

## **RELIGIOUS AND LAW TRADITIONS IN THE LAW SYSTEM IN THE CONDITIONS OF GLOBALIZATION OF SOCIETY**

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**Abstract.** The article is devoted to the analysis of religious and legal traditions in the transformation processes of knowledge of law, in particular understanding of the place of religious and legal traditions in the legal system in the conditions of globalization of society. The development and interaction of the world's legal systems is an important factor in the effective and secure development of all mankind. However, the dynamism of globalization processes and the variety of directions of development of the legal system of our state necessitate to find out the peculiarities of their interconnection and mutual influence. In view of the subject of research – transformation of religious and legal traditions in the legal system under the influence of globalization, the purpose of this publication is an attempt to establish the place of religious and legal traditions in the legal system, to determine the relationship of religious and legal traditions with the system of social normative regulation, legal culture, justice in the conditions of globalization of society, using the methodological potential of legal science: system-structural, formal-dogmatic, comparative, axiological and other methods. The results of the analysis make it possible to argue that the process of approximation of legal systems as a result of globalization and the acculturation of social processes is an integral part of the general process of social transformation caused by factors of historical, political, economic, socio-cultural character, contributing to and accompanying the transformation of society, qualitative changes in society; the manifestation of the heterogeneity and contradiction of the dynamics of social processes within the state and its policies in the international space; an objective process that serves as a catalyst for the development of the national legal sys-

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tem; characteristics of the interconnection and interaction of national and international law; determinant of the formation of qualitative and balanced national legislation as a necessary condition for social development. Therefore, the question of finding a reasonable balance in the interconnection "international – national" remains relevant to ensure the effectiveness of the legal system of the state, which can only be discussed if the implementation of international law and international standards is taking into account justice, legal culture and traditions, legal mentality of our society, historical features of its development, available economic resources and political potential. In any case, taking into account the dominant positions of unification and standardization in the process of transformation of the national legal system under the influence of globalization, there is a need for scientific analysis and investigation of their manifestation in the aspect of particular legal institutions, which will not only be possible through the use of an inductive method to clarify the current state, but also with great likelihood to predict the prospect of development of both individual elements and the legal system of the state as a whole. Modern law, acting as the most important institution of human civilization, is the bearer of, above all, the defining social values of society, including religious and legal traditions. It establishes basic moral and religious norms, providing them with legal protection. The potential of modern law, involving religious and legal traditions as effective regulators of social relations, is manifested in the resolution of social conflicts of society, the introduction of the necessary conditions for an effective comprehensive policy (social, legal, spiritual) to protect the rights, freedoms and legitimate interests of the individual. The practical significance of religious and legal traditions lies in their ability to "penetrate into the future" – to embody the structure of the rule of law, shaping the desirable and proper "future" behavior of the subjects of public relations. In addition, the legal convergence of law and religious and legal traditions allows to enrich the law, bring it closer to real social relations. At the same time, the convergence of law and religious and legal traditions, almost to their confluence, can in practice lead to unjustified restrictions on rights and freedoms or to the establishment of unjustified preferences for certain categories of legal entities. The convergence of law and religious and legal traditions should take into account their regulatory elements in order to improve the quality of the legal order. Due to their formal, instru-

mental value, religious and legal traditions have the opportunity and ability to influence ways to resolve the conflict of social relations or social conflict.

### **1. Introduction**

The World at the dawn of the 21st century entered a qualitatively new stage of its development, characterized by profound changes in all aspects of human life. In science, these processes are described as "globalization", "formation of the post-industrial world", "information society", "transition to the noospheric path of development", and, accordingly, contradictory estimates are proposed, different vectors of further development of world civilization are proposed [23, p. 90]. More and more scholars are recognizing that globalization is becoming a leading trend in the world development [12, p. 21]. Over time, this trend is affecting more and more countries and more and more human groups are being influenced. This social process takes place in the activities and relationships of individuals, different social groups and layers, nations and civilizations. At the same time, the impact of these processes on the development of the legal systems of the world, in particular on religious systems, is under-researched in the world science and almost never explored in domestic legal science.

