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FACULTY OF LAW

**CONSTITUTIONAL AND LEGAL  
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**SECTION 1**  
**CURRENT ISSUES OF CONSTITUTIONAL A**  
**ND LEGAL STATUS OF HUMAN AND CITIZEN**

**ON RESEARCH METHODOLOGY**  
**OF LEGAL ASPECTS OF FREEDOM OF RELIGION**

**Palinchak M.M.,**  
*Doctor of Politology,*  
*Professor,*

*Uzghorod National University*

**Gromovchuk M.V.,**  
*Senior lecturer, department of*  
*constitutional Law and Comparative Law,*  
*Uzghorod National University*

Over two decades of Ukraine's independence have created a system of the religious sphere, to include relationships between churches, the church and the society, the church and the individual, which is distinct from the Soviet model. The freedom of worship that guarantees the possibility of free choice of religion and free expression of one's attitude towards religion has become the key formative factor to such functioning.

The article aims to identify the concept of freedom of worship in the context of current models of state-church relationship.

It is important to note that only the external aspect of freedom of worship can be subject to legal regulation, i.e. the person's practical activities and the external influence of his/her outlook on his/her acts. As correctly emphasized by P. Rabynovych and M. Khavroniuk, "it is impossible to allow or forbid a

thought itself, to regulate the process of emergence, alteration or disappearance of thoughts in an individual conscience by legislation or other legal means...". Hence thought, intellectual activity, a person's inner world including the complex process of an individual's ideological self-determination is beyond the limits of legal regulation.

Thus, the notions of "freedom of worship" and "freedom of religion" are closely related, but not identical. While the first one covers a broad sphere of human spiritual and ideological existence, the second concerns the problem of self-determination and self-realization in the system of religion and the freedom of activity for religious societies. Hence it is important to distinguish these notions, which will have theoretical and historical, political, and practical importance. One of the most important functions of the specified notion is that its application

substantially helps to increase the theoretical level of analyzing the religious and ecclesiastical state policies, find adequate principles and values of state regulation

of religious sphere, set the degree of justification of political and juridical decisions, and predict its direct and indirect socio-political consequences.

## UNIVERSAL DECLARATION OF HUMAN RIGHTS OF UN AS THE SOURCE OF THE CONSTITUTIONAL LAW OF UKRAINE

**Almashi I.**

*PhD of Law*

*Associated Professor of the Law Department,  
Augustin Voloshyn Transcarpathian institute  
of the Interregional Academy of Personnel Management*

Research issues of Universal Declaration of Human Rights of UN as the source of the Constitutional Law of Ukraine has practical importance for further reform of the legislation of Ukraine in the context of the development of Ukraine as a democratic and legal state, evolution of civic society, development of the Constitutional Law of Ukraine.

The basis of functioning of contemporary democracy and legal state are effective realization and defense of the human rights. Declarative fixation of the human rights not guaranteed realization of this rights, their defense and ensuring. International community on the universal level of the UN and its big role provide to the realization of the Universal Declaration of Human Rights of UN from December 10, 1948. Every year December 10, on the universal level is the International Day of Human Rights.

Ukraine was one of the first countries which take a part in the Universal Periodic Review in 2008. On October 2012 Ukraine also take a part in the Universal Periodic Review. The Universal Periodic

Review shall be used with a purpose of eliminate problems in the sphere of the defense of the human rights in Ukraine.

Universal Declaration of Human Rights of UN is the basic act of International Human Rights Law, and the part of the legislation of Ukraine and important source of the Constitutional Law of Ukraine. A lot of ideas of the Universal Declaration of Human Rights of UN are reflected in the some parts of the Chapter 2 of the Constitution of Ukraine.

Effective ensuring, defense and realization of the human rights according to the Universal Declaration of Human Rights of UN is an important for the peaceful development of human civilization and ensuring of the coexisting of different ideologies, religious, conceptions on the local, regional, national and international levels, development of the civic society, development of different countries as the democratic and legal states.

Universal Declaration of Human Rights of UN as the source of the Constitutional Law of Ukraine is characterized in the given issue.

