

Ще одна складова теолого-соціологічної теорії права включає визнання пов'язаності права із соціумом. Як соціальне явище право знаходить свій вияв у суспільних відносинах. Норма права „живе” доки воно застосовується суспільством і твориться ним. Право включає як державно-владні веління, так і норми звичаєвого права, традиції, моральні норми. Суспільне життя регулюється не тільки правовими нормами, але й не-правом, тобто силою звички, модою, пережитками, ціннісними установками особи. Результатом правового життя тут є правова культура суспільства. Отже, право є феномен сучасної цивілізації, створений соціумом в рамках **Морального імперативу добра і справедливості, вищих законів** (Божественних, космічних, як про це зазначено у роботах ряду вчених), за якими людина, створена за праобразом Божим, наділена талантом і правом на творчість.

Попередні роздуми щодо розуміння норми права як соціального явища і продукту суспільної діяльності невідривно пов'язані із ще одним його визначенням: норма права є легітимізованим інтересом, результатом компромісу суспільних еліт, вираженого у партійних та корпоративних позиціях, концентрованого у цій правовій нормі, часто ухваленій законодавчим органом.

Саме тут закладений договірний зміст права сучасного суспільства, що не відкидає можливості розгляду права як результату договору народу та держави (Суспільного Договору), матеріалізованого у першу чергу у конституції країни. Таким чином, право є Суспільним договором, в основі якого Первісна норма та соціальні норми права. Право як Суспільний договір про засади суспільного порядку визначає модель влади та знаходить свій вияв у конституції. Тому завершимо ряд визначень права розглядом його як засобу «моделювання» і закріплення влади, а значить, інструментом формування влади є правова норма.

Отже, норма права є не результатом сліпого наслідування вищої волі. Творець наділив людину і суспільство розумом та визначив через заповіді основні засади суспільного життя і міжособистісних та колективних відносин, визначив моральні імперативи.

Кожне із наведених вище визначень права і його зовнішніх проявів є свого роду „прожектором”, який „освітлює” норму права як феномен суспільного життя із певної точки, що дозволяє виявити складну природу права тільки частково. Акумуляовано ці положення знаходяться у Конституції України.

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CIVIL TEACHINGS OF THE BIBLE WITH AMERICAN AND EASTERN EUROPEAN ILLUSTRATIONS

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The Bible is often rejected today as a source for public policymaking on the basis of modern secularistic perspective[1; 2; 3; 4]. Yet, at least in many contexts, both historically and contemporarily, the Bible has had a prominent role in the formation of the law. The Bible itself shows some relevance to modern governments in that its ancient contents contain numerous specific passages with principles arguably parallel to elements of 'democratic' law and civil

government today. Furthermore, the Bible is historically relevant for Ukraine in that historical research demonstrates the Bible was used as a source for lawmaking not only in the ancient Hebrew republic, but in modern contexts, such as colonial America and the early modern Polish-Lithuanian Commonwealth.

This paper challenges the secularist perspective of lawmaking substantively and historically on three grounds. First, it examines the relevance of the political and legal contents of the Bible itself to modern democratic principles. Second, it demonstrates the prominent use of the Bible in the lawmaking of colonial America and the early modern region of what is now Belarus, Lithuania, Poland, and Ukraine. Finally, it raises questions about the relevance of the Bible as a source for legal thought and codification in modern Ukraine.

1.0 What are the civil teachings of the Bible?

Before considering the specific civil teachings of the Bible, it is helpful to identify that they are based on and maintained in the context of overarching biblical and theological foundations of the Bible, as developed by centuries of Christian theology. These foundations address the nature of God, the world, and man. They serve as a set of presuppositions or what some might call a ‘worldview’.

