskin of Nizhyn (Tsedryk), Bishop Vasyl of Pryluky (Zelentsov), Archimandrite Heorhiy (Smilnytsky), Abbot Smaragl (of Smolensk), Chernetsky (Chernetsky) Labuntsov and many others (Babenko 2017). In January 1960, the Central Committee of the CPSU adopted a resolution “On measures to eliminate violations of the Soviet legislation on cults by the clergy”, which caused a new

wave of closure of existing churches.

3. The use of complex methods of systemic imposition of atheistic views, accompanied by scientific attacks on religious ideas. There was aggressive propaganda in all spheres (education, culture, art, science, workplaces, etc.). With the freedom of opinion guaranteed by law, religious beliefs were widely condemned. Anti-religious propaganda involved the criticism of religion, its exposure through scientific theories. M. Bukharin's and E. Preobrazhensky's "Alphabet of Communism" (1919) was one of the first methodological publications that provided for the rules of conduct of every communist, including those concerning religion. In addition, special lectures, debates on anti-religious issues were organized, and training courses were introduced at universities. The state initiated the opening and supported the printing of special anti-religious publications ("Atheist" {1921-1930}, "Bezbozhnyk" {1922-1932}, "Atheist by the Machine" {1923-1932}) (Čuhalin 2019, 184-185), as well as the printing of special literature (in 1960 alone one million items of scientific and atheist literature in the USSR were published) (Syčevs'kyj 2018, 296). In Ukraine, such publications as "Soviet Ukraine", "Pravda Ukrainy", "Molod Ukrainy", and others published and popularized atheism (Krasniâns'ka 2009, 131). Special agitation and propaganda departments were set up within the Communist Party committees on the local level. The state supported various anti-religious public organizations and encouraged their activities to introduce atheism.
4. Separation of the church from the school and replacement of religious education with secular. From 1917 onwards, separation of school from the church, as well as a gradual transition to anti-religious upbringing and education were implemented. Anti-religious education in the 1920s was organized analogously to religious education but had

opposite goals. The changes affected the humanities subjects the most, as they are closest to religious interpretations of life phenomena – history, social sciences, literature, language. The religious basis was removed from the programs of these disciplines. Anti-religious propaganda went through all curricula, textbooks like a “red line” (Mal’teva 2015, 13). All children’s literature was to be published within the framework of communist principles. To successfully improve socialist education, it was recommended to increase the number of books about the homeland, history, and biographies of famous people (primarily, K. Marx, F. Engels, and V. Lenin) (Bojčuk 2015, 65-66). Schools were requested to remove children from the influence of believing parents (Sazhin 2013, 116). Since 1957, the subject “Scientific Atheism” became compulsory in all higher education institutions (Kolodnyj 2014, 54).

5. Replacement of religious holidays with Soviet ones. Replacing religious holidays with state ones was part of the systemic policy of replacing religious views with atheistic ones. Among such holidays, special importance was attached to the Day of the October Revolution, and later to Victory Day (May 9), Labor Day (May 1), and others. The celebration of the New Year, which was to replace Christmas, was actively popularized (Andronatij et al. 2019, 16). Particularly important public holidays were accompanied by mass parades, rallies and appropriate agitation. The celebration of religious holidays took place in secret. The authorities also tried to replace religious rites. For example, instead of the religious rite of baptism, the rite of “zorin” (or “octobrin”) was introduced, performed without a priest and holy water (Lakhač 2010, 132). Quite often people performed such religious rites as weddings and baptisms in secret. If a person was seen in religious ceremonies or celebrations, he was condemned at work, and career growth was not allowed along party lines.

Thus, the phenomenon of “Soviet atheism” presupposed the forcible replacement of religion with atheism and was accompanied by a set of legal, political, propaganda, administrative and repressive methods. Despite mass church closures, persecution of clergy, bans on religious holidays, and religious ceremonies, religion has not been eradicated from Ukrainian society.

Echoes of the phenomenon of “Soviet atheism” are still felt in Ukraine. M. Kiryushko notes:

Communist ideology in its Soviet atheistic version has strongly influenced the current adult generation. Because of this, the thesis of religious revival, fashionable in the 1990s, actually turned into the involvement of broad sections of the population in church life, but with a fairly arbitrary range of religious motivations. In many cases, the cultural and domestic family tradition prevails, rather than the living Christian faith (Kiryushko 2010, 103).