The development and interaction of the world's legal systems is an important factor in the effective and secure development of all mankind. Scientists such as N.M. Onishchenko, O.O. Sidorenko, L.G. Udovik, M.G. Haustova, S.A. Shchetinin and others have studied the question of transformation of the national legal system in the conditions of globalization. However, the dynamism of globalization processes and the variety of directions of development of the legal system of our state necessitate to find out the peculiarities of their interconnection and mutual influence. The purpose of this publication is to attempt to identify the transformations of religious and legal traditions in the legal system under the influence of globalization, which is a generally recognized trend in the development of modern society. The stated purpose of the study stipulates the need to open the place of religious and legal traditions in the legal system, to determine the relationship of religious and legal traditions with the system of social and regulatory regulation, legal culture, justice in the conditions of globalization of society, using the methodological potential of legal science. In particular, using the method of analysis and synthesis it is possible to estab-

lish the elemental composition of the system of social normative regulation of social acts and their interrelation with religious and legal traditions; the ascent from the abstract to the concrete gives an opportunity to reveal the impact of globalization processes on the elemental composition of the legal system, in particular on the transformation of religious and legal traditions into legal prescriptions; axiological method allows to reveal the value content of religious and legal traditions and their importance for the mechanism of legal regulation of public acts; the system-structural method makes it possible to explain the interconnection, coherence and place of religious and legal traditions in the transformation processes of social relations as a result of globalization's influence on the legal system; formal-dogmatic method contributes to the logical study of religious and religious traditions as legal categories, the essence of religious and legal traditions; statistical and dynamic methods reveal the development, changes and tendencies of the influence of religious and legal traditions on the elemental composition of the legal system as a result of the transformation of society.

## **2. Understanding of globalization processes**

Since the 90's of the twentieth century globalization has become a determining factor in the world development and international relations. The unity of nation-states and national societies is being destroyed, new competitive relationships, conflicts and misunderstandings between national-state unities and transnational systemic identities (including on a confessional basis) are formed. The world is undergoing a transition from national history to transnational, experiencing the emergence of transnational living space, the universalization of lifestyles, symbols of culture, the formation of transnational behaviors. Globalization destroys the self-identification of a homogeneous, closed, self-contained nation-state space, destroys the borders of various spheres of life, including the religious one.

Globalization processes in the XXI century in one way or another apply to both individuals and entire nations, states, civilizations. Global transformations lead to qualitative changes in the system of socio-cultural relations, updating a wide range of problems related to the formation of a new world culture. Thus, S. Huntington emphasizes the "clash of civilizations" [10, p. 112], F. Fukuyama's theories threaten the "end of history" [7, p. 57], E. Toffler develops the concept of "clip culture" [34, p. 213], etc.

One of the most debatable issues is defining the essence of globalization. In some foreign and domestic studies, the emphasis is on the economic aspects of globalization, the formation of virtually a single world market for goods and services (K. Waltz, J. Stiglitz, D. Held), or the formation of a single information space (M. Delyagin, M. Castells), the development of uniform behavioral standards, a single lifestyle, a system of values (G. Diligenksiy), S.S. Kara-Murza, T. Sakaya, Y. Habermas [33, p. 92]. Legal debate has largely been in these economic and geopolitical trends [25, p. 42]. One of the defining points in addressing this debate was UN General Assembly resolution 55/102 2000, which in particular stated that globalization is not only an economic process, it also has social, political, environmental, cultural and legal aspects. All this leads to the setting of new tasks within the framework of theoretical and legal studies, because "comparative jurisprudence today gains the status of a science of the future as a means of understanding different law and different cultures in a globalizing world" [27, p. 51]. He is tasked with developing viable strategies for developing a "pluralistically sensitive, globally conscious theory of law." At the same time, accusations of exaggerated Eurocentrism are being leveled at the legal science and academic community. In particular, W. Twining points out that, unlike science such as geology, which is based on universal physical laws, law is culturally dependent. This basic caveat places an enormous obligation on law theorists and comparatives to provide understanding of law and its various manifestations in a truly global context [36, p. 30].

At the heart of all theories of globalization, and this characteristic is clearly manifested in studies in the field of law, is the dichotomous typology of social organization: local versus global, which also finds expression in the debate about the universality of relevant legal values, regardless of the cultural affiliation of a society. As S. Maksimov points out, the processes of globalization of the modern world, in which different cultures coexist and interact, make it necessary to pay attention to the requirement of finding the optimal balance of universal civilizational and cultural-specific moments in law, since the legal system must, on the one hand, be based on universal legal values and principles, and on the other hand, be guided by a specific cultural and legal tradition [21, p. 57-58]. One of the key questions for jurisprudence today is the question of how far globalization can mean the harmonization or even unification of law around the world.

