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THE STATE-CHURCH RELATIONSHIP

There is a long debate on the state-church relationship. According to their various historical, cultural, even economical situations, different states chose different ways to express this relationship. The present article is aiming to present the current situation in Romania and the future possibilities. The main conclusion is that the present situation allows too much involvement of the state in religious matters and that further measures should be taken in order to reduce this.

1. History

The relationship between the state and the church is a relatively old topic. Unlike in the pre-Christian societies, where the state (or tribe) leader was usually also the religious leader, or else the great priest, the sorcerer, the shaman, etc. had his own distinct part as the adviser of the ruler, the Bible introduced a highly influential idea through “Give Caesar what belongs to Caesar and God what belongs to God”\(^1\), the separation between State and Church. The refusal to admit the Emperor’s divine nature was a main reason for the persecution of early Christians in the Roman Empire. After Christianity became the official religion, the Church gained great autonomy. During the great barbaric invasions, there was but one constant: the Pope’s reign in Rome.

The Carolingian Empire left two powers fighting over universality: the temporal power (the Empire itself, and later the State) and the spiritual power (the Church), in theory, completely independent from each other. The Papal Institution tried for a long time to subordinate the temporal power to itself. In many instances, such as the events at Canossa (1077), it tried to impose a model of spiritual supremacy, by crowning the Emperor but also granting his subjects the right to give up their loyalty to the same Emperor, beside freely interfering with the internal affairs of any Catholic state. During the establishment of absolute monarchies in Europe, there were two main issues between European states and the church: the great

\(^1\) Matthew 22.21.
domains of the church, free of taxes, and the existence of ecclesiastic courts which prevented the temporal leader from being the supreme judge. This period witnessed the forcible change of the Pope’s residence to Avignon (1305-1378), as a pawn of the king of France, the great schism (1378-1429) and the pillage of Rome (1527). The end of the Pope’s absolute power came with the constitution of national churches, wholly independent of him, and eventually the restriction of his importance to Italy only.

Another phase of this long history is intimately linked to the Reform. The wars and religious conflicts which took place between the 16th and 17th centuries and attempted to legitimize one religion or another had different evolutions and outcomes. The Augsburg Dieta (1555) gave the German princes the right to impose their religion to their subjects based on the “cujus regio, ejus regio” principle. During this time, it was the State which appointed the official religion. The most obvious example is England, where Henry VIII set up the Anglican Church specifically to evade the authority of Rome.

Each church has a different vision of the State. The Protestant structures are less formal and less powerful than their Catholic counterparts and the importance of Church as intermediary between man and God is also less pronounced. The state-church relationship, however, is very different. The Anglican Church was created by the King and was, therefore, completely subordinated to him. Jean Calvin founded the theocratic state in Geneva. In Eastern Europe, Emperor Justinian was, in the 6th century, the leader of both state and church. It was mainly in this area that erastianism, which purported the subordination of church to state, became extremely influential.

As opposed to the religious turmoil of the Reform, the 18th century saw the beginning of the “free-thinkers’” siege on religion and its official power. “écrasez l’infâme” (Crush the infamy!) was Voltaire’s urge to take on the official church. On the other hand, the existence of a variety of churches increased the demand for freedom of religion (denied during the Reform/Counter reform). Due to this, the end of the century was marked by two extremely important declarations. The first one came in 1791, when the United States adopted Amendment I of the Bill of Rights, which states: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof […]”. Amendment I may be understood as two separate clauses: the official religion and the freedom of religion. The two clauses led
to the erection of a “wall between the state and the church” (to quote Thomas Jefferson), and one extremely thick at that.

The second moment came once France passed the Declaration of Human Rights, whose Article 10 stated that “No-one shall be disturbed for his opinions, even religious ones, as long as their manifestation does not disturb the public order established by the law.”, thus, for the first time in history granting freedom of opinion and belief as a fundamental right. The separation between Church and State was, however, achieved only in 1795 and only lasted until 1801, when Napoleon Bonaparte signed a concordat with Pope Pius VII. France did not become a secular state until 1905, when complete separation between State and Church was achieved.

In the United States, the Bill of Rights was applied solely on a federal level. Many of the states had specific clauses in their Constitutions, favoring a religion or another. The war between the states and the federal law was waged in Justice Courts for years. The most famous causes have been religion in schools, prayer in public schools and curricula involving Bible studies.