Scholars discuss the existence of “Orthodox atheists” who are associated with the phenomenon of the “post-Soviet man” who misses the past and lives with memories of the Soviet era, when he or she was an unbeliever and mostly happiest (Fylypovych 2018, 535-536). Another distinctive feature of modern Ukrainian society is the frequent situation where the parents are atheists and their children are believers (Humenyuk 2006, 514).

To clarify the changes, it is necessary to analyze the level of religiosity (increase or decrease in the share of the population that considers itself religious) and changes in the religious-ideological structure (change of the religious market) (Bovhyriâ 2016, 41). According to the Ministry of Culture of Ukraine, at the beginning of 2020 the number of religious organizations in Ukraine reached 36,796, of which 1,728 were religious communities operating without state registration. Among all religious organizations in Ukraine, 97% belong to Christian denominations, in particular 53.7% – Orthodox, 28.9% – Evangelical (Protestant) churches and 14.3% – Catholic (*„V Ukraïni zrosla kil’kist’ nezareêtrovanykh*

relihijsnykh hromad..." n.d.). Thus, the vast majority of religious organizations in Ukraine are Christian, among which Orthodox dominate.

From June 24 to 30, 2020, the Kyiv International Institute of Sociology conducted a survey of the adult population (18 years and older) of Ukraine asking the question which denomination or religion, if any, they considered themselves, the following results were obtained: Orthodox – 71.3%, Greek Catholics – 8.4%, atheists – 7.8%, Protestants – 1.8%, Roman Catholics – 0.9%, other Christian churches (for example, Jehovah's Witnesses, etc.) – 1.4%. In addition, 4.2% of respondents could not answer („Koho ukraïnci khotily b bačyty predstoiâtelem obêdnanoï cerkvy" n.d.). A survey conducted by the Razumkov Center in 2018 showed that about 9.4% are non-believers (5.4%) and convinced atheists (4%) („Relihiâ ta ateïzm na terenakh Halychyny..." n.d.). Thus, various polls showed a fairly large number of believers in Ukraine and, accordingly, not a high rate of atheists. In general, 1.1 billion people in the world adhere to secular views, are agnostics and atheists („Religion and belief" n.d.). According to the European Values Survey, three out of four Europeans consider themselves religious („Freedom of conscience around the world" 2018). Compared to the world scale, the ratio of believers to atheists in Ukraine is much higher and closer to European data.

In 2020, a petition was registered on the website of the official Internet representation of the President of Ukraine with a request to designate Atheist Day as a national holiday, which out of the required 25,000 votes received only 120 („Prošu pryznačyty deržavnym sviätom Den ateïsta..." 2020). This confirms the rather low level of atheists in Ukraine.

Bovhyrya I. notes that:

The events that preceded the religious revival in post-communist societies not only enabled the growth of the number of religious people, but also created new conditions for the market of religiosity that differed from the pre-Soviet era by a higher level of religious pluralism (Bovhyriâ 2015, 58).

By this is meant the emergence of new beliefs and various sects.

Thus, the phenomenon of “Soviet atheism” has its own characteristics, including its purpose which was the forcible replacement of religion by atheism, for the implementation of which various methods were used (legal, political, propaganda, administrative and coercive). Empirical data shows the influence of the phenomenon of “Soviet atheism” on the development of the system of values and law of modern Ukraine.

3. The influence of “Soviet atheism” on the formation of family law of the Ukrainian Soviet Socialist Republic

Religion influences the formation of law, not only because of its values, but also through the state’s sanctioning of religious rules. Such influence of religion on the development of law is not only natural, but also demanded by the anthropological needs of people, for whom religious ideas and norms, unlike legal ones, do not cause objections (Luts’kyi 2013, 22).

In today’s secularized world, the ability of religion to act as a determinant of the formation of law is manifest mainly in indirect forms of influence (Vovk 2009, 143). The policy of “Soviet atheism” led to fundamental changes in the legislation of the Soviet Union as a whole, including in the field of family law.

Until the end of 1917, on the territories of modern Ukraine, which were then part of the Russian Empire, family relations were mainly governed by religious rules. That is why one of the first decrees of the Soviet government was aimed at ousting the church from the regulation of marital relations. In December 1917, Decrees were issued – “On Divorce” (December 16, 1917) („Dekret VTSIK i SNK o rastorženii braka...” n.d.), and “On Civil Marriage, on Children, and on the Keeping of Civil Acts Books” („Dekret o graždanskom brake...” n.d.).