### **3. Trends in the development of law in the context of globalization**

Traditionally, among the main trends in the development of law in the context of globalization are the following: 1) universalization of law, under which it is necessary to understand the reflection in national legal systems of generally recognized norms and principles of international law. The overarching pattern of globalization is to overcome more autonomous political, economic, social and religious communities. They become part of a single common space that has certain universal rules for interaction. After all, the focus is on harmonization and the search for common rules of conduct; 2) regionalization of law, which is the process of legal regulation of international relations, the subjects of which are territorial (regional) economic and political unions, international organizations, etc. (eg, European Union, Council of Europe, Organization for Co-operation and Security in Europe, etc.), as well as individual regions of states that may be parties to international relations; 3) change of national law under the influence of norms and principles of international law; in the context of globalization, the norms of international law on the basis of a constitutionally (legislatively) fixed model of correlation of normative legal acts have greater legal force in relation to national legislation; 4) the mutual influence of the legal systems of modernity, which leads to the leveling of features of legal systems, has the consequence of their convergence, mutual penetration [8, p. 8-9]. In this context, the question arises about the impact of globalization on religious legal systems, which actually causes one to reflect on the phenomenon of globalization in a larger context – in light of its impact on the civilizational development of societies. As already mentioned, the concept of globalization was originally formed as an economic theory under the influence of processes of increasing interconnection and interdependence among different countries of the world due to the increasing economic openness and cross-border exchange of capital, goods, services, ideas, people. These processes have traditionally been associated with Western civilization. Quite common are statements that indicate that the process of globalization is the engine of self-assertion and ideological hegemony of Western civilization, the spread of Western civilizational values and lifestyles. All these processes also affect law, in a way that leads to a situation "when it makes no sense to talk about independently existing legal cultures." In this scenario, legal families based on other legal traditions are doomed to

disappear. However, there is another point of view, whose adherents point to the underestimation on the part of "universalists" of the resistance to universalisation by societies that do not refer to Western civilization [6, p. 41].

The debate about the impact of globalization on the modern world inevitably raises questions about the universality of our understanding of law. In everyday life, globalization is often associated with the harmonization of rules of conduct, the creation of a single legal space. This, in turn, leads to the assumption that less conflict arises in the context of globalization, since relations in society are regulated by the same legal models based on universal legal values. Opponents of such a view express skepticism about the reality of unification of existing diversity. Dreams of such universalization, which are fostered by globalization, go too far in their uncritical perception of the benefits of universal standardization. They are detached from the reality that the whole world will be governed by a single system of rules, use one language and have one culture.

In the spotlight today, especially in the context of the study of religious legal systems, the question arises as to whether the phenomenon of globalization can or must be based on the idea of universal standardization (unification)? Or, on the contrary, does globalization not deny unlimited diversity, emphasize the pluralism of legal systems, the values that underlie them, and the pluralistic effects of globalization processes are more realistic? These questions also make one look from another angle on the attempts of law theorists to work out a general concept of understanding law, to give a universal characteristic of law that would be relevant to any legal tradition, for any society. An appeal to religious legal systems reveals considerable contradictions in the understanding of law. The current world development scenario indicates a growing diversity of local solutions, despite the ongoing search for global unification. In our opinion, insisting on an anti-pluralistic vision of the world, the need for a unified perception of it, is extremely dangerous for global peace and prosperity. "Western legal claims to universality are closed by a non-Western perspective" (Ch. Masaji) [2, p. 302-326]. To some extent, when we talk about the contradictions in the view of law between secular and religious legal families, it is in fact a "conflict of civilizations". This approach seems false because it focuses on a too narrow vision of a "religious" context that leaves many other globalization claims in the world. The perception of this confrontation as purely bilateral ("Western" and "religious") is too sim-

plistic and dangerous, as well as too vague and limited. Independent of the true nature of the existing conflict and of a particular vision of "global unification," peaceful coexistence in a globally interconnected world is impossible without securing a space in which the various visions are admissible and, accordingly, respected, according to Liotard, " striving for justice and striving for the unknown "[19, p. 67]. At the same time, researchers are skeptical of this prospect. The same J.-F. Liotard (J.-F. Lyotard) emphasizes the differences and notes that "consensus is a horizon that cannot be reached" [19, p. 61]. E. Melissaris concludes that the study of law should aim at opening up alternative perceptions of peace, justice, as well as different models of solving practical problems by reconciling conflicting interests and satisfying the need for substantive justice [22, p. 76]. The question of law and justice as a result becomes one of the questions that determines our whole lifestyle, which is our self-perception and vision of our place in the world.

