Секуляризація держави передбачає наявність громадянського суспільства, ієрархізованість, засновану на демократичному формуванні управління, а держава і церква виступають при цьому тоталітарними структурами виключно силової орієнтації. Церква в секуляризованому суспільстві прагне повернутися до теократичного суспільства. Хоча держава повинна не контролювати, а гарантувати свободу совісті та релігійних організацій, вона втручається в релігійне життя, до чого часто позитивно відноситься сама релігія. Своїм завданням, що виникло внаслідок зустрічі з плюралізмом та демократією, церкви вважають посилення душпастирської діяльності задля поглиблення віри та зміцнення приналежності вірних до її спільноти.

Американський соціолог Алан Скарф зауважує, що в ряді місць "у церкви є величезні можливості із збільшення зв'язків з народом у тому випадку, якщо вона буде захищати їхній протест проти репресій і несправедливостей режиму". Наявні факти пристосовницької реакції християнства на політичну опозицію дозволяють йому зробити висновок, що "у даний момент секуляризація набагато менше вплинула на церкви Східної Європи, ніж на церкви Західної Європи... І через кілька десятків років може трапитися так, що церкви західних демократичних країн не зможуть вижити, на відміну від гнаних церков Східної Європи"[57].

Німецький теолог Ф. Гогартен перший ввів поняття *секуляризація* в сучасний європейський теологічний дискурс. Він вважав, що криза релігії та культури зовсім не означає кризу Божественного Слова[58]. Секуляризація, за словами Гогартена, розкриває процес "історізації людського існування та світу", коли світ з міфічного стає історичним простором людської діяльності. Тому секулярна людина є людина історична. Але самостійність людини в світі та концентрація її уваги на власній діяльності пов'язане з небезпечним хибним розумінням смислу секуляризації[59], коли "пов'язана з Богом" свобода світу підмінюється свободою без Бога. Гогартен зауважив, що подібна підміна веде вже не до секуляризації світу, а до його дехристиянізації. Це на відміну від "секуляризації", дослідник називає негативним терміном "секуляризм".

Розуміючи міцний взаємозв'язок політичної та релігійної свідомостей, необхідності балансу між секулярністю та релігійністю організацій, вчені пропонують абсолютне відокремлення церкви і держави, а не церкви від держави. Заново переосмислюються ролі держави та церкви, їхні функції і призначення в житті суспільства та людини. На зміну традиційному антагонізму приходить новий тип мислення, новий тип відносин, який формується і в лоні релігійних вчень, і в надрах секуляризованої свідомості. Він тільки-що народжується, але вже має назву – партнерство.

Д.Девіс [*]

Чи є атеїзм релігією? Юридичні візії конституційного значення "релігії"[*]

Нещодавний випадок в судовій практиці США *Кауфман проти МакКагтрі (2005)* створив прецедент, згідно з яким атеїзм набуває такого ж конституційного статусу, як і традиційні релігії. У зв'язку з цим багато релігійних груп почувають себе дещо зневаженими, оскільки дане рішення начебто підтримує атеїзм. З іншого боку, занепокоєні і деякі атеїстичні угруповання, оскільки логічним висновком такої ситуації стане позиціонування їх як „релігійних" організацій. Створений прецедент додав хаосу і в так заплутану проблему конституційного визначення „релігії".

Проблема ув'язненого Кауфмана полягала в тому, що він вирішив організувати у в'язниці атеїстичний гурток. Адміністрація цього не дозволила, оскільки, згідно карного кодексу Вісконсіну, прохання Кауфмана не підлягало під вмотивованість згідно з релігійними віруваннями. Таким чином, тюремні чиновники не визнали атеїзм за релігію. Апеляційний суд, однак, постановив, що „атеїзм є релігією ув'язненого ... і його гурток має релігійну природу, хоча й відкидає віру у Вищу Істоту", спираючись в цьому на прецеденти Верховного Суду США, в яких „нерелігійні" вірування прирівнювалися до релігійних. Суд визнав, що в положеннях, передбачених Першою поправкою, атеїзм прирівнюється до релігії, а відтак у випадку Кауфмана, йому повинні дозволити ведення гуртка.

---

[57] *Scarfe A.* National consciousness and Christianity in eastern Europe // Religion and nationalism in Soviet and East European Politics. – Durham (N.C.): Duce univ. press, 1984. – P. 31-38.

[58] *Gogarten F.* Verhangnis und Hoffnung der Neuezeit. Stuttgaft. – 1953. – P.130.

[59] Там само, P.130.