Theological foundations for the civil teachings of the Bible and their interpretation include 1) the authority of Scripture (philosophically in terms of ontology, epistemology, and deontology) and 2) doctrines about the sovereignty and providence of God, which serve as a basis for 3) the law of God over nature (normativity both physically and metaphysically and the notions of physical and moral laws which are fixed, uniform, and universal). In relation to mankind, they include 4) man’s being made in the image of God (the *imago Dei*, from which are derived notions of sanctity and respect for human life and human dignity), and along with man in God’s image is 5) man’s freedom and responsibility in the world, as he has free will but is also accountable to God his Creator. Yet, the Bible and Christian theology consider 6) man sinful by nature, and thus in need of not only personal redemption but also regulation and deterrence in the course of earthly life in terms of 7) the rule of law for order among all citizens and 8) protection of citizens from corrupt officials by the enactment of limited government. Biblical and Christian theology presents man in Christ to be in a process of sanctification whereby there is 9) a flow of freedom from the internal sphere (spiritual and psychological) to the external (affecting family, social, political, and all arenas of life) and 10) the related need for coordination of the institutions of society and, in particular, the complimentary roles of church and state, both under God.

The civil teachings of the Bible exist in the context of the whole Bible, including the Old and New Testaments. Some of these specific teachings are listed in the following table with references.

Table 1

CIVIL TEACHINGS OF THE BIBLE

State as an institution ordained by god for the purpose of protecting law-abiding citizens and punishing criminals (limited jurisdiction)	Gen 9:1,6; Rom 13:1-4; 1 Pet 2:13-14; 2 Chr 19:11
Decentralization of civil power (federalism)	Deu 16:18-19; 2 Chr 19:5-10
Written constitution (covenant; rule by law)	1 Chr 11:3; Deu 17:14-20; 2 Ki 11:12,17; 2 Ki 23:3; 2 Chr 23:3,11,16
Separation of powers	Isa 33:22; Exo 4:29
Independent judges and juries	2 Chr 19:5-11; Exo 23:1,3; Deu 17:6; Deu 19:15-19; Lev 20:1-5
Equality before the law	Exo 12:49; Lev 24:22; Num 15:15,26,29; Deu 16:18-19
Civilian militia and police forces	Num 31:3,14; Deu 20:9-10; 1 Sam 25:13
Bicameral legislature	Exo 24:1; Num 11:16-17; Exo 18:12,21,22
Election of representatives	Deu 1:13; Exo 18:17-27; Deu 17:14-17
Consent of the governed	1 Chr 28:1-8; 1 Chr 29:22; 2 Chr 22:1; 1 Sam 8:19-22; 2 Sam 3:21; 2 Sam 5:1-3; 1 Chr 11:3; 1 Ki 1:39

Many more examples and references could be added to this list. Yet, from this very brief examination, it is evident that the Bible contains specific political teachings and that they have some resemblance to political concepts in the discourse of the twenty-first century. In addition, there is some association of the elements listed in the table above with what are commonly regarded as elements of ‘democratic’ governance[5]. It is one thing to demonstrate that the Bible contains specific civil teachings, but it is another to demonstrate whether explicit attempts to apply such teachings to civil governments have been made, which leads us next to consider some historical examples.

2.0 Were civil teachings of the Bible applied by Americans?

America is chosen as an example not on the assumption or assertion of its originality or superiority, but because it often has been identified as a ‘Christian nation’ and continues to have a high proportion of its population identified as ‘Christian’. While numerous works are devoted to the question of whether America can be identified as a ‘Christian nation’, the question in this paper is a different and more specific one, namely whether the American founders used specific Bible references in the formation of their legal and political system.

References to the Bible are replete in early colonial American charters of government. For example, the *Fundamental Orders of Connecticut* (14 January 1639) specifically recognized the Bible as the standard of public law:

Forasmuch as it hath pleased the Almighty God...where a people are gather together the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent Gouerment established according to God...enter into Combination and Confederation together, to mayntayne and prsearue the liberty and purity of the gospel of our Lord Jesus wch we now prfesse, as also the discipline of the Churches, wch according to the truth of the said gospel is now practiced among vs...for that purpose shall haue power to administer justice according to the Lawes here established and for want thereof according to the rule of the word of God... [Original grammar and spelling is retained.] [6]

In the same, the oath of the governor is as follows:

...[I, the governor] doe sweare by the greate and dreadfull name of the everliueing God, ...will further the execution of Justice according to the rule of God’s word; so help me God, in the name of the Lo: Jesus Christ[7].