## CONSTITUTIONAL REGULATIONS OF CHURCH-STATE RELATIONS IN THE POLISH REPUBLIC

**Palinchak M.M.,**

*Doctor of Political Sciences,  
Professor of international relations,  
Dean of the Faculty of International Relations,  
Uzhhorod National University*

**Bogdan S.R.,**

*applicant of Department of Constitutional Law and Comparative Law,  
Uzhhorod National University*

In the article sources the regulation of church-state relations in the Polish Republic. We consider the legislation of the country, including constitutional provisions, the procedure of registration of religious organizations. Special attention is paid to Polish experience in solving problems of religious education.

Poland was the first former socialist countries made liberal political trans-

formation, adopting the new democratic norms in the field of religion. Undoubtedly, the Polish law on freedom of conscience is liberal and based on the separation of church and state and the equality of religious organizations before the law. Other countries of the Warsaw Pact have an excellent example for the formation of a new model of church-state relations.

## CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AS A SOURCE OF LAW IN UKRAINE

**Poliakova V.V.,**  
*Postgraduate,*  
*Mariupol State University*

This article is devoted to the analysis of certain provisions of the Constitution of Ukraine and the Convention for the Protection of Human Rights and Fundamental Freedoms and the question of determining the role of the European Convention on Human Rights and Fundamental Freedoms in the legal system of Ukraine.

The article analyzes the current legislation and international treaties. The problems of practical implementation of the European Convention on Human Rights and Fundamental Freedoms in the legal system Ukraine.

The fundamental principle of human rights respect for life and dignity of every individual are present in most major religions and philosophies of the world. Human rights can't buy, earn or receive an inheritance they are called "essential" because they are inherent in every person, regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. The recognition of human rights and freedoms

are the highest value creates a state constitutional obligation for the recognition, observance and protection of the rights and freedoms of citizens, including those enshrined in international treaties of Ukraine. Ukraine's accession to the Council of Europe and the acquisition of the relevant obligations under the European Convention on Human Rights was an important step in the development of the domestic legal system.

The European Convention on Human Rights in the sources of law in Ukraine by its legal force takes place directly after the Constitution of Ukraine, as well as other international agreements. In the event of a conflict between international treaties of Ukraine and the Constitution of Ukraine must act rule supreme legal force of the Constitution. This is due to the fact that international treaties are part of the legal system of the state, and within this system no acts which by their legal power to stand above the Constitution of Ukraine. The European Convention is the supranational character.

## SECTION 2 CONSTITUTIONALISM AS MODERN SCIENCE

### CONSTITUTIONAL LAW SCIENCE

**Bysaga Yu.M.,**

*Doctor of Law,*

*Professor of department of constitutional Law and Comparative Law,  
Uzghorod National University*

**Byelov D.M.,**

*Doctor of Law,*

*Professor of department of constitutional Law and Comparative Law,  
Uzghorod National University*

**Lenger Ya.I.,**

*Candidate of Law,*

*Associate Professor of department of constitutional Law and Comparative  
Law,  
Uzghorod National University*

Constitutional law as a science – a system of scientifically based knowledge, ideas, theories, concepts of constitutional and legal relations and the constitutional and legal practice. Constitutional law as jurisprudence has its specialty code: 12.00.02 – constitutional law, municipal law.

Formally, the science of constitutional law is not present by laws, however, a large number of books, articles, monographs, reports. The constitutional law science studies the effect of constitutional law, its implementation rules and principles, the laws of development, formulating practical advices to improve standards of constitutional law and constitutional relationships. An important component of constitutional law science is the study the paradigm of constitutionalism.

Today, democratic governance in the country just do not conceivable without

such categories as constitutionalism. He reveals essential side democratic governance and its functional and practical aspects. Practical implementation of the regime of constitutionalism is impossible without compliance with the relevant principles, requirements and appropriate instruments.

The research process of genesis, evolution of constitutionalism as a science and its theoretical components are updated wide range of philosophical, epistemological and methodological issues related to the knowledge of general laws and structures of development of scientific knowledge. Powerful contribution to the development of this theoretical issues was conducted within the modern philosophy of science.

A holistic vision of constitutionalism, followed to understand and explain the science of constitutional law based

on certain conceptual precepts, which approximate to a number of basic units and diverge of long duration of its effect – the urgent requirement for the science of constitutional law, the answer to her desire to know the nature of their activities, through it – to know the nature of yourself. A possible variant of this review can serve as a paradigm approach.