[*] *Професор Байлор університету (США), головний редактор часопису "Journal of Church and State".*

[*] *Анотований переклад В'ячеслава Агєєва*

У судовій практиці США склалася складна ситуація з питанням визначення **релігії**. При написанні конституції це слово залишилося навмисне невизначеним з метою захисту широти вірувань і забезпечення свободи віросповідання. Перші спроби дати законодавче визначення його датуються кінцем XIX – початком XX століття. Це було пов'язано з кількома позовами стосовно полігамії, яка практикувалася мормонами і позиціонувалася ними як дозволена їхніми релігійними віруваннями. У цих визначеннях значна роль відводилась смиренню і поклонінню божеству. У 1931р. у справі *США проти МакІнтоша* Верховний Суд постановив, що „суттю **релігії** є віра у відносини з Богом, яка включає обов'язки вищі від тих, що виникають у будь-яких людських стосунках".

На початку сорокових років м. ст. суди Америки почали віддалятися від вузького субстанційного визначення **релігії** в бік ширшого функціонального, адже практика показувала, що дуже широкий спектр вірувань, принаймні таких, що не порушують законодавство, можна віднести до таких, що підлягають захисту державою згідно Першої поправки.

Черговою віхою на цьому шляху став судовий процес *США проти Каутена в* 1943р. Каутен був атеїстом, але відмовлявся від участі у війні посилаючись на свої переконання подібні до релігійних. Переконання Каутена не підпадали під існуюче визначення „релігійних", однак суд визнав, що й дещо „менше, ніж віра в Бога. може сприйматися як релігія". До цього суди зазвичай розглядали релігію в теїстичних термінах, однак даний випадок показав, що її можна розглядати і з психологічної точки зору – як вірування, які впливають на життя індивіда подібно до вірувань традиційно релігійних. Пізніша судова практика вже повністю відмовляється від слова „Бог", замінивши його на „Вищу Істоту", згідно з вказівкою Конгресу на „включення всіх релігій".

Подібні випадки спроб ухилитися від військової служби, спираючись на вірування чи переконання, які могли підпасти під визначення „релігійного", траплялися все частіше, змушуючи суддів розвивати проблему визначення „релігійного". Окрім цього, подавалися позови різних організацій, які намагалися ухилитися від сплати податків, виходячи з своєї релігійної спрямованості, водночас не зовсім підпадаючи під традиційне розуміння „релігійних організацій". Так, у справі *Братство Людяності проти графства Алемеда* Каліфорнійський апеляційний суд постановив, що змістовна наповненість релігії не має значення, натомість повинна братись до уваги функція віри в діяльності організації. В такий спосіб було повністю завершено перехід від субстанційного розуміння релігії до функціонального, але визначення **релігії** за її соціальною функцією синонімічно наблизило її до таких термінів як „світогляд", „система переконань", „ідеологія", „космологія".

Це призвело до формулювання (за наслідками справи США проти *Сігера* та *Велш проти США* критерію, „оскільки вірування не базуються на політиці, прагматизмі чи вигідності", остільки це вірування релігійні з точки зору Конституції.

Практика останніх років, однак, показала, що, визначення *Сігера* та *Велша* можливо є занадто широкими, бо ж згідно з ним, у сферу „релігійного" відносять завелику кількість явищ. Це призвело до спроб завузити підхід, що особливо наглядно показує справа *Малнак проти Йогі 1977 року*, де йшлося про неконституційність викладання ТМ у школах. Після довготривалих оскаржень в судах різного рівня, було визнано, що, попри нетеїстичну спрямованість, ТМ також відноситься до **релігій**, а, відтак, їх діяльність потрапляє під юрисдикцію Першої поправки. Ґрунтуючись на цій справі та на справах *Сігера* та *Велша,* суддя Адамс вивела три важливі критерії для визначення релігії: вона має займатися фундаментальними метафізичними питаннями, повинна бути сутнісно наповненою, і повинна мати зовнішні формальні вияви, які дозволяють провести аналогію з традиційними релігіями.

Пізніші справи показують намагання сягнути балансу між ранніми субстанційними критеріями і пізнішими функціональними. Попри практичну цінність тесту Адамс, його критикували за відсутність демаркації між релігійними та філософськими віруваннями, даючи можливість скористатися законодавчими пільгами нерелігійним системам. Критика вказувала на той факт, що система релігійних вірувань може бути особистою справою індивіда і не завжди може адекватно оцінюватися через проведення аналогії з традиційними релігійними системами, а скоріше розглядатися за мірою її впливу на засадничий смисл, який вона вносить у життя індивіда.