Existing theoretical approaches, not only among lawyers, tend to gravitate toward Eurocentricity, and are therefore defeated in an attempt to portray a global picture of the world, to reach a pluralistic and sensual perspective. Legal doctrine seems to be far behind reality, which is characterized by a very large diversity. Global migration, ancient and present, numerous exchange processes between states, economies, societies, legal systems, at different scales and through different methods, provide through time the transnational, essentially pluralistic, multiethnic, multicultural nature of legal reality. In W. Twining's view, globalization does make the world more interdependent, but that does not mean that we are relentlessly moving towards a unified global government, nor does it indicate the disappearance of nation-states as the most important entities [36, p. 65]. Rather, it must be more pluralisation than global homogenization. Thus, globalization results in a blend rather than a unified, branched, multicenter world as a "hyperpluralistic transnational society". And this is an argument in order to develop mechanisms that allow all voices present in society to be heard during the ongoing discussions to ensure respect for diversity. Asked whether there is a fundamental (key) legal tradition in the world that could supersede all other law in the rest of the world, P. Glenn replies: "The answer is that there is no universal kernel. This is good news for the sustainability of the main, comprehensive legal traditions of the world" [9, p. 331]. Therefore, globalization cannot rely on a deep respect for diversity and pluralism in the world.

### 4. The impact of globalization on the legal system

Globalization as an objective process that determines the fundamental changes in the basic foundations of society has vivid legal manifestations, which are traced in changes not only in the content of basic legal concepts, categories, but also in their functional purpose, ultimately leading to the transformation of normative, subjective, intellectual-psychological, activity and resultant components of the legal systems of the modern world [11, p. 7]. Understanding the essence of the transformation processes in the national legal system that are under the influence of globalization, on the one hand, opens up new possibilities in understanding the law and allows to see the prospect of its development in particular and society in general. After all, the national legal system is a legal system of a particular society that reflects its socio-economic, political and cultural identity. It defines the value of this legal system, reflects the unity of society and is one of the manifestations of state sovereignty of the state [40, p. 64]. Therefore, on the other hand, any transformations in it that are related to globalization also touch on another, equally important aspect – the issue of nation identification. And here it is worth agreeing with those scholars who emphasize that proclaimed as universal determinants of "universal values" are not always relevant to national legal systems. Mechanically transferred patterns are often not viable because they do not take into account the particularities of the mentality and legal culture that have emerged in a particular society in the process of historical and cultural development [32, p. 6]. It should be noted that, in our opinion, the transformation of the national legal system of the state is an integral part of the phenomenon, which in science is called "legal globalization", meaningfully expressing its microlevel. At the same time, the macro-level provides for the formation of a global system of legal norms as a necessary condition and organizational basis for interstate interaction in different spheres of social life. It is therefore appropriate to use that term.

Exploring the "microlevel" of legal globalization, it is advisable to refer to the available quantitative indicators (indices), which indirectly allow to assess in a certain way the state of the national legal system. It is indirectly because, unlike in the economic, social and political spheres, the process of legal globalization in relation to a particular state is not indexed. However, given that the legal system, as an integral part of society, is closely interconnected and reflects economic, political, socio-cultural and other aspects of

the development of social relations, it is advisable to use data that reflects the level of globalization of a state in the context of its individual components. First of all, this is the KOF Index of Globalization, which is compiled annually by the Swiss Economic Institute with the participation of the Swiss Federal Institute of Technology.

The index is positioned as a combined indicator by which it is possible to estimate the scale of integration of a certain country into the world space and to compare different countries by its components. In 2019, Ukraine ranked 45th with an index of 70.24 economic, political and social globalization [13]. Assessment of the globalization of the legal system of the state can be made even more substantially, in particular by indicators relating to particular legal phenomena, institutions, and procedures. Thus, on a regular (every few years) basis, the international non-governmental organization The World Justice Project conducts a global survey with a corresponding ranking of countries in the world in terms of providing them with a legal environment based on universal principles of the rule of law – The Rule of Law Index.

The rule of law index is a combined indicator, calculated on the basis of data obtained from expert sources and the results of opinion polls in the countries being analyzed. The index covers 47 variables that detail the level of development of the legal environment and legislative practice in the countries of the world and which are combined into eight benchmarks: 1) limitation of powers of the institutions of power; 2) no corruption; 3) order and safety; 4) protection of fundamental rights; 5) transparency of government institutions; 6) compliance with laws; 7) civil justice; 8) criminal justice. According to the latest available data in the ranking of countries of the world according to the rule of law index, as of 2019, Ukraine ranked 77th among 126 countries with an index of 0.50 [15].