The decree “On Civil Marriage, on Children, and on the Keeping of Civil Acts Books” established that the state recognized only secular

marriages. By this decree, the function of marriage was taken away from the church by the state. To enter into marriage, persons submitted a written application at their place of residence to the department of records of marriages and births at the city (district, county or village). The marriage age was set for men at 18 and women at 16. To avoid sharp opposition, the decree noted that church marriage, along with compulsory secular marriage, was a private affair.

According to the provisions of the Decree "On Divorce" of December 16, 1917, marriages could be dissolved in court, regardless of which denomination and religion the spouses belonged to at the request of both or one of the spouses. The court heard the case in the presence of both spouses or their representatives. If the place of residence of one of the spouses was not known, the case was scheduled two months after the publication of the summons in the local newspaper, and the summons was sent to the last known place of residence of the defendant.

If the court came to the conclusion that both spouses wished to divorce, a judgment on divorce was delivered immediately (part 6 of the Decree "On Divorce"). Thus, there was no time limit for reconciliation of the spouses.

According to parts 7 and 8 of the Decree "On Divorce", in its judgment, the court was to establish what surnames spouses and their children would use after the divorce, as well as with whom the children would live, the order of their maintenance. If the parties did not agree on these issues, it was decided by a local judge. If necessary, maintenance (alimony) could be assigned to the wife.

The provisions of these decrees became the basis for the first codified act in the field of family law – the Code of Laws on Civil Status, Family and Guardianship of the USSR in 1919. This Code established the principle of separation of property of spouses (Novokhats'ka 2015, 154). In addition, the freedom of divorce, equality of marital rights, the institution of deprivation of parental rights, etc were introduced.

Of course, changes in the law and the establishment of an easy divorce procedure led to an increase in the number of divorces. If at the turn of the 19th and 20th centuries, divorces in Ukraine were a rare phenomenon, as evidenced by the census of 1897 (at the time of the census fewer than 0.4% of married people in 9 provinces of Ukraine had the status of divorce). Already in 1925, the overall divorce rate in Ukraine was one of the highest in the world and was equal to 1.75%. In 1929, this ratio was already 2.5% (Slúsar 2014, 80). A significant increase in the number of divorces led to an increase in the number of abandoned children. In essence, there was a destruction of established family values based on religious views.

The next legal act that approved the secular regulation of family relations was the Code of Laws on Family, Guardianship, Marriage and Civil Status, adopted in 1926. This act provided for equal rights and responsibilities of children, regardless of whether their parents were married at the time of conception or birth of a child or not. Also established were: equality of spouses; freedom of divorce; the possibility of judicial establishment of the fact of paternity; the principle of separation of property of parents and children; alimony rights and responsibilities of spouses, parents and children; responsibilities of parents for the upbringing and education of children; the procedure for deprivation of parental rights, etc. It was even possible to register a marriage at the request of one person, if the other was in a “close relationship” with her. Such a marriage was registered if the other party did not appeal the application in court within one month from the date of receipt of the notice.

On June 27, 1936, the Resolution on the Prohibition of Abortion was adopted, which was repealed on November 23, 1955, by the Presidium of the Supreme Soviet of the USSR, after which women were given the right to decide on the number of children (Vasilëva 2007, 68). To support single mothers, the Decree of the Presidium of the Supreme Soviet of the USSR of July 8, 1944 “On Increasing State Assistance to Pregnant Women and Single Mothers, Strengthening the Protection of Maternity

and Childhood, and Establishing a Higher Degree of Distinction – the Title of «Mother-heroine» and the Founding of the Order of «Mother's Glory» and the Medal «Motherhood Medal»" was adopted („Ukaz Prezidiuma Verkhovnogo Soveta SSSR ot 8 iùliâ 1944 g. ..." n.d.).

In 1945, amendments were made to the Code of Laws on Family, Guardianship, Marriage and Civil Status Acts of 1926, including the procedure for registering the birth of a child out of wedlock, as well as protecting the rights of such children (Decree of the Presidium of the Verkhovna Rada of 15.09.1945 "On Amendments to the Code of Laws on Family, Guardianship, Marriage and Civil Status Acts and the CPC of the USSR") („Ukaz Prezydijì Verkhovnoï Rady URSR vid 15.9.194..." n.d.). In order to prevent citizens from going abroad, the Decree of the Presidium of the Supreme Soviet of the USSR of February 15, 1947, was issued, which prohibited the marriage of Soviet people to foreigners (Skrynnyk 2010, 119). This norm was abolished in 1953 (Humenyuk 2016, 93).