Випадок Кауфмана поставив нові, хоча й передбачувані, труднощі перед американським судочинством. Ще ніколи судові не доводилося прирівнювати атеїзм до релігії, однак ця справа є логічним продовженням прецедентів, започаткованих справами *Сігера* та *Велша.* Конституційний статус **атеїзму** залишається недостатньо визначеним, в той час як від цього визначення залежить вирішення багатьох справ, які стосуються понять „релігія", „релігійна віра" і „релігійна організація". Для розуміння наслідків справи *Кауфмана* і змін, які вона спричинить в судовій практиці, потрібне фундаментальне дослідження і ґрунтовне роз'яснення Верховного Суду США.

Derek H. Davis*

Is Atheism a Religion? Recent Judicial Perspectives on the Constitutional Meaning of "Religion"

A recent case handed down by the Seventh Circuit Court of Appeals holds that atheism is entitled to the same treatment that traditional religions receive under the Constitution. The case, Kaufman v. McCaughtry (2005), has many religious groups upset because the decision seemingly bolsters atheism. Yet some atheist groups are also concerned because the case arguably requires atheist groups to pose as "religious" organizations to receive equal treatment. The case adds to an already confused state of constitutional law on what qualifies as "religion."

James Kaufman was an inmate incarcerated at the Waupan Correctional Institution in Wisconsin. He submitted to prison officials a written request to form an inmate group "to stimulate and promote Freedom of Thought and inquiry concerning religious beliefs, creeds, dogmas, tenets, rituals and practices, and to educate and provide information concerning religious beliefs, creeds, dogmas, tenets, rituals, and practices." Prison officials denied Kaufman's request, concluding that it was not motivated by "religious" beliefs as required under the Wisconsin penal code. Kaufman sued the State of Wisconsin, claiming that his rights under the Free Exercise Clause were violated.

"The problem here," noted the Seventh Circuit, "was that the prison officials did not treat atheism as a 'religion,' perhaps in keeping with Kaufman's own insistence that it is the antithesis of religion. But whether atheism is a 'religion' for First Amendment purposes is a somewhat different question than whether its adherents believe in a supreme being, or attend regular devotional services, or have a sacred Scripture." The court held, therefore, that "atheism is [the inmate's] religion, and the group that he leads is religious in nature even though it expressly rejects a belief in a supreme being." The court was relying, of course, on a number of U.S. Supreme Court precedents that treat a range of "nonreligious" beliefs as the equivalent of religion. The court continued: "The Supreme Court has said that a religion, for purposes of the First Amendment, is distinct from a 'way of life,' even if that way of life is inspired by philosophical beliefs or other secular concerns. A religion need not be based on a belief in the existence of a supreme being, (or beings, for polytheistic faiths) nor must it be a mainstream faith." Thus, the court concluded, atheism is equivalent to religion for purposes of the First Amendment and Kaufman should have been given the right to meet to discuss atheism and related topics with fellow inmates.

The *Kaufman* case is important because if atheism qualifies as "religion," it is entitled to the same free exercise privileges accorded to religion under the Constitution. Traditionally, this has not usually been the case. It is uncertain whether the Supreme Court will review *Kaufman*, but as of now, the case creates a bit more confusion in an already confusing area of the law.

DEFINING RELIGION. The task of distinguishing religion from nonreligion has proven to be a difficult one for American courts. The operative word of the religion clauses--religion--was left undefined by the framers. This omission, however, did not result from oversight. Defining the term would have placed a permanent imprimatur on those forms of faith and belief that conformed to their definition. The framers instead chose to leave the term undefined, thus protecting a diversity of beliefs, not merely the traditional ones, from undue advancement or prohibition of expression by government. This guarantee of freedom of religion, the centerpiece of American liberties, has served to protect all religions, old and new, against governmental preference, intrusion, and harassment.

The task of giving meaning to the term "religion" inevitably falls to the judicial branch. By tracing the evolution of the meaning of religion, this essay will show that as religious pluralism in America has expanded, the constitutional meaning of religion has expanded as well. It is argued that the American courts' unwillingness to adhere to any fixed definition of religion prevents, in statutory and nonstatutory contexts alike, an otherwise inevitable erosion of religious liberty and diminution of our free society. But does the *Kaufman* case carry this premise too far? Should atheism carry the status of religion under the Constitution? Before addressing this question, it might be helpful to trace the history of the constitutional meaning of "religion" as it has emerged from judicial opinions.

The American judiciary's formal inquiry into the constitutional meaning of religion commenced in 1878 when the United States Supreme Court decided the case of *Reynolds v. United States.* In that case the Court considered a Mormon's argument that his practice of polygamy was a religious duty and therefore protected under the Free Exercise Clause. In searching for the scope of protected religious activity in the Constitution, the Court stated: "The word 'religion' is not defined in the Constitution. We must go elsewhere, therefore, to ascertain its

* *Професор Байлор університету (США). Головний редактор часопису "Journal of Church and State"*

meaning, and nowhere more appropriately, we think, than to the history of the times in the midst of which the provision was adopted."