It was the Lemon v. Kurtzman case (1973) that led to the constitutional laws for assistance programs for religious schools2:

1. The law must have secular purposes (such as lending books to religious schools);
2. The law must not wither favor or marginalize religion;
3. The law must not involve state into religion.

Daily prayer in schools meant official support for religion. The most famous case was Abington School District v. Schempp (1963), when the US Supreme Court of Justice declared a law in Pennsylvania unconstitutional because it advocated daily reading of fragments from the Bible in public schools. The Supreme Court used the case, based on a strict interpretation of the “wall between State and Church”, as a precedent in all the cases that followed (such as the Lemon case) despite virulent attacks from the fundamentalist Right. Lately, the Agostini v. Felton case redefined Lemon’s third criterion; government assistance promotes religion if it results in religious indoctrination, defines its recipients according to their religion and involves the State in religion.

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The 2nd Vatican Council (1962-1965) and especially the Declaration on Religious Freedom (*Dignitatis Humanae Personae*) dealing with freedom of religion, had the most impact on catholic countries. As a result, most countries where Catholicism was the official religion modified their Constitutions accordingly.

At this time, Catholicism is the official religion in Argentina, Bolivia, Costa Rica, El Salvador, Guatemala, Lichtenstein, Malta, Monaco, Panama and Peru. Lutheranism is the official religion of Denmark, Iceland, and Norway. The orthodox church leads the “dominant religion” in Greece and the “traditional religion” in Bulgaria. The Anglican Church is obviously England’s official church, the Presbyterian Church is the official church of Scotland, Buddhism is the official religion of Laos and Sri Lanka, while Nepal is self-proclaimed Hindu.3

Western Europe has certain common State-Church features, having deemed legal4:

1. Freedom of individual and group religious practices;
2. A certain degree of Church autonomy (in systems where there are official churches, this applies to the other churches);
3. The state facilitates (and finances) religious services in public organizations;
4. Direct financial assistance or tax cuts;
5. Participation and/or representation in schools and media;
6. Support based on equality of treatment in culture and society (i.e. churches declared historical monuments and social protection).

### 2. The situation in Romania

The situation in Romania is very different from the one in France or the United States. Ever since the 14th century, the Byzantine-modeled Orthodox Church became the official church in Moldavia and Vallachia. “The clergy has always been subject to the secular authority represented by the King in the Romanian states.”5 In Transylvania, however, the Orthodox Church was only tolerated, unlike the “recept” religions (the Catholic, Calvin, Lutheran and Unitarian Churches), which had had

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freedom of religion as early as 1568. Between 1698 and 1701, the Orthodox Church was “united to Rome”, and only 60 years later did the orthodox population finally have a bishop. In 1864, Andrei Șaguna managed to reorganize the old Mitropoly of Transylvania.

In 1863, during Alexandru Ioan Cuza’s reign, the Church assets were taken by the State. One year later the Romanian Orthodox Church, made up of the churches of the two kingdoms, becomes autocephalous. 1925 sees the set up of the Romanian Orthodox Patriarchy.

In 1948, religion was forbidden in schools, hospitals, asylums and military barracks and theological schools were closed. The Church united to Rome (the Greek Catholics) was forcibly assimilated by the Romanian Orthodox Church.

On August 4 1948, the Law for the general regulation of cults was passed. It recognized 14 cults: Orthodox, Roman Catholic, Armenian Gregorian, Old Rite Christian (people from Lipova), Protestant (Calvin), Evangelical Lutheran C.A., Synod Presbyterian, Unitarian, Mosaic, Muslim, Baptist, 7th Day Adventist, Pentecostal and Evangelical Christian, all with their specific organization and their places of worship.

After December 22 1989, the Greek Catholic Church was recognized as the 15th official cult.

Through the 1991 Constitution, the situation of churches is regulated in Article 29, regarding freedom of conscience, as follows:

(1) Freedom of thinking and opinion, as well as freedom of religious beliefs cannot be regulated in any form. No one can be forced to adopt an opinion or accept a religion which is contrary to his or her beliefs.

(2) Freedom of consciousness is granted; it must be manifest as mutual tolerance and respect.

(3) Religious cults are free and may be organized according to their internal regulations, within the word of the law.

(4) All acts, forms and actions of religious intolerance are forbidden between cults.

(5) The religious cults are autonomous and enjoy support from the State, including granting religious assistance in the army, in hospitals, prisons, asylums and orphanages.