This situation posit before constitu-

tional doctrine and practice is quite complex and extremely important task: to develop the necessary theoretical, methodological and practical approaches to ensure system integrity, self-reliance and dynamism of the Constitution, on the one hand, and on the other – ensure the adequacy of the dynamics of social practice constitutionally established functional balance.

## REFORM OF INSTITUTIONAL SYSTEM IN UKRAINE: CONSTITUTIONAL AND LEGAL ASPECTS

**Byelov D.M.,**

*Doctor of Law,*

*Professor of department of constitutional Law and Comparative Law,  
Uzghorod National University*

**Turyanica O.O.,**

*Master of Law Faculty,*

*Uzghorod National University*

Determined that in the world is not so much states that can boast sophisticated and at the same time stable constitutions. Typically, the degree of perfection of the constitution, depends on the ways and means of adaptation to the requirements of the current legal system. Choosing this path and methodology, just as the results can be radically different.

During the constitutional reform is not only the Constitution itself, the movement come all law-making processes. Their analysis gives an indication of the intensity of transformative action, see the results of reform and, more importantly, to define functionality of the constitutional reform. The mere posing of the question of the function of the constitutional reforms due to their complexity and uniqueness, the special role they play in the fate of law, and which is due to the genesis of the latter, the need to establish their causes and change as events develop. Therefore, the author seeks to identify some of the main areas of constitutional reform as a result of the formation of a new paradigm of constitutionalism in our country.

Improvement of the system of checks and balances (balances) is of particular importance as an objective necessity in view of the incompleteness and lack of political maturity of Ukrainian democracy, the lack of direct correlations between the interests of the citizens of the nation, the state and the corporate values and objectives of political parties, civil society weak effect on powerful institutions.

The second idea - the unity of the executive and its integrity as a precondition for responsible government political forces that won the national elections, provided: the unity of all sources of formation of the government; withdrawal of the executive branch of local state administrations; elimination Institute suspend acts of the government.

The implementation of the third idea of democracy and improvement of forms of direct democracy is achieved introducing the institute of national legislative initiatives and the national veto, granting citizens the right to constitutional appeal, the widespread use of referendum democracy, particularly to address issues of local importance.

There is a need to continue discussing key issues of constitutional reform, deepening theoretical research on Ukrainian constitutionalism. It is actually about

developing doctrinal concepts of constitutional reform based on the paradigm of constitutionalism, carefully holding it without haste and excessive radicalism.

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## FORMATION AND HISTORY OF CONSTITUTIONAL ECONOMY

**Kemeniash R.Y.,**

*Postgraduate student of Constitutional Law and Comparative Law  
SHEI “Uzhhorod National University”*

Unilateralism in realization and understanding not make it possible to move forward as lawyers and economists. It is of practical importance, implemented as an integrated approach to the field of economics and law. On the one hand, it helps to solve the traditional problem of lawyers – lack of knowledge economy, and for the economists – ignorance of law, especially constitutional. Teaching economic subjects without constitutional and legal factors significantly reduces the possibility of a comprehensive analysis of economic processes.

Expanding mentioned constitutional norms and principles with a view to making economic decisions serve to the emergence of constitutional economics. Legal nature is a field research on the impact of the constitutional provisions, procedures and institutional policy-making in the economy. This science is a research program with a direct request to the rules and institutions that directly relate to the

fields of constitutionalism and the economy. We can assume that the term goes beyond the definition of “economic analysis of constitutional rights” because of the possibility of alternative institutional and legal constitutional norms.

Constitutional economics studies the impact on the state economy. As history shows, the market economy is the basis for the existence of a democratic regime. For democracy is equally dangerous as lack and unlimited development of freedom of establishment, leading to the monopolization of the economy. The awareness of this threat led to antitrust laws, in many countries the adoption of measures to support market competition and small businesses. The state, shape, stability of democratic regimes have considerable influence factors such as the level of economic development, the polarization of society, the state's ability to maintain minimum social standards, standard of living.

## CONSTITUTIONALISM IN UKRAINE AS A REALIZATION OF IDEA OF EUROINTEGRATION

**Lenger Ya.I.,**

*Candidate of Law,  
Associate Professor of department of constitutional Law  
and Comparative Law,  
Uzghorod National University*

**Birovchak A.V.,**

*Law faculty,  
Uzghorod National University*

Article is devoted to specific features of the constitutional transit in Ukraine and, as a consequence, a new paradigm of constitutionalism. The author explores the problems of Ukrainian model of government based on the exercise of comparative legal analysis of the distribution of powers between the branches of government in Ukraine Constitution of Ukraine.