The Court examined statements from James Madison and Thomas Jefferson for guidance in ascertaining the framers' meaning of the word "religion." For Madison, religion was "the duty we owe to our creator," and for Jefferson, "a matter which lies solely between man and his God." While these statements are far from being exhaustive definitions, they accord with the common understanding of religion in late eighteenth-century America as a relationship between a person and some Supreme Being. But while Madison, Jefferson, and most of the founders were theists, there is no evidence that the constitutional framers wrote the First Amendment to protect only theism. Some of the founders clearly sought religious freedom for nontheists. Jefferson, for example, wrote that his Virginia Statute for Religious Freedom was to "comprehend within the mantle of its protection the Jew and Gentile, the Christian and Mahometan, the Hindoo, and infidel of every denomination." The Court's inquiry into the founders' understanding of the meaning of religion produced no clear answers. Satisfied that the defendant's polygamous practices were too unconventional to be protected by the First Amendment, the Court found it unnecessary to formulate a definition of religion.

Twelve years later the propriety of polygamy was again the issue before the Supreme Court. In *Davis v. Beason* the Court upheld an Idaho statute that required individuals registering to vote to swear that they neither practiced polygamy nor belonged to any organization that looked upon polygamy favorably. The defendant, a devout Mormon, asserted that the statute violated the Free Exercise Clause. This time the Court was more specific in stating its understanding of the term "religion": "The term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will." But while the defendant's beliefs and practices clearly fit within this definition, the Court held that only his beliefs, and not his practices, were protected under the First Amendment.

The *Davis* Court's substantive definition of religion emphasizing traditional ideas of obedience to and worship of a deity was affirmed by American courts well into the twentieth century. As late as 1931, the Supreme Court in *U.S. v. MacIntosh* reaffirmed this interpretation when it concluded that "the essence of religion is belief in a relation to God involving duties superior to those arising from any human relation." And it was not uncommon to see courts interpreting religion even more narrowly than this. Among the scores of examples that could be cited was an Oklahoma court's conviction of a spiritualist fortune-teller in 1922 for her commercial activities even though she believed in God and claimed merely to be practicing her religion. In another case, a county board of commissioners in Nebraska denied a property tax exemption to a Masonic order, ruling that the order was not religious because it was not sectarian and did not demand the exclusive "religious" allegiance of its members. The board's decision was affirmed on appeal. Such narrow, content-based interpretations of religion, however, were to become much less common as courts were increasingly confronted with pleas by adherents of nontraditional religions for First Amendment protection.

DEVELOPMENT OF THE MODERN DEFINITION OF RELIGION. Beginning in the 1940s, American courts began to move away from narrow, *substantive* definitions of religion to broader, *functional* ones. The shift seems to have come in two significant cases: *United States v. Ballard*, decided by the U.S. Supreme Court in 1944, and *United States v. Kauten*, a federal circuit court case decided a year earlier.

In the *Ballard* case, the founder of the "I Am" movement was prosecuted for using the mails for fraudulently promoting his faith-healing powers. Guy Ballard told his followers that his ministry had been sanctioned by personal encounters with Jesus and Saint Germain. Followers were encouraged to send contributions to the movement, and many did. When many contributors, contrary to Ballard's promises, failed to experience physical healing, a San Francisco district attorney sought prosecution. The U.S. Supreme Court held that the trial court had ruled properly when it told the jury that it could inquire into the sincerity, but not the truth or falsity, of Ballard's religious beliefs. In his majority opinion, Justice William O. Douglas wrote:

Heresy trials are foreign to our Constitution. Men may believe what they cannot prove. They may not be put to the proof of their religious *doctrines* or beliefs. Religious experiences which are as real as life to some may be incomprehensible to others. Yet the fact that they may be beyond the ken of mortals does not mean that they can be made suspect before the law.

In *Ballard*, the distinction between sincerity and credibility *became* an important judicial criterion for assessing what kinds of religious activities are protected under the First Amendment. The credibility of one's beliefs were less important than the sincerity with which those beliefs were held. As repugnant as the religious practices of a particular religion might be to its nonadherents, the price of religious freedom, as Justice Robert H. Jackson put it in his dissenting opinion, "is that we must put up with, and even pay for, a good deal of rubbish." *Ballard* attempted no concrete definition of religion, but the case made it clear that a broad spectrum of religious beliefs, at least those that did not violate the legitimate concerns of the state, might be protected under the First Amendment.