The Code of Laws on Family, Guardianship, Marriage and Civil Status Acts of the USSR of 1926 was in place until the entry into force of the Code of Marriage and Family of the USSR, which was adopted on June 20, 1969 („Kodeks pro šlûb..." n.d.). Article 6 of the Code clearly established that the legal regulation of marital and family relations was carried out only by the state. The second part of Article 6 specified that only marriage registered by the state was recognized and the religious rite of marriage, as well as other religious rites, had no legal power.

The Marriage and Family Code of the USSR of 1969 regulated: the basic principles of family law; the procedure and conditions of marriage; rights and responsibilities of the spouses; termination of marriage; parent-child relationships; alimony obligations; adoption; guardianship and care; civil status acts, etc. This code contained many mandatory rules, did not provide for the possibility of concluding agreements between the parties to family relations to regulate their rights and responsibilities. However, it did assert the equality of men and women in marriage, the

equality of children born in and out of wedlock and focused on the state protection of the family.

The Constitution of the USSR of 1978 in Article 51 also enshrined the principle of state protection of the family, voluntary marriage, equality of spouses. The state's care for the family consisted of creating a network of children's institutions, organizing a household and catering service, paying childbirth assistance, providing assistance and benefits to large families and other assistance to families („Konstytucijâ (Osnovnyj Zakon) Ukraïns'koï Radiâns'koï Socialistyčnoï Respubliky vid 20 kvitnïâ 1978 roku" n.d.).

At the same time, the divorce rate in Ukraine was growing, and according to statistics in the 1970s and 1980s, it was one of the highest in Europe. For example, in 1965, 77781 divorces (1.7%) were registered, and in 1966 – 140877 (3.1%) (Slûsar 2014, 81).

Soviet policy, on the one hand, asserted the freedom of divorce in order to replace religion with atheism, and, on the other hand, sought to preserve families. To do this, the image of the “ideal Soviet family” and the “ideal Soviet woman” was formed, who was to be a mother, a good worker, and a housewife. Deviations were widely condemned, and family problems were often resolved collectively at party meetings. A divorce for a member of the Communist Party could be grounds for expulsion from the party (Tyšenko 2017, 198).

Thus, “Soviet atheism” influenced the formation of family law, the forcible replacement of values based on religion, communist policy had a number of negative consequences for family relations. This led to a steady increase in the number of divorces and Ukraine has been at the forefront of European countries in this regard, as well as to an increase in the number of homeless children. Concealing domestic violence, instilling images of the “ideal Soviet family” and the “ideal Soviet woman”, and party interference in a person's private life only served to exacerbate marital relations and increase divorces.

4. Consequences of the phenomenon of "Soviet atheism" for the family law of independent Ukraine

Until January 1, 2004, the Code of Marriage and Family of the Ukrainian SSR, adopted in 1969, was in force in independent Ukraine. Amendments were made to adapt family law to modern needs and to gradually move away from Soviet approaches to the Marriage and Family Code of the Ukrainian SSR. In 1991, the restriction on lowering the marriage age by no more than 1 year was only removed („Pro vnesenniâ zmîny do statti 16 Kodeksu pro šlûb...” n.d.).

Significant amendments to the Marriage and Family Code of 1969 with the aim of de-Sovietizing it were made in 1992, namely: the preamble was excluded, the words “Soviet”, “based on the principles of communist morality” and “ensuring a happy childhood for every child” were deleted; the Code was supplemented by norms on concluding a marriage contract (Article 27-1); additionally, norms on payment of alimony, act records on birth, guardianship, care and others were stated in the new edition („Pro vnesenniâ zmîn ì dopovnen´ do Kodeksu pro šlûb...” n.d.).

Substantial changes to the institution of adoption in the Marriage and Family Code of 1969 took place in early 1996, it being supplemented in particular by rules on persons who can be adopted, registration of children who can be adopted, the prohibition of mediation and commercial activities in adoption, the establishment of criteria for the pre-emptive right to adoption, etc („Pro vnesenniâ zmîn ì dopovnen´ do Kodeksu pro šlûb...” n.d.). Significant amendments to the provisions on the registration of civil status took place in the year 2000 („Pro vnesenniâ zmîn do deiâkykh zakonodavçykh aktîv Ukraïny...” n.d.).