Indicators and other available studies may be taken into account to assess the impact of globalization processes on the national legal system. For example, LG Udovik also proposes to take into account The Global Competitiveness Index [14], The Democracy Index [28] and the report "Freedom in the World" (2018) [5]. Considering them as components of the criterion of globalization, in the context of typology of legal systems, it proposes the following division: 1) globalized – national legal systems that function and develop on the basis of substantial consideration in national law and international law with active interaction of national law systems

with international bodies and organizations, pursuing a policy of legal integration, internationalization, adaptation, harmonization, implementation, standardization (eg Sweden, Denmark, Aust and others); 2) fragmented globalization – national legal systems that function and develop, taking into account the individual components of legal globalization, and a number of their elements and subsystems remain unchanged. A fragmented globalized legal system is a transitional state because, on the one hand, there are significant indicators (quantitative and qualitative) of the process of legal globalization, and on the other, there is uncertainty or contradiction of further development, which may result in a transition to another quality of the legal system, such as globalized as well as localized (for example, the legal systems of Hong Kong, Singapore, Estonia, Latvia, Lithuania, as well as Ukraine, Georgia); 3) Glocalized – national legal systems that function and develop based on a specific combination of global and local economic, legal, political, cultural, moral factors, which is reflected in all subsystems and elements of the legal system, the system of law and law, legal culture, legal policy, etc. (for example, the legal system of China, Brazil, Panama, Russia); 4) localized – national legal systems that function and develop in the opposite direction to globalization, preserving the traditional elements and links of the legal system (eg Nigeria, Algeria, Uzbekistan, Turkmenistan, Tajikistan) [37, p. 23]. As you can see, the legal system of Ukraine at the present stage of history is characterized as fragmented globalization, which is caused generally by a transition (transit) state in which society and the state are, which are the decisive actors in shaping the trajectory of its development. It should be noted that the concept of transit in the social sciences is regarded as a process of transformation of post-totalitarian societies, which covers the whole spectrum of social relations: politics, economy, social structure, governance, law, culture and the spiritual sphere. This period is called the period of transition of one type of society to another. The state of the boundary has the property at one and the same time to acquire the trait of the state to which the process proceeds. That is, a transit society has a mixed heterogeneous structure.

As a result of transitive processes, there is a reorganization of the whole social system, its qualitative change, its acquisition of new properties. As VP Dragoguz rightly points out, such a process can be quite fast, and the new social system has significant advantages over the previous one, but the

transformation can be delayed, and the formed system may be less effective than its previous one. In his opinion, modern Ukraine can serve as an example. One of the main reasons for the transition of the Ukrainian society from the model of the arrangement of the state of the Soviet model to a qualitatively new state – the scientist points out is that in the process of transformation of the system, the politically active part of the population focused not on internal social needs and centuries-old traditions, but rather on European standards and models [4, p. 186].

Thus, for Ukraine, legal globalization is: 1) an integral part of the overall process of social transformation, determined by factors of historical, political, economic, socio-cultural character, facilitating and accompanying the transformation of society, qualitative changes in it; 2) the manifestation of the heterogeneity and contradiction of the dynamics of social processes within the state and its policies in the international space; 3) an objective process that acts as a catalyst for the development of the national legal system; 4) the characteristics of the interconnection and interaction of national and international law; 5) the determinant of the formation of qualitative and balanced national legislation as a necessary condition for social development.

## **5. Transformation of the national legal system in the conditions of globalization**

The study of the problem of transformation of the national legal system in the conditions of globalization requires clarification of the question of its ways (ways, forms, tendencies), which is unequivocally covered in scientific sources. For example, S. Szczetinin believes that the main ways of legal globalization (in the sense of globalization of law) are legal integration, legal internationalization and legal implementation. According to him, legal integration and legal implementation are more related to the need for joint efforts at the interstate level to solve the various global problems of the world today. Legal internationalization, in turn, is the result of general processes of globalization, which cover the basic spheres of life of modern society, and its essence is that the scientist sees that the national law is closely interrelated with other domestic legal systems. Within it, it distinguishes reception, harmonization and unification [30, p. 7]. However, in our opinion, S. Schetinin's position cannot be completely agreed, since the basis of the differentiation of the methods of legal globalization is based

on the cause-effect philosophy of determinism: legal integration and legal implementation serve as functional signs of globalization, and legal internationalization has the role of result, consequence of globalization.

According to N.M. Mikhailenko, the transformation of national legal systems occurs as a result of processes, which in the theory of law are denoted by the terms "harmonization", "approximation" and "convergence" [24, p. 183]. Harmonization of law is the intention, purpose, to unify, harmonize, bring to common understanding of normative legal acts in internationalization of law through reception (direct borrowing of legal norms), harmonization (approximation of branches of law or the whole legal system with other legal systems), unification (introduction of new, uniform norms and legal acts) and standardization (bringing the norms of national law in line with the standards of international law) [24, p. 184]. In addition to the internationalization of national law as a final feature of the dynamic process of legal globalization, the researcher focuses on the implementation of certain principles and norms in the legislation of sovereign states, which is a means of direct perception of these integration (globalization) processes at the national level, the introduction of unified or unified. Such processes, in his opinion, ultimately lead to the transformation of the rights of sovereign states in the direction of their rapprochement and mutual influence [20, p. 14-15].