An even greater protection of a wide range of beliefs was granted by the Second Circuit in *United States v. Kauten* (1943). The case marked the beginning of a series of decisions in which the judicial interpretation of congressional statutes on conscription became the vehicle for addressing the legal definition of religion. *Kauten* dealt with a conscientious objector who was convicted under the 1940 Selective Service Act for refusing to submit to induction. He claimed exemption as a conscientious objector, defined by the act as any person "who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form." Kauten, an atheist, was opposed to war, claiming that it solves none of the world's problems and that the draft was President Franklin D. Roosevelt's personal scheme to reduce unemployment. The court held that Kauten's beliefs were strictly philosophical and political and fell outside the statute's requirement of "religious training and belief." The court did, however, propose that something less than a belief in God might qualify as religion. Judge Augustus Hand offered this definition:

Religious belief arises from a sense of the inadequacy of reason as a means of relating the individual to his fellow-men and to this universe. . . . It is a belief finding expression in a conscience which categorically requires the believer to disregard elementary self-interest and to accept martyrdom in preference to transgressing its tenets. . . . [Conscientious objection] may justly be regarded as a response of the individual to an inward mentor, call it conscience or God, that is for many persons at the present time the equivalent of what has always been thought a religious impulse.

Whereas prior cases saw religion in theistic terms, *Kauten* saw religion in psychological terms--as belief that produces effects upon one's life that are similar to the effects produced by traditional religion. *Kauten* remains a landmark case because it was the first to offer a functional definition of religion.

This expanded understanding of religion was not immediately accepted. In *Berman v. United States*, decided in 1946, the Ninth Circuit dismissed Judge Hand's definition of religion in *Kauten* as mere dictum, and affirmed the conviction of a humanist pacifist because the "religious training and belief" required for exemption under the Selective Service Act could not, "without the concept of a deity . . . be said to be religion in the sense of that term as it is used in the statute." Congress agreed with the *Berman* formulation and the 1948 amendment to the Selective Service Act specifically defined "religious training and belief" to mean "an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but [excluding] essentially political, sociological, or philosophical views, or a merely personal moral code."

This amended language was interpreted in 1965 by the U. S. Supreme Court in three cases decided under the style of *United States v. Seeger*. All three of the defendants were conscientious objectors who had been convicted in federal district courts for refusal to submit to induction after Selective Service officials had rejected their claims for exemption. All three men had similar worldviews, and none had a traditional concept of God. Seeger, for example, said that he was uncertain of whether a Supreme Being existed, but that his "skepticism or disbelief in the existence of God" did "not necessarily mean lack of faith in anything whatsoever." His, he stated, was a "belief in and devotion to goodness and virtue for their own sakes, and a religious faith in a purely ethical creed." Writing for a unanimous Supreme Court, Justice Tom Clark wrote that Congress had not intended to restrict the exemption for conscientious objectors only to those who believe in a traditional God. The expression, "Supreme Being," rather than "God," had been employed by Congress "so as to embrace all religions" while excluding "essentially political, sociological, or philosophical views." The test of belief required by the Act, the Court held, is "whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption." The Court specifically found the beliefs of the three defendants to be "religious" within the meaning of the Selective Service Act. Congress was not pleased by the Court's expansive interpretation of "religious training and belief." Congress had obviously intended to limit conscientious objector status to those who held a traditional belief in God. The Court, however, rather than ruling that the statute was unconstitutional, grounded its decision in a rather loose reading of congressional intent. Reading between the lines, the Court's tactful approach might have been what led Congress to go along with the Court's ruling by removing the "Supreme Being" clause in the new Military Selective Service Act of 1967, although the new provision retained the restrictive phrase which ruled out inclusion of "essentially political, sociological, or philosophical views, or a merely personal moral code."

Three years later, in *Welsh* v. *United States*, the Supreme Court considered the case of a conscientious objector who had initially refused to label his objection as "religious" as required under the new Military Service Act. In his written objection, he struck out the word "religious" and wrote that his beliefs had been formed by reading in the fields of history and sociology. Although he had first claimed that his beliefs were nonreligious, he later wrote in a letter to his appeal board that his beliefs were "certainly religious in the ethical sense of the word." If anything, Welsh's beliefs were even more remotely religious than Seeger's. The Court was thus *faced* with considering whether the Act's requirement of "religious training and belief" would extend protection to a person motivated in his objection to the draft by profound moral conviction. The Court again enlarged the scope of the

statute, and held: “If an individual deeply and sincerely holds beliefs which are purely ethical or moral in source and content but that nevertheless impose upon him a duty of conscience to refrain from participating in any war at any time, those beliefs certainly occupy in the life of that individual “a place parallel to that filled by . . . God in traditional religious persons.”