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(6) Parents and tutors have the right to insure, according to their own beliefs, the education of minors in their care.

The controversy surrounding the Constitution raged for a while. It was the first time the State did not appoint the Patriarch. Among the amendments which were rejected, one may note the one forwarded by the Senator-Priest Simion Tatu forbidding religious proselytism (modeled on Greek law and meant to protect the Orthodox religion), as well as the one making religion compulsory in schools and high schools or the one proclaiming the Romanian Orthodox Church as majority church. The 1991 Constitution is based on equality and autonomy of all religious cults.

How is the actual State-Church relationship regulated by the above-mentioned Article 29? One must look at different aspects, such as the presence of religion in the army as well as in schools, the financing received from the State, or the equality of treatment for the different religions.

In the army, the religious assistance activities are regulated by Article 29 (5) of the Romanian Constitution and the laws regarding the organization and functioning of the Ministry of National Defense. Until the “Law of army clergy and religious assistance in the army” is passed, these activities are regulated by “The Protocol regarding the organization and functioning of religious assistance in the Romanian army”, concluded in 1995 between the Ministry of National Defense and the Romanian Patriarchy.

The religious assistance is available in all army units, large army units and military schools. “The goals of religious assistance in the army are:

- religious knowledge of the cult to which the army member belongs and the respect for the spiritual values of the Romanian people;
- patriotism, love and devotion to the army and respect for the army’s traditions of fight and sacrifice;
- combating all antisocial acts as well as acts against the constitutional order, in order to improve the morale, the psychic state and the discipline of Romanian soldiers.”

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6 This latter amendment took, at a point, the form of the Article 22 from the 1923 Constitution: “The Romanian Orthodox Church, as the religion of the majority of Romanians, is the dominant Church in the Romanian State.”, leaving out the end of the phrase: “and the Greek Catholic Church has priority over the other cults.”

At this time, there are 37 Orthodox priests and 1 Roman Catholic priest in the army. According to the acts regulating religious assistance in the army, by the year 2005 there will be approximately 100 full-time priests and 50 priests receiving allowances on a daily basis.8

In the education system “(1) The curricula of primary, secondary, high school and higher education include Religion as subject of study, part of the mainstream curricula. The student, with the agreement of the parent or the legal tutor, chooses his or her religion or cult for study. (2) At the written demand of parents or legal tutors, the student may choose not to take part in religion classes”9. The classes are sponsored by the State. The education curricula for primary and secondary education includes an hour of religion per week every year.10 Thus, religion is the only subject from the curricular area Man and Society taught every year, with a total of 8 hours (Geography and History, subjects included in the secondary school graduation examination- “capacity examination”, have between 6 and 10 hours in the 8 years of general education).

In the higher education system, there are Faculties of Theology at several state universities in the country. The Babeş-Bolyai University alone has Faculties of Orthodox, Greek Catholic, Protestant and Roman Catholic Theology. The curricula does not address only priests, but also specialists in social welfare, letters and communication.

The purpose of religious education is multi-fold. On the one hand, it aims to acquire a general knowledge in the field. On the other hand, “Maybe the main task of religious education is creating a good Christian, with the ability to know and worship sacred values”11.

Ever since the reign of Charles I, the state was involved in the financial support of religious cults. In 2001, the budget of the State Secretariat for Cults was of 860.444.862 thousand lei, in 2002 it decreased to 597.089.661 thousand lei, because the salaries of 17.500 non-clerical employees were transferred to local budgets. The budget for 2003 includes 643.655.000 thousand lei for clerical employees, 147 billion

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8 www.mapn.ro
9 Article 9 of Law 84/95 reissued with ulterior modifications and additions.
for religious cults assistance and 31 billion for assisting the institutions of the Romanian Orthodox Church outside Romania.

There are several complaints about how the State treats certain religions. The main complaint is that many religions cannot register as official cults. Some of the religions that could not get registered officially are: Jehovah’s Witnesses, The Adventist Movement for Reform, Jesus Christ’s Church of the Latter Day Saints (the Mormons) and the Baha’i Belief. The official reason for this is that Article 13 from Decree 177/1948 states that the recognition of official cults is made on the basis of the Decree of the Presidency of the Great National Assembly, an organism long dissolved.

99% of all Romanians are part of one official religion or another, according to the 1992 Census. Of these, the majority (86.8%) are Orthodox, 5.1% Catholic, 3.5% Protestants, 1% Greek Catholic, 1% Pentecostal, 0.5% Baptists, etc.