Ukraine needs drastic changes in various spheres of public life, the implementation of which, in particular, are designed to promote constitutional reform. Their strategic goal is the formation of a new system of social relations, the transformation of value principles of life of Ukrainian society. Expected changes, in turn, require institutionalization – key here belongs to the Constitution as the fundamental law of the country. Under the new conditions, acquire relevance question the adequacy of the Basic Law of the new system of social relations that has brought as a result of the reforms possible ways of amending

the Constitution, a durable social consensus around the constitutional norms. Given this, there is a clear need for further work on amendments to the Constitution of appropriate political institutions, political elite and society as a whole, making amendments to the Constitution by a wide social dialogue and their registration through legal mechanisms provided for by the Constitution.

The category of “constitutional transit” should be seen as a state of transition constitutionalism Ukrainian state from one state to another. Such a state of transition, its passage is not a single-line process, and may be multi-vector character development. That constitutional Transit can cover all types of transition states constitutionalism in terms of substantial change in their character not only from authoritarianism to democracy, but rather in accordance with national socio-cultural and political characteristics, values, of course, taking into account the international advanced scientific achievements.

**SECTION 3**  
**CONSTITUTIONAL AND LEGAL PRINCIPLES OF ORGANIZATION**  
**OF ACTIVITY OF STATE AUTHORITIES AND LOCAL GOVERNMENT**

**NOTARIES IN THE CONSTITUTIONAL SYSTEM OF THE STATE:**  
**THE HISTORICAL AND LEGAL ASPECTS**

**Bysaga Yu.Yu.,**  
*Candidate of Law, Associate Professor,*  
*private notary*

The subject of this study is due to continued growth in prestige and importance of notaries in modern society. Activities notary has an undeniable impact on most areas of public life and the law therefore requires regulation and reform notarial activities despite the many gaps in the present notary. The function of notaries in modern society can not be overstated, because notaries – a binding link between diverse interests that face, so naturally growing interest in the history and notaries. The purpose of this study is a detailed study and analysis of the history and formation of national origin Notaries in complex historical conditions of our country.

In summary, this study can be noted that the path of becoming Ukrainian notary still continues and is on the path of modernization. Notary as one of the areas of jurisprudence gaining more power and increasing the responsibilities of a notary in modern society. In summary of historical aspects appearance Notaries in Ukraine may be noted

that “notary – an expert on legal issues”, “notary – advisor, trustee members of legal agreements”, “notary – media legal protection”, “notary – the guarantor of the preservation of evidence”, “notary – authorized to justice”. Much of these expressions can be added, but the most accurate definition of a notary, in my opinion, given the representative of the Council of Europe at the Vienna Conference was held on 02.25.1995. It was noted that “The notary is a person who is a guarantor of legal protection” – “Mission notary as trustee and witness arbitration agreements is to protect and based on the principle of justice, to protect the weaker strong nescient before, who knows. Since the historical origin of notaries in the hands of the notary are the interests of the parties, it protects activity and property rights, rights of persons and property as an integral part of the freedom of its owner. The notary is the guardian of human dignity and every opportunity to give it access to the freedom of decision in complete security”.

**INTERRELATIONSHIP OF LAW ENFORCEMENT  
AND PROTECTION OF HUMAN RIGHTS  
AND THEIR PRACTICAL IMPLEMENTATION  
IN THE CONSTITUTIONAL SYSTEM OF OUR COUNTRY**

**Karpinska O.B.,**  
*lawyer*

The article is devoted to the problem of understanding and implementation of human rights in Ukraine. Grounded practical necessity withdrawal issues related to human rights and law enforcement, their interaction from the level of discussion. Was made analysis of scientific material, legislative and other legal acts in this context. Suggestions were given for solving problems excited at the theoretical and practical levels.