On June 28, 1996, the Constitution of independent Ukraine was adopted, which is still in force with changes. At the constitutional level, the basic principles of family law were then defined, in particular: protection of the right to family life; equality of men and women in marriage; voluntary marriage; parental and child support obligations;

equality of children born in and out of wedlock; prohibition of violence and exploitation of children, state protection of orphans and children without parental care (Articles 32, 51 and 52) („Konstytucijâ Ukraïny vid 28.06.1996...” n.d.).

In Ukraine, the development of a new Civil Code continued and the question of whether to include family law in it or whether there should be a separate codified act was quite controversial. As a result of academic discussions and the involvement of expert opinions, the Family Code of Ukraine was adopted on January 10, 2002 („Simejnyj kodeks Ukraïny vid 10.01.2002...” n.d.), which entered into force together with the new Civil Code on January 1, 2004.

The Family Code of Ukraine was quite innovative, it contained many new principles in the regulation of family relations, compared to the previous Soviet code. In particular: it established mainly dispositive principles of the regulation of family relations; allowed for the possibility of applying customs in the regulation of family relations, as well as the principles of law (by analogy with law); established the principles of justice and reasonableness; enshrined the freedom of the contract and the ability of various family members to regulate their relations under the contract; improved the approach between family members, etc. to the regulation of alimony relations.

At the same time, the phenomenon of “Soviet atheism” left its echoes in the new Family Code of Ukraine. In particular, the religious rite of marriage has never been recognized, guardianship and custody are separated (in the absence of such an approach in European countries); norms for preserving marriage have not been approved (full freedom of divorce is allowed, the institution of mediation has not been introduced), etc. In addition, until July 2010, Section V “Civil Status Acts” of the Marriage and Family Code of 1969 was in force, which expired only after the adoption of the Law of Ukraine “On State Registration of Civil Status Acts” („Pro deržavnu reëstraciù aktiv cyvil’ noho stanu...” n.d.).

Regarding the non-recognition of church marriages in Ukraine,

a survey was conducted in 2020, which showed that: 50.6% of respondents had already entered into a secular marriage and a church marriage; 21.4% – planned to perform a religious rite when concluding a secular marriage; 16% – had already entered into a secular marriage and there was no additional religious rite of marriage; 12.1% did not plan a religious marriage ceremony at all (Berveno, Lazur, Mendzhul 2020, 81). Thus, despite the imposition of more than eighty years of atheism, a significant part of the population of Ukraine still adheres to their religious views and it is important for them to recognize church marriage, which we believe should be introduced when family law is reformed.

Undoubtedly, the formation of modern family law in Ukraine is influenced by European and global processes of the transformation of values. Tatiana Medina notes that:

Among the notable effects of globalization on the family is the proliferation of unregistered marriages. Consensual or, as they are now called, civil marriages (although at first this term meant legal marriage, in contrast to the church) ceased to be considered a deviation and became a common variant of the norm (Medina 2013, 191).

At the same time, these processes are facilitated not only by globalization, but also by the general tendency to reduce the influence of religious norms as regulators of social relations.

In addition, Ukraine continues to see a growing trend in divorces. If we compare the number of divorces per 1,000 people in Ukraine and the EU, the lowest rate in our country between 2011 and 2018 was 3.0 in 2014, and in 2018 it was – 3.9, but this is the highest rate among European states. Of course, de-facto unions/marriages are becoming more common in the EU countries but compared to those countries where the number of marriages per 1,000 population is higher than in Ukraine (Cyprus, Latvia, Lithuania and Romania), our country has more divorces (Mendzhul 2019, 288). According to Christopher Swader, the high divorce rate in Ukraine, Russia and Belarus is a continuation of Soviet traditions (Ryuttinher 2013).

The existence in Ukraine of a separate Family Code, which is separate from the Civil Code, is contrary to European approaches and considered by some scholars as a left-over of Soviet influence. Some post-socialist states have gone the way of repealing certain codified acts of family law and enshrining family law in civil codes. For example, on September 25, 1969, the Marriage and Family Code of the Latvian SSR was adopted, which was in force until September 1, 1993, when the Family Law section of the Civil Code was renewed. Lithuania also adopted the Marriage and Family Code on 16 July 1969, which entered into force on 1 January 1970 and until 2001, namely before the entry into force of the Civil Code of the Republic of Lithuania (adopted on 18 July 2000) (Mendzhul 2019, 86-87).