It should be noted that any attempt to differentiate and systematize the ways of transformation of the national legal system under the influence of globalization processes will always be marked by a certain conditionality, contradiction and debate, which is caused by the diversity of its manifestations in the dynamics. Unconditional implementation of international standards is not always appropriate and not always possible. Therefore, the search for the balance of the interconnection "international – national" is relevant for ensuring the effectiveness of the legal system of the state, when the implementation of international law and international standards takes into account the national justice, legal culture, legal traditions, legal mentality of society, historical features of its development, available economic resources and political potential. In any case, given the dominant positions of unification and standardization in the process of transformation of the national legal system under the influence of globalization, there is a need for scientific analysis and investigation of their manifestation in the aspect of particular legal institutions, which will not only be possible through the

use of an inductive method to clarify the current state, but also with great likelihood to predict the prospect of development of both individual elements and the legal system of the state as a whole.

## **6. Values of religious and legal traditions for transformational processes of the legal system**

Modern legal theory, as well as the law as a whole, must respond to the challenges of legal globalization, adequate to the scale of the problem that has arisen [38, p. 115-117]. And in this context, the transformation of religious and religious traditions within the legal system through legal culture and justice deserves attention. Building a rule of law, in the context of globalization, there is a need to ensure the development of a high level of legal culture of society. It is a society that deeply understands its rights, promotes their enforcement, and holds the state within its immediate essence – as a body for managing the affairs of society.

Legal culture is based on the values of community and spirituality, which is the result of embodying the values of religious and legal traditions (freedom of equality and justice). Together with legal reality, the legal culture determines the standard of activity of subjects of public relations: law, justice, legal relations, law and order, lawful activity of subjects. Using religious and legal traditions, the ecological component of the legal culture in the system of social organization of society is enriched and coordination of actions of individuals and groups motivated by considerations of importance of legal prescriptions is conditioned. This, in turn, streamlines and organizes public relations that receive public recognition [31, p. 125].

The problem of establishing the mechanism of legal influence on public relations in order to create the rule of law is complex, and therefore requires complex approaches to ensure the individual elements of this legal phenomenon. The legal elite of our society should make every effort to implement the provisions of the Constitution of Ukraine on the creation of the rule of law of Ukraine. So, science shows that the formation of legal consciousness and legal culture in our society has not happened and cannot occur spontaneously in the future, by itself. It must be the result of the active activity of society, all its citizens, every person. Firstly, the formation of legal consciousness and legal culture is influenced by the whole process of lawmaking, the process of implementation and application of legal norms

by state bodies of Ukraine, the state of law and order, the development of legal relations [16, p. 111-112]. Secondly, the discovery of the driving forces of the legal culture of society actualizes the study of legal culture taking into account the intense processes of interaction of national legal cultures [1, p. 205]. The importance of this problem for Ukraine is revealed by the example of the adaptation of the legislation of Ukraine to international norms and standards of human rights, as well as the harmonization of the legislation of Ukraine with the normative acts of the European Union. Thirdly, the main attention in the process of shaping the legal consciousness and legal culture of society should nevertheless focus on the formation in each person of positive legal knowledge and psychological mechanisms of respect for law in the structure of justice, the definition of the theoretical model and the concept of forming the legal culture of the individual.

It is man and society who create mechanisms of self-organization and self-realization within the existing legal field. The quality of their decisions and the nature of their actions depends on the degree of development of justice, which in its development is based on the mental-volitional perception of legal values formed on the basis of religious and legal traditions. That is, the legal entity is aware of the value of law as an integral attribute of a democratic rule of law [29, p. 17-19]. On the other hand, the public legal consciousness must perceive and recognize the instrumental function of religious and legal traditions in the content of law as a means of resolving existing contradictions. Lack of understanding and loss of value of religious and legal traditions in law contributes to the development of legal deformation of the subjects of social relations.

Preserving the tenets of religious and legal traditions in the essential components and consciousness of any society, Ukrainian in particular, through the values of law, will contribute to the development of legal culture of society, because the subject, which respects the legal norms, is able to ensure the progressive development of a democratic, rule of law. Legal education is aimed at fixing in the mind of a person such values, which originate from religious and legal traditions and are a kind of guidance in everyday life: to protect their rights and freedoms; – the presence of legitimate goals, plans, intentions in life, activity, actions and rejection of all illegal; – the need, desire, skills to act lawfully, guided by stable legal motives; – the presence of unwavering immunity to criminogenic temptations; the desire

to assist law enforcement agencies in the detection of crime, to promote the principle of the inevitability of punishment; – attempting to deter other citizens from offenses and to encourage them to behave in a lawful manner; – part in maintaining law and order at work, place of study or residence.