With such an expansive statutory interpretation, one might have expected some disagreement among the Court’s members. Justice John Harlan wrote a concurring opinion in which he essentially stated that he would vote with the Court only to be consistent with *Seeger*. He acknowledged, however, that he had erred in joining the majority in *Seeger* where the Court had upheld a nontheistic belief. He felt that the Court had gone too far in distorting the legislative intent of the act, and he refused to subscribe to the “lobotomy” now performed in the *Welsh* decision.

Between *Kauten* and *Berman*, on the one hand, and *Seeger* and *Welsh*, on the other, three additional cases that arose outside the context of the federal conscription laws were a clear sign that the courts had shifted toward a functional definition of religion. These cases are important in tracking the evolution of the constitutional meaning of religion because none of the conscription cases already discussed was decided on constitutional grounds. Instead, the courts merely interpreted congressional statutes in a way that extended the privilege of conscientious objection to those of nontraditional beliefs. Nevertheless, because the conscription cases dealt specifically with the meaning of religion, cases arising outside the conscription context that have been decided on constitutional grounds, such as the three discussed here, have often resorted to the language of the conscription cases as useful precedents. In turn, later conscription cases such *as Seeger* and *Welsh* found these cases to be useful as precedents because of their expanded descriptions of the meaning of religion.

The first of these cases, *Torcaso* v. *Watkins*, decided in 1961, dealt with a Maryland citizen seeking to become a notary public who was unwilling to make the required statutory declaration of a belief in God. The Supreme Court held that the Maryland law violated the Establishment Clause because it put “the power and authority of the State of Maryland . . . on the side of one particular sort of believers--those who are willing to say they believe in the existence of God.” It further maintained that the Establishment Clause forbids government to “aid those religions based on a belief in the existence of God as against those religions founded on different beliefs.” The Court footnoted this statement with a seemingly strong confirmation of its belief that religion embraces nontheism. The Court wrote that “among *religions* in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular Humanism, and others.” It is important to note that the Court did not include atheism in its list of worldviews qualifying as religion.

The Court in *Torcaso* supported its holding by referring to two lower court cases in which humanist organizations without theistic beliefs were granted property tax exemptions. In *Washington Ethical Society v. District of Columbia (1957),* the District of Columbia Circuit held that belief in a Supreme Being or supernatural power was not a prerequisite to qualify for the property tax exemption to which religious organizations were entitled. That same year, in *Fellowship of Humanity v. County of Alameda*, a California appellate court held that a county statute exempting religious organizations from property taxes must not favor those with theistic systems of belief over those with nontheistic beliefs. The court stated that the content of the belief was irrelevant; instead the focus should be placed on the belief's function in the life of the organization. The court proposed the following two-part test for religious exemption: “Whether or not the belief occupies the same place in the lives of its holders that . . . orthodox beliefs occupy in the lives of believing majorities, and whether the group . . . conducts itself the way groups conceded to be religious conduct themselves.” It was this formulation that the Supreme Court seemed most to rely upon in deciding the *Seeger* case eight years later.

The foregoing decisions, especially *Kauten*, *Ballard*, *Torcaso*, *Seeger*, and *Welsh*, expanded the constitutional meaning of religion in a way that paralleled the expanding pluralism of American religion. Their chief effect was to include nontheistic beliefs under the protection provided by the religion clauses. As the diversity of religions benefiting from First Amendment protection has expanded, the ability of government to regulate religion on definitional grounds has correspondingly diminished. The judicial means by which this development has occurred has been the adoption of *functional* criteria, in replacement of *substantive* criteria, for defining religion. By defining religion according to its social function, the functional approach treats religion largely as synonymous with such terms as worldview, belief system, moral order, ideology, and cosmology.

In *Seeger*, the Supreme Court spoke approvingly of the views of German-American theologian Paul Tillich, who located the essence of religion in the phrase, “ultimate concern.” The Court quoted from Tillich for the proposition that the phrase “ultimate concern” may be more definitive than the word “God” in the designation of religious belief: “And if that word [God] has not much meaning for you, translate it, and speak of the depths of your life, of the source of your being, of your ultimate concern, of what you take most seriously without reservation. Perhaps in order to do so, you must forget everything traditional that you have learned about God. . . .” The Court's interpretation of “ultimate concern” as referring to a belief which occupies “the same place in the life of an objector

as an orthodox belief in God" was confirmed in *Welsh* where the Court held, Welsh's apparent atheism notwithstanding, that "because his beliefs function as a religion in his life, such an individual is as much entitled to a religious conscientious objector exemption . . . as is someone who derives his conscientious opposition to war from traditional religious convictions." The recent *Kaufman* decision, interestingly, made reference to the Supreme Court's attention to the Tillich formulation. It failed to specifically address, however, whether an atheist's beliefs meet the *Seeger-Welsh* criteria of "ultimate concern" and "parallel position."