Thus creating the appropriate legal environment, an adequate legal framework for the existence and development

of free citizens is a priority direction of state policy. However, the experience of the existence and development of an independent Ukrainian state demonstrates: the lack of an effective mechanism to ensure the implementation of human rights law, the current system of public and private bodies that ensure implementation of this legislation – leads to undesirable consequences. Indeed, the adoption of fair laws to the Constitution and according to it is an important task that must certify the real recognition and effective action to ensure the rule of law in Ukraine.

## LEGAL NATURE AND TYPES OF LIMITS IN ELECTORAL LAW

**Marceliak O.V.,**

*Doctor of Law Sciences, Professor,  
Professor of Constitutional Law,  
Taras Shevchenko National University of Kyiv*

**Marceliak S.M.,**

*Candidate of Law Sciences,  
Associate Professor of constitutional, municipal and international law,  
Kharkiv National University named after V.N. Karazin*

Article is devoted the question of the legal nature and purpose of electoral qualifications, their role in identifying the voters and candidates to representative mandate, analyzes the types of qualifications in the electoral law of Ukraine and several foreign countries.

Alleged present stage of the electoral law as most foreign countries and Ukraine is based on the ideas of freedom and equality of man and citizen and is characterized by democracy, com-

pleteness legal definition of franchise. They can be classified into those that are objective in nature (age, capacity, nationality, gender and so on.) Or due to the real needs of society (citizenship, sedentary life, the moral aspect literacy (education), property, profession, family relationships, etc.). Franchise does not deny the idea of the universality of elections, and clearly delineate the electorate and those who qualify for mandate of the representative body.

## **PROBLEMATIC ISSUES IN THE CONTEXT OF LEGISLATIVE DRAFTING UKRAINIAN AND INTERNATIONAL EXPERIENCE**

**Pohorielova Z.O.,**  
*Candidate of Law Sciences,*  
*Assistant Professor of theory and history of law,*  
*Uzhhorod National University*

This article explores some legal aspects of the legislative drafting as an important element of legislative process in Ukraine, as a kind of legal activity, which consists of some consecutive stages, has a determining influence on the final outcome of the legislative process. The analysis of the current state of legislative drafting in Ukraine, its legal regulation, the characteristics of the scientific and organizational support. Shows international experience in the design stage separate laws.

Special attention is given to planning activities to determine how those laws to be taken, including the development of state-legal processes. The role of different actors of the legislative drafting and developers in the world.

The necessity of borrowing international experience creating schools of Legislative Drafting, Wherever taught

“to write” laws to comply with all the requirements of legislative technique.

The best way to prepare legislative text, as the practice in many countries is to work on it in two stages: development of scientific concepts and wording of the text based on the selected concept. Creating a scientific concept – and Phase legislation, which focuses on social media. The author raised the problematic issues and proposing concrete improvements of these stages with reference to international experience.

A special place in the article given commission to draft a bill that comes from the legislature, as it is the moment of commission, which begins work on preparation of the bill. It is noted that the early stage of the drafting process in our state regulated and do not require immediate regulation.

Made specific suggestions to improve the regulatory and legal framework drafting.

## **SUBJECTS OF LEGAL PROTECTION THE CONSTITUTION OF UKRAINE**

**Pridachuk O.A.,**  
*applicant of Department of Constitutional Law  
and Comparative Jurisprudence  
Uzhhorod National University*

This article draws attention on unresolved issues in the field of the constitution's legal protection by the people: "the people" notion defining and the role of the individual and the state in the democracy implementation research.

There are carefully examined existing in the science concepts of "the people" notion and the differentiation of "the nation" and "the people" terms is proposed.

A profound relationship between the citizens' political rights and the people's, as a collective entity of the fundamental law protection, legal instruments is simultaneously revealed.

Thus, from the inception of the first constitutions and the resulting evolution of constitutions arose the problem of maintaining them forth progressive regulations that determine the state regime,

a way of organizing the exercise of power, sovereignty of the people, inviolable rights and freedoms of man and citizen, that all the achievements of the national liberation rebellions, revolutions, wars. The provisions of the Constitution, by its nature aimed at limiting state power, prevent its usurpation of one person or group of persons is a guarantee of national sovereignty, and therefore subject to special legal protection, especially people.

The total will of each citizen generates popular will, which in any case is not an abstract concept, and completely filled with concrete content every citizen vision for national development. It is the people as a collective entity, is an active member of the constitutional relationships, one with rights and obligations which legal protection is fundamental law.

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