Modern law, acting as the most important institution of human civilization, is the bearer of, above all, the defining social values of society, including religious and legal traditions. It establishes basic moral and religious norms, providing them with legal protection. The potential of modern law with the involvement of religious and legal traditions as effective regulators of social relations is manifested in the resolution of social conflicts of society, the introduction of the necessary conditions for an effective complex policy (social, legal, spiritual) to protect the rights, freedoms and legitimate interests of the individual [39, p. 78]. One of the main tasks of law today is the ability to ensure equitable relationships between people who coexist in one social environment and strive for an informed just order. The practical significance of religious and legal traditions lies in their ability to "penetrate into the future" – to embody the structure of the rule of law, shaping the desirable and proper "future" behavior of the subjects of public relations.

In addition, the legal convergence of law and religious and legal traditions allows to enrich the law, bring it closer to real social relations. At the same time, the convergence of law and religious and legal traditions, almost to their confluence, can in practice lead to unjustified restrictions on rights and freedoms or to the establishment of unjustified preferences for certain categories of legal entities. For example, establishing a moral-religious criterion for the restriction of rights and freedoms can lead to a violation of rights, since morality is imprecise and uncompromising, i.e. any event or circumstance is rated as "good" or "bad", and the degree of effectiveness and level of influence of religious norms in the mechanism of social normative regulation of social relations, is determined by the corresponding confessional affiliation of the subject of religious relations, whose behavior is subject to regulation [35, p. 12-13].

The convergence of law and religious and legal traditions should take into account their regulatory elements in order to improve the quality of the legal order. If the legal provisions are better implemented than before the meaningful ideas of religious and legal traditions were introduced into them, the measure of their use may be considered adequate, and it may be

expanded in quantitative terms by the social regulators used. If regulatory influence decreases or remains neutral, it is advisable to reduce the use of religious and legal traditions as regulators in legal regulations. But the convergence of legal values and those of religious and legal traditions is inevitable and positive. In any case, law-makers rely on constructing legal norms not only on knowledge of law, but also on their perceptions of good-evil, justice-injustice, the stereotypes of values that are rooted in consciousness, in other words, this process of sub effective and therefore not always noticeable. Direct references to religious and legal traditions should be made in the legislation, but they should be proportionate to the need, and the parameters of the religious and legal traditions referenced by the legislator should be clearly defined. In addition, one of the most influential transformational processes in law can certainly be considered to be those changes that are conditioned by the role and place of Western values and international law in general in the current legal system of Ukraine. However, the general universal legal culture is the result of the development of legal cultures of many ethnic communities, which together create a universal human culture in its various substantive dimensions. European values that are in a hurry to impose another culture, not only do not promote the integration of different cultures, but on the contrary, create conditions that destabilize society, distort and transform the legal consciousness of people, increase the value of legal positivism, which includes ignoring the laws of natural law. Legal positivism, as the recognition of the source of the right solely by the will and consciousness of the people, becomes dominant in public life when the life of people due to the crisis of society is not consistent with the laws of social nature [17]. In order to balance the disproportion between legal positivism and the concept of natural law, it is appropriate to appeal to the national roots of the development of the legal system, the use of national ideas and traditions of social development, religious and legal in particular.

Religious traditions emerge as a legal category, a phenomenon of legal culture, an element of the legal system and a component of the continuity of law, which captures the generalized legal experience, legal memory, legal knowledge and legal ideas that are passed down from generation to generation as acceptable ways of organizing society, models of formation of legal order, order in law, hierarchy of values in law, etc. Religious and legal traditions emerge as a conglomerate of legal ideas, values, knowledge,

experience, ideas, beliefs, symbols, norms, institutions, etc. that have been passed down from generation to generation in different historical and cultural periods and in their entirety constitute the legal tradition of the legal system. Religious-legal traditions summarize national law at the level of legal space, reflect the unity of the legal system in which the legal personality and identity of the country are fixed, thus influencing the formation of the national idea.