In Ukraine, at the moment, scholars are divided into two groups, one arguing that family law is part of civil law, others considering it an independent branch of law (Bodnar 2013, 133). Others still take the position that the existence of a separate Family Code in Ukraine is logical from the standpoint of Eastern European approaches to the regulation of family relations (Vatras 2016, 37).

The Concept of the new Civil Code is currently being discussed in Ukraine (Stefanchuk n.d.). This has again raised the question of the appropriateness of a separate Family Code or the need to enshrine family law in the Civil Code. In addition, in October 2020, a draft Law “On De-Sovietization of the Legislation of Ukraine” was submitted to the Verkhovna Rada of Ukraine („Proekt Zakonu pro deradiânzaciû zakonodavstva Ukraïn...” n.d.). The aim of the draft law is to cleanse the system of legislation of Ukraine from those acts that were adopted in the USSR and the Ukrainian SSR and formally remained in force without regulating relations, or conversely regulated them using outdated terminology and are, therefore, irrelevant.

5. Conclusions

The distinctive feature of “Soviet atheism” is the attempt to oust

religion from human life in every available way, including with the use of violence. The Soviet policy of instilling atheism was particularly aggressive in the 1920s and 1930s and made use of various means (administrative, forceful, repressive, legal, etc.).

We found that the phenomenon of "Soviet atheism" had the following features: the separation of the state from the church was asserted by means of legal norms, the rights of religious organizations were significantly limited; there was a mass closure of churches and religious organizations, destruction of religious property and persecution of clergy; complex methods of the systemic imposition of atheist views were implemented, which were accompanied by scientific discredit of religious ideas; separation of church and school and replacement of religious education with secular education based on atheism; replacement of religious holidays with Soviet ones.

The phenomenon of "Soviet atheism" impacted the development of the system of values and law of modern Ukraine. The Soviet government played an important role in the state regulation of family relations in order to oust the church from human life. The first acts were adopted precisely to recognize only secular marriage and to establish freedom of divorce.

Since independence, Ukraine has been clearing its legislation of Soviet influence. Significant amendments to the Marriage and Family Code of 1969 were made in 1992 to de-Sovietize it. At the same time, the phenomenon of "Soviet atheism" still echoes in the new Family Code of Ukraine (in force since 2004). In particular, the religious rite of marriage is not recognized, guardianship and custody are separated, norms for preserving marriage are not approved, etc.

Family law reform in independent Ukraine is still ongoing. There is a gradual cleansing of the law from Soviet influences and norms. At the same time, when changing family law, we should focus on affirming the values that are based on religion and have existed in Ukraine for centuries. It is thanks to this approach that the natural regulation of

family relations by law will take place.

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SPIS TREŚCI

ARTYKUŁY

ELENA NIKITICHNA MESHCHERSKAYA, <i>Apocryphal Testimonies about Bishop James in the Syriac work the Exodus of Mary</i>	591
СВЕТЛАНА ШУМИЛО, <i>Антитезы и антиномии в переводных литургических текстах Древней Руси</i>	601
BORYS PRZEDPELSKI, <i>Stosunki mariawicko-rzymskokatolickie o charakterze nieformalnym w latach 1945-1970</i>	623
МИХАИЛ АНТОНЮК, <i>Понятие антиномия согласно прот. Иоанну Мејендорфу</i>	663
DOMINIK TOMCZYK, <i>Głosolalia Boga i człowieka. Aspekt lingwistyczny</i> ..	675
OLEKSANDR BILASH, MARIYA MENDZHUL, <i>The phenomenon of "Soviet atheism" and its consequences for the family law of Ukraine</i>	707
Wykaz autorów	736

Contents

ARTICLES

ELENA NIKITICHNA MESHCHERSKAYA, <i>Apocryphal Testimonies about Bishop James in the Syriac work the Exodus of Mary</i>	591
SHUMILO SVETLANA, <i>Antitheses and antinomies in translated liturgical texts of Ancient Russia</i>	601
BORYS PRZEDPELSKI, <i>Informal relations between the Mariavite and the Roman Catholic Church in the years 1945-1970</i>	623
MYKHAIL ANTONIUK, <i>The term Antinomy according to Protopresbyter John Meyendorff</i>	663
DOMINIK TOMCZYK, <i>Glossolalia of God and Man. Linguistics versus Theology</i>	675
OLEKSANDR BILASH, MARIYA MENDZHUL, <i>The phenomenon of "Soviet atheism" and its consequences for the family law of Ukraine</i>	707
List of authors	736

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