Based on the *Seeger-Welsh* criteria, so long as an "ultimate concern" occupies in the possessor's life a place parallel to traditional ideas of God, and so long as the beliefs are not based on "policy, pragmatism, or expediency," they are religious for constitutional purposes. Under this content-neutral, functional approach, few of the "new" religions are deprived of religious status. The courts have had little difficulty, for example, in concluding that the Unification Church is a religion. The Church of Scientology also has been held by the courts to be a religious organization. Likewise, the religious nature of the International Society for Krishna Consciousness has been firmly established in the courts. Indeed, the *Seeger-Welsh* framework has created an environment making it possible for a wide array of nontraditional or "new" religions to receive protection under the First Amendment. But should the *Seeger-Welsh* framework be extended to protect declared atheism?

DEVELOPMENTS SINCE *SEEGER AND WELSH*. In recent years, there have been signs that the *Seeger* and *Welsh* formulations might be too broad in describing what should be considered religion. In the case of *Wisconsin v. Yoder*, decided in 1971, the Supreme Court appeared to retreat somewhat from the broad reaches of *Seeger* and *Welsh*. In that case, Amish parents were charged with violations of Wisconsin's compulsory education laws because they failed to send their children to public schools beyond the eighth grade. The Amish argued that to do otherwise would be contrary to their sincerely held religious beliefs. Before weighing the free exercise rights of the Amish with the interest of the state in educating children, the Court considered the fundamental question of whether the Amish lifestyle was rooted in *religious* belief. This inquiry was necessary, Chief Justice Warren E. Burger wrote, because: "Although a determination of what is a 'religious' belief or practice entitled to constitutional protection may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests." Indeed, this statement can be seen to undercut the implication of *Seeger* and *Welsh* that a claimant's own statement is sufficient to create a presumption that his beliefs are religious. Burger went on to affirm that mere philosophical beliefs are beyond the purview of the First Amendment: "If the Amish asserted their claims because of their subjective evolution and rejection of the contemporary secular values accepted by the majority, much as Thoreau rejected the social values of his time and isolated himself at Walden Pond, their claims would not rest on a religious basis. Thoreau's choice was philosophical and personal rather than religious, and such belief does not rise to the demands of the Religion Clauses." As Justice William O. Douglas noted in dissent, this statement seems clearly to be contrary to *Seeger* and especially to *Welsh*, in which Welsh received the exemption based on his nonreligious, humanistic philosophy. In its holding, the majority justified the right of the Amish children to be exempt from compulsory public school attendance beyond the eighth grade because the Amish position arose from sincere *religious*, not philosophical, convictions. In its ruling, however, the Court made no reference to the *Seeger* and *Welsh* decisions. In contrast, Justice Douglas stated his belief that the content-neutral test of *Seeger* and *Welsh* was more in keeping with the religiously pluralistic society found in America.

The Third Circuit Court of Appeals has been the most aggressive in developing this more restrictive approach. In *Malnak v. Yogi (1977)* it was alleged that the instruction in Transcendental Meditation (TM) in the New Jersey public high schools was an unconstitutional establishment of religion, despite the denial of its religious character by representatives of the TM movement. Five high schools during the 1975-76 academic year offered to its students on an elective basis a course called "The Science of Creative Intelligence-Transcendental Meditation." It was taught four or five days a week by specially trained teachers. The textbook used was developed by Maharishi Mahesh Yogi, the founder of TM. It teaches that "pure creative intelligence" is the basis of life, and that through the process of TM students can perceive the full potential of their lives. The trial court found that the TM course constituted a religious activity under the First Amendment.

On review, the court of appeals affirmed the trial court's holding in a brief per curiam opinion. Judge Arlin Adams's concurring opinion, however, went much further in exploring the constitutional meaning of religion. Drawing from *Seeger* and *Welsh*, Adams noted that "expectations that religious ideas should always address fundamental questions is in some way comparable to the reasoning of the Protestant theologian Paul Tillich, who expressed his view on the essence of religion in the phrase 'ultimate concern'. . . . Thus, the 'ultimate' nature of the ideas presented is the most important and convincing evidence that they should be treated as religious." Adams found "that the existence of such a pervasive and fundamental life force is a matter of 'ultimate concern' can hardly be questioned." Finally, Judge Adams stated that while TM is not a "theistic religion," it nevertheless "concerns itself with the same search for ultimate truth as other religions and seeks to offer a comprehensive and critically

important answer to the questions and doubts that haunt modern man." Adams, seeking to flesh out the *Seeger* and *Welsh* cases, identified three useful indicia to determine the existence of a religion. The religion must address fundamental and ultimate questions having to do with deep an imponderable matters, it must be comprehensive in nature, and it must have a formal set of external signs or practices that analogize it to traditional religions. The *Malnak* case, especially in view of Judge Adams's three-part test, indicated that the federal judiciary would follow, but might attempt to fine-tune, the "ultimate concern" and "parallel-belief" tests developed by the Supreme Court to achieve a closer approximation of the constitutional meaning of religion.