The National Idea is a kind of national goal that unites and elevates the people, integrates and harmonizes the interests of the nation, all its representatives – political forces, ethnic groups and religious denominations – Is the social foundation that consolidates Ukrainian society into a single national organism, political nation [18]. The national idea must be shaped in accordance with historical and political realities, accumulating historical experience and current stages of state building. Since the national idea is a certain socio-political ideal of the nation, it should be the most perfect model of the national-state system, which fully corresponds to its traditions (legal, religious-legal), aspirations, cultural and psychological institutions, ensuring the further development of Ukraine. It is worth noting that under the current conditions the Ukrainian national idea is at the same time a program of national revival and a kind of project of national-state construction.

Religious and legal traditions are part of the system of basic means of regulating the process of self-organization and self-regulation of society, so they also have an instrumental value: to ensure the normal functioning and development of society [26, p. 27]. Right as a necessary element of the cultural development of mankind, absorbing the universal values contained in the religious and legal traditions becomes their expression and consolidates the appropriate place of the religious and legal traditions among other values of culture.

The cognitive nature of law implies the separation of the category of values of religious and legal traditions, that is, the positive importance in shaping the nature and essence of law; their impact on meeting the needs of public relations entities, with respect to each individual or religious social community and society at large.

Of fundamental importance are the religious and legal traditions, their ideals, valuations, which serve as a common source for the formation of law

in general. Religious and legal traditions as a kind of normative-evaluative reflection of the world, it is peculiar to determine appropriate forms (norms) of behavior based on accepted values in society, and therefore also to evaluate specific behavior as legitimate or unlawful already in view of these accepted norms, which may not be generated not only directly by values, but also indirectly by the consequences of negative assessment of the real situation and the way to correct it.

Freedom, justice, equality, human dignity and more are among the most common values of religious and legal traditions. Moreover, the values of freedom, equality and justice are functional to the law and, declared as the basic tenets of each legal system, acquire specific meaningful load in different historical eras and in different cultural areas. Due to their formal, instrumental value, religious and legal traditions have the ability and ability to influence ways to resolve the conflict of social relations or social conflict. Religious traditions as regulators of public life are clearly defined and, in accordance with certain social relations, determine binding coercive consequences that ensure the integrity and unity of public relations.

### **7. Conclusions**

Thus, modern processes of globalization are dragging into their orbit an ever-widening range of social relations. In our view, the relationship between legal systems in the 21st century is becoming one of the most important aspects of this process. At the same time, the interaction of legal systems has significant differences from the interaction of, for example, the economic systems of different countries. If the economic dominance of Western financial and economic institutions and the harmonization of relevant norms is observed, then the attempt to apply this approach to law leads to resistance to Western standards and the spread of major civilizational conflicts in different parts of the world. The processes of globalization should be built on respect for cultural, religious and legal diversity, and should be safeguarded against forced "Westernization". Significant differences in the impact of globalization on the convergence of legal systems of Western law (Romano-Germanic and Anglo-American) and their impact on the religious legal systems of Muslim, Hindu and Jewish law should also be emphasized. The latter, due to such features as the divine nature, increased stability, non-systematization of norms, specific sources of law, are almost

unaffected by other systems and changes accordingly. An important issue that needs further investigation is the reverse influence exercised by religious law on current legal secularized systems. The system of basic means of regulating the process of self-organization and self-regulation of society includes religious and legal traditions that have instrumental value: to ensure the normal functioning and development of society. Right as a necessary element of the cultural development of mankind, absorbing the universal values contained in the religious and legal traditions becomes their expression and consolidates the appropriate place of the religious and legal traditions among other values of culture.

The ideals and appraisal categories contained in the religious and legal traditions are fundamental to the origins and formation of law in general. For religious and legal traditions as a kind of normative-evaluative reflection of the world, it is peculiar to determine the proper forms (norms) of behavior, based on the accepted values in society, and therefore the evaluation of specific behavior as legitimate or unlawful already in view of these accepted norms, which can be generated not only directly by values, but also indirectly by the consequences of negative assessment of the real situation and the way to correct it.

In addition, it should be noted that for Ukraine legal globalization is: 1) an integral part of the general process of social transformation, caused by factors of historical, political, economic, socio-cultural character, promoting and accompanying transformation of society, qualitative changes in it; 2) the manifestation of the heterogeneity and contradiction of the dynamics of social processes within the state and its policies in the international space; 3) an objective process that acts as a catalyst for the development of the national legal system; 4) the characteristics of the interconnection and interaction of national and international law; 5) the determinant of the formation of qualitative and balanced national legislation as a necessary condition for social development.

Over and above, Ukraine needs to create, within the nearest period, a general concept of the formation of legal consciousness and legal culture of society and the development of a State program of forming the legal culture of citizens through the development of legal education and legal education of the population, using the essential provisions of religious and legal traditions.

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