Church constantly rates first as level of trust in institutions: 12

Religion or faith is considered as very important by 55.4% of Romanians, important by 31.9%, fairly important by 3.3%, with only 1.2% viewing it as completely unimportant. Generally, among important issues for Romanian, religion classifies third, after family (viewed as the most important by 55.9%) and work (27.8%), with 7.4% choosing it as the first option. For those who belong to neo-protestant
religions, their religion or belief comes 2nd, before work (30.9 % consider it their 1st option).

However, Romanians are not church-going. 43.9 % attend more than one Mass per month\textsuperscript{13}. 31.6 % declare themselves religious and follow the teachings of the Church, while 59.4 % have their own way of expressing their religious beliefs.

\textbf{The future of the state-church relationship}

Because of the great support received from the population, the church is constantly increasing its demands. Generally, there is great pressure for a tighter relationship between the Church and the State. After 1990, the State was very instrumental in promoting religion, maybe as compensation for the 40 years that religion had been banned outside public life. Public television dedicated many hours to religion, including live transmissions of Masses. State officials surrounded themselves with priests for any inauguration, official occasion, etc.

The pressures were not only for greater support for churches, but also for a greater involvement of the Church in the affairs of the State.

Law 125 of 18 March 2002, approving Government’s Ordinance no. 82/2001 on the establishment of financial support for cult institutions belonging to the official cults of Romania, introduces a new article: “Article 3.- (1) From the state budget, through the budget of the Ministry of Culture and Cults, funds are allocated for […] completing own funds required for the maintenance and functioning of places of worship with little or no revenue, for the establishment and maintenance of cultural-religious museums, for the building and repair of places of worship, for the purchasing of buildings required for the activity of places of worship and social welfare, for the support of social welfare activities promoted by religious cults in hospitals, orphanages, asylums and others, for the support of internal and international activities of religious cults. (2) From the local budgets, funds may be allocated for completing own funds required for the maintenance and functioning of places of worship with little or no revenue, for the building and repair of places of worship and

\textsuperscript{12} Source for data: The Foundation for an Open Society, \textit{Barometrul Opiniei Publice} (Public Opinion Barometer), june 2002.

\textsuperscript{13} World Values Survey 1998 has an even lower number: 31 %.
for the conservation and maintenance of assets belonging to religious cults and to the national cultural heritage and for the social assistance activities that they promote.”

As one can easily notice, this article makes provision for the financial support of the church at all levels, either from local or from state budgets. Until this law was passed, the state could only make investments for the restoration of those churches which were considered historical monuments (even if there were sponsorships in effect from the Government or the Prefect’s Office). In 1996, the Romanian Orthodox Church spent 44.004.756.000 lei for the building of churches, of which 29.352.587 billion from the church goers, 7.893.831 billion from sponsorships, 315.438.000 from the eparchies, 100.900.000 from the Patriarchy, 4.152 billion from the Government and the Prefect’s Office, 210.000.000 from the City Halls.

Through the implementation of this article, the State increases its contribution to the construction of new churches. One implication of this was the failed project of the “Cathedral of Our People’s Salvation”, a mega-church designed by the Romanian Orthodox Church and whose main investor would have been the State.

As for the relation between the cults, there are many voices arguing for the changing of the Orthodox Church’s status to that of national church. The 1999 project of the Law for the cults ratified by the government gave the Orthodox Church the status it sought, but internal and, most of all, external pressure (especially from the United States) prevented it from becoming a law. The drive to make the Orthodox Church Romania’s national church has not stopped there, however, since the argument is mostly historical, asserting an allegedly intimate link between Romania’s national identity and (Orthodox) Christianity. There is also a strong opposition to the Orthodox Church, mainly from intellectuals who view it as the main adversary of modernity (see Samuel Huntington’s influential article on this matter). Many arguments and official or officious publications of the Orthodox Church do, in fact, show its reluctance, if not downright hostility, to the idea of Western style democracy in Romania. The Romanian Orthodox Church’s relations with other cults are not good either: the conflict with the Greek Catholics is far from over and there are many other conflicts and hostility to the Neo-Protestant churches (which, even when official, are still treated as religious sects). The Romanian Orthodox Church is also hostile to religious expressions not directly subordinated to it. For example, in June 1996, the