In the *Declaration of Independence* (4 July 1776), the American founders reference ‘the laws of nature and of nature’s God’, taken in historical context to include the laws of God as revealed in the Bible. They continue in the *Declaration* by referencing God as the source of their rights with the words ‘that they are endowed, by their Creator, with certain unalienable rights’ and that God is the ultimate world ruler as they conclude ‘appealing to the Supreme Judge of the world for the rectitude of our intentions’ and ‘for the support of this Declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other our lives, our fortunes, and our sacred honour’[8].

Another example of a reference to the Bible by American founders is in the *Constitution of Vermont* (8 July 1777):

Chapter 1...III. That all men have a natural and unalienable right to worship ALMIGHTY GOD, according to the dictates of their own consciences and understanding, regulated by the word of GOD...nor can any man who professes the protestant religion, be justly deprived or abridged of any civil right, as a citizen, on account of his religious sentiment...nevertheless, every sect or denomination of people ought to observe the Sabbath, or the Lord’s Day, and keep up, and support, some sort of religious worship, which to them shall seem most agreeable to the revealed will of GOD. [Original grammar and spelling is retained.] [9].

One final example demonstrates the lasting commitment in some parts of American government to referencing the Bible in public life. The *North Carolina Constitution* read until 1876 as follows:

That no person who shall deny the being of God, or the truth of the Protestant religion, or the divine authority of the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State[10].

Beyond the colonial and national charters and state constitutions, the personal writings of the founders contain ample references to the Bible for political reasoning[11]. It is evident that references to Scripture by America’s founders were the result of the cultivation of Christian teaching in colonial America’s colleges and especially its churches. For over a hundred years before the writing of the *Declaration of Independence* (1776) and the *Constitution of the United States* (1787), many if not all of the basic political principles found in those seminal documents were taught widely by the American clergy. The following table (*Table 2*) identifies numerous Christian legal and political principles taught by colonial American clergy[12]. Especially notable are the concepts of ‘laws of nature and of nature’s God’ (John Davenport, 1669) and ‘natural, equal rights of life, liberty, and property’ (Samuel Langdon, 1759), because the phraseology employed in these sermons is very similar to that which is contained in the *Declaration of Independence*, drafted many years after the concepts were taught by clergy in the American colonies. To some degree, colonial American sermons functioned as a seedbed for the cultivation of American political ideas.

Table 2

Examples of Political Principles in Colonial American Sermons

<i>Principle</i>	<i>Pastor</i>	<i>Year</i>
The law of God is over all	Rev. Timothy Cutler	1717
The law of nature and of nature's God	Rev. John Davenport	1669
The purpose of government is the good of the people	Rev. John Bulkley	1713
Government is limited by law	Rev. Gershom Bulkley	1692
Consent of the governed	Rev. John Barnard	1738
Two spheres of liberty(civil and religious)	Rev. Benjamin Stevens	1761
Government is ordained by God	Rev. Ebenezer Pemberton	1710
Government is founded on compact or covenant	Rev. John Cotton	1645
Representative government	Rev. John Wise	1717
Duties of civil rulers	Rev. Jonathan Mayhew	1754
Right to resist tyranny	Rev. Nathaniel Appleton	1742
Mutual serviceableness of religion and civil government	Rev. Solomon Williams	1741
Civil disobedience	Rev. Jared Eliot	1738
Religious liberty and freedom of conscience	Rev. Elisha Williams	1744
Just war in self-defense	Rev. Jonas Clarke	1768
Opposition to slavery	Rev. Samuel Cooke	1770
Necessity of union	Rev. Robert Ross	1775
Written constitution	Rev. Jonas Clarke	1778
Natural, equal rights of life, liberty, and property	Rev. Samuel Langdon	1759

The American clergy were among those who formed American states, wrote state constitutions and laws, served as judges, founded universities, and trained politicians[13]. For example, Reverend John Witherspoon, a Presbyterian minister, was the President of Princeton College, a signer of the *Declaration of Independence*, a member of over one hundred committees in Congress, and a trainer of public leaders. Witherspoon trained one United States President and one Vice-President, nine cabinet officers, twenty-one United States Senators, thirty-nine United States Representatives, three United States Supreme Court justices, twelve governors of states, six members of the Continental Congress, and thirty-three judges[14].

3.0 Were civil teachings of the Bible applied by Eastern Europeans?

While it is clear from the American example (and could be demonstrated for other governments as well, though not discussed herein) is that civil teachings of the Bible were identified and used in forming law and public policy. The question now considered is whether

such civil teachings, commonly identified in Western contexts, were pursued in the history of Ukraine, an Eastern European country.

Ukraine has Christian roots of more than a millennium. But for the limited scope of this paper, one episode of that long history is considered, namely that which involved residents in early modern Poland and the Grand Duchy of Lithuania, Samogitia, and Rus (GDL) cultivating Renaissance and Reformation political thought on the basis of renewed biblical and theological reflection. The Renaissance stimulated efforts to go back to the sources (*ad fontes*). The Reformation adapted this methodology by reviving its examination of the Bible in its original languages, Hebrew and Greek, as well as translating and publishing the Scriptures in vernacular languages with the intent that all people, lay and clergy alike, might read the Bible for themselves. Some of the earliest achievements of this effort were the translations of the Bible by Francis Skaryna into Old Belarusian language in 1517 and The Ostrog Bible of 1581 in Old Church Slavonic language.

The Ostrog Bible was associated with another manifestation of renewed interest in the reading and application of the Bible in the early modern Polish-Lithuanian Commonwealth, namely the formation of Ostrog Academy. There is yet today evidence of such biblical influence on display in the Museum of the History of the National University of Ostrog Academy. Among several books in the exhibits is a book from the sixteenth century by the Protestant theologian Philip Melancthon. The inclusion of such works at Ostrog Academy is also evidence of some degree of harmony and collaboration that existed between Orthodox and Protestants in GDL and the Polish-Lithuanian Commonwealth in the sixteenth century.

Innovative studies of the Bible were undertaken by numerous Polish and Lithuanian thinkers during the sixteenth century, including some with respect to social and political reforms[15]. One writer, in particular, stands out as the foremost Reformed Protestant theologian and statesman in GDL, Andrzej Wolan (1530/31-1610). Wolan was a secretary to Mikolaj Radziwill the Red and three GDL kings. Of Wolan's substantial writings, over thirty works are extant. Wolan's high level of learning and erudition is evident in these works, and sources he cites include classical sources like Cicero and Seneca, as well as church fathers, the Bible, Italian republicans, Polish thinker Modrzewski, and especially Swiss Reformed theologians and other Protestant theologians[16].

Wolan's writings fall into two broad (though overlapping) categories, theological and political. Wolan's most famous political treatise is *De libertate politica sive civili* (1572). This substantial monograph of over one hundred pages is a political theology about freedom, equality, morality, and honour[17]. In *De libertate*, Wolan related 1) freedom and creation, concluding natural rights, natural law, and divine law; 2) freedom and sin, concluding the rule of law, limited government, republican form, and self-control (or self-government); 3) freedom and government, concluding pact, consent, limited monarchy (and against hereditary monarchy), and political individuality; and 4) freedom and grace, concluding happiness from virtue and the necessity of virtue from Christ[18]. Wolan's extensive development of these concepts contributed to outcomes in GDL, including 1) an indigenous political theory of government for the people, 2) the rule of law and limited monarchy established in the Pacta Conventa and Henrician Articles of 1573, 3) religious tolerance as established in the Warsaw Confederation of 1573, and 4) defined limitations of jurisdiction in the relationship of church, state, and individual in the GDL Statute of 1588[19]. Wolan made substantial use of the Bible and Swiss Reformed theology in his *De libertate*. Especially noteworthy is that he advanced ideas of limited monarchy and in favor of a more representative and republican form of government at a time when much of wider Europe was turning toward the absolute authority of monarchies. Though Wolan's intellectual achievement is relatively little known, it is something for which Baltic and Eastern Europeans might be proud and for which those in the West might be appreciative, given it was part of a sixteenth-century network that contributed to the later development of modern conceptions of liberty.