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14 Official Registry (Monitorul Oficial) no. 198/25.03.2002.
15 Biserica Ortodoxa Romana in Date, Viata Cultelor, nr. 208/1997.
International Congress of Jehovah’s Witnesses was forbidden on its demand. The Pope’s visit to Romania had been an object of endless negotiations between the authorities and the Orthodox Patriarchy (although the Pope is also a chief of state - the Vatican- and there is a large number of Roman Catholics in Romania). However, “Since 87 % of the electorate is Orthodox, it is extremely difficult for the parliamentary majority not to take their opinion into account and not to declare the Orthodox Church the national church by law”\footnote{Fonta, Ilie, \textit{Biserica Ortodoxa Romana- Biserica Nationala}, in Democratia Sociala no. 3/1999.}, so no political party opposes this idea.

Another issue is the interference of the church into politics. There is a significantly large number of people who consider this approach desirable. Thus, 10.3 % mostly agree and 6 % agree completely to the idea that priests should influence voting patterns, 11.5 % and 5.1 % think priests should influence the decisions of policy-makers, 29.4 % and 16.1 % think that political seats should be taken by people who believe in religion.\footnote{The Foundation for an Open Society, \textit{Barometrul Opiniei Publice}, iunie 2002.}

The Romanian Orthodox Church has its own political agenda. The most notorious manifestations of this agenda have been the rebuttals of homosexuality and legalizing of prostitution, the former being in clear conflict with the European Christian values. A deep regret of The Romanian Orthodox Church is that the 1991 Constitution forbade the presence of religious representatives in the Parliament.

When faced with demands for religious pluralism, The Romanian Orthodox Church tries to justify its stance: “The same way market economy is about economy, pluralism is about the social and political life. However, religious life is not the same as the social or political life”\footnote{Dutu, Alexandru, \textit{Ortodoxie si laicitate}, “Almanah bisericesc”, Arhiepiscopia Bucurestilor, 1999, p. 67.}. Moreover, at certain points, the very favoring of the church by the state was demanded: “why, then, the integrity of the teachings of the Church- including Christian values- is no longer protected, even by force, if need may be, by the State?”\footnote{Platon, Mircea, \textit{Statul vidului}, Biserica si Problemele Vietii, no.4/1998.}

The state-church relationship issue can be seen from differing points of view: that of the church\footnote{See Babes-Bolyai University/ Pazmany Peter Catholic University, \textit{Theological Doctrines on the Ideal Church-State Relation}, Cluj-Napoca, 22-23 February, 2000, Presa Universitara Clujeana, 2000.} and that of political doctrines or parties\footnote{}. The two stances are very different. There is no clear approach to faith and its association (church) so far in
Romania. The Constitution places faith on the same level as freedom of thought and opinion, making it private. However, in order to exercise this constitutionally granted right, one has to dwell into the collective, which is intimately linked to the church as interlocutory of the state. Article 29 paragraph 5 asserts, apart from the autonomy of religious cults, also the state’s support for them (the financial support is not explicit, simply insuring the presence of religion in schools, hospitals and the army), namely the involvement of religion in public life.

One possible viewpoint is that of the public services. Generally, the state only finances public services made available to its citizens (which covers everything from education and health to national security). Religious assistance can be seen the same way: a public service facilitated and co-financed by the State. Therefore, a clearer regulation of this issue, from the means employed to make it available (there were cases where certain religious services were refused by the Church because it had not received its payment for them) to the way they are or are not to be taxed (there are often supplementary payments not registered anywhere for funerals, weddings or baptisms). As for religious education, the goal of introducing religion in the curriculum should be clearly defined: whether it is acquiring a general knowledge in the field or the formation and enhancement of religious feelings (which is to be avoided, since it transforms the State in a tool for religious propaganda).

Whether we like it or not, the contemporary society is one where the individual dimension, freedom and choice are the fundamental values. The State only has, and should have, a small part to play in the individual’s personal life. As for religion, and not only, the issue is as follows: every person must find his or her way in life, sometimes with the assistance of certain guides that they choose alone. The best position for the State is that of a neutral safeguard of this freedom.

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8. ***, Biserica Ortodoxă Română în Date, Viața Cultelor, nr. 208/1997;
9. ***, Legea 84/95 republicată cu modificările și completările ulteroare;
10. ***, Ordinul Ministerului Educației și Cercetării nr. 3638/11.04.2001, Anexa 1;
11. ***, World Values Survey 1998;