4.0. How might civil teachings of the Bible be considered for Ukraine today?

This paper has demonstrated in its challenge to modern secularization that the Bible contains specific civil teachings which are somewhat parallel to modern concepts of democratic governance. It has then showed how the Bible was a significant source used by Americans in the founding of America. But about two centuries prior to America's founding, the Bible was also a source of political reasoning by numerous thinkers in Poland and GDL. In particular, the works of Andrzej Wolan include a political theology based on the Bible and Swiss Reformed theology, a theology which promotes freedom, equality, morality, and honour.

Such historical findings are useful for raising questions about the Bible and Ukrainian law and politics today. Three such questions are posited here, intended to stimulate thinking among legal and political scholars, as well as students and citizens as they face a complex, changing, and challenging national situation. First, how might Ukrainians rediscover their history and their own intellectual past as an indigenous tool for reflective thinking about how their country should proceed? Though the works of Wolan and others are relatively unknown, they are part of the story and context of Ukraine.

Second, how might growing scholarship of Ukraine's intellectual (including theological) history inform its national identity? Ideas generated by the members of its own past society might contribute to a distinctive Ukrainian approach. It is not intended here to activate nationalism (negatively understood), but rather a healthy national identity which might serve to consolidate Ukrainian values and traditions into a harmonious society. Along these lines, Ukraine faces questions, and sometimes pressures, from wider Europe to proceed in a more thoroughgoing secularism than may be consistent with its historic Christian national identity. Proponents of the 'secularization thesis' had postulated over a century ago that with the increasing progress of modern science, religion would increasingly decline. This position was advanced by Auguste Comte, Herbert Spencer, Karl Marx, Sigmund Freud, Max Weber, and other thinkers[20]. However, modern thinkers have challenged this thesis to the point that it is largely disregarded. In fact, numerous studies in the past two decades show the world's increasing preference for religion and its role in national life. Ukrainians have the opportunity to consider whether they will choose a future of radical secularism or a path more concordant with a Christian Ukraine.

Third and finally, despite the sometimes overwhelming complexity and impenetrability of modern politics, Ukrainians have the opportunity to consider being individual political actors; that is, there are at least some things one can do personally to promote a better society and government. With reference to this paper, each Ukrainian could consider the possibility of consulting the Bible in personal research, whether for personal growth or its political and moral ideas for society and public policy, and consider what that might mean for the future of Ukrainians.

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ЦИВІЛІСТИЧНЕ ВЧЕННЯ БІБЛІЇ НА ПРИКЛАДІ АМЕРИКИ ТА СХІДНОЇ ЄВРОПИ

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богослов'я, державної політики та історичної теології й спеціалізується на
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У наш час під впливом процесу секуляризації Біблію часто не беруть до уваги як джерело для побудови публічного права в державі. Проте як в історичному, так і сучасному контексті, вона мала значний вплив на формування закону[1; 2; 3; 4]. Власне, Біблія доводить свою значимість для сучасної влади в тому, що її стародавній зміст містить численні й конкретні уривки з постулатами, в яких, безперечно, проведена паралель з сучасними елементами «демократичного» права і цивільного уряду. Крім того, Біблія є історично актуальною для України. Дослідження доводить її використання як джерела законотворчості не тільки в Давньоєврейській державі, але і в період утворення колоніальної Америки та ранньої Речі Посполитої.

Ця стаття ставить під сумнів вплив секуляризації на законотворчість в сучасному та історичному вимірах з трьох причин. По-перше, досліджується релевантність політичного і правового змісту Біблії з погляду сучасних демократичних принципів. По-друге, висвітлюється значне використання Біблії в законотворчості колоніальної Америки та регіону, на місці якого утворились Білорусь, Литва, Польща та Україна. І, врешті, порушується питання актуальності Біблії як джерела правової думки і кодифікації сучасної України.

1.0 Що таке цивілістичне вчення Біблії?

Перш ніж розглядати конкретне вчення Біблії про цивільний устрій держави, варто зазначити, що воно базується на підтримці основних біблійних та богословських