Africa v. Pennsylvania, decided in 1981, was an occasion for the Third Circuit to consider the three indicia proposed by Judge Adams in *Malnak* for determining whether a set of beliefs constitutes a religion. Frank Africa was a prisoner who requested that the state provide him with a special diet of raw foods. Africa claimed that for him to eat anything else would violate the tenets of the MOVE organization, a body which he claimed to be religious and whose goals were "to bring about absolute peace . . . to stop violence altogether, to put a stop to all that is corrupt." Central to attaining these goals was a "natural" lifestyle, including a diet of uncooked fruits and vegetables. A Pennsylvania federal district court, by applying the three indicia outlined in Adams's *Malnak* opinion, held that MOVE was not a religion. The court of appeals, with Judge Adams writing for the three-judge panel, affirmed, ruling that the district court had correctly applied the three indicia in holding that Africa's beliefs were not religious.

When taken together, *Yoder, Malnak, and Africa* clearly represent a shift toward attempting to balance the early substantive tests for defining religion and the subsequent functional approaches epitomized by *Seeger* and *Welsh.* They might be summarized as holding that although it is improper to assess the truth or falsity of religious claims, it is proper to examine the content of beliefs claimed to be religious to insure that they are more than merely philosophical. These holdings differ from *Seeger* and *Welsh* primarily in their emphasis that "ultimate concerns" must be clearly "religious," not according to a theistic, substantive definition, but according to traditional markings of religion such as those set forth in Judge Adams's rulings. Judge Adams's opinions were the first to attempt to give meaning to terms like "ultimate" and "parallel" which the Supreme Court left undefined. In this respect the opinions are a needed attempt to give direction to other courts in assessing religious claims, but they can be criticized on several grounds as well.

The most significant criticism that can be leveled against the three-part test propounded by Judge Adams is that, in seeking to demarcate religious from philosophical beliefs, it tends to threaten borderline belief systems that seek protection under the religion clauses. The potential harm is the suppression and unfair treatment of some religions, an end the religion clauses were intended to prevent. It is possible to level this charge against the Third Circuit in the *Africa* case. The court concluded that MOVE members were not concerned with ultimate matters, lacked any comprehensive governing ideas, and were uncommitted to any defining structural characteristics of a traditional religion. Yet the all consuming belief of MOVE members in a "natural" or "generating" way of life very closely resembles the religion of pantheism. The court admitted "that the matter is not wholly free from doubt" but found that MOVE's beliefs were "more the product of a secular philosophy than of a religious orientation." Certainly the court's finding could have gone the other way. Pantheism's essential assertions, that everything that exists constitutes a unity and that this all-inclusive unity is divine, can arguably be located within the tenets of MOVE. Moreover, the court held that MOVE failed the comprehensiveness test because its philosophical naturalism consisted only of a single governing idea. If MOVE's beliefs approximate pantheism, however, its "single governing idea" would correspond to the theme of unity found in pantheism and would be a doctrinal strength rather than a weakness. The same argument, of course, could be made in reference to the court's finding that MOVE lacked formal identifying characteristics. A belief system that likely would have been considered religious under a strict application of the *Seeger-Welsh* principles was found wanting under Judge Adams's more restrictive guidelines.

Arguably even more controversial than the outcome in *Africa* was the decision rendered by a New Jersey federal district court in *Jacques v. Hilton (1983).* There, two prison inmates brought an action alleging that Trenton State Prison officials denied them the right to practice their religion under the Free Exercise Clause. The inmates belonged to the Universal Life Church of California, from which they obtained mail order certificates ordaining them as ministers. The inmates regularly met with about a dozen other inmates for worship and study. No rituals occurred at these meetings and "the group did not utilize a Bible or other holy book in its worship."

The purpose of the meetings was to integrate the inmates' beliefs with everyday life. Once each year, the group would eat only food from the sea in recognition of the fact that all life originated from the sea. In keeping with the tenets of the Universal Life Church, the inmates recognized the existence of a supernatural force or Supreme Being referred to as the "Spirit of Life." However, each church member was permitted to work out the meaning of the "Spirit of Life" or "God" in keeping with the dictates of his conscience. The church justified this freedom on the basis that one's "relationship with his maker is a highly personal one."

The court held that the beliefs professed by the inmates did not rise to the level of a religion entitled to the protection of the First Amendment. Relying strictly upon Judge Adams's three indicia for determining the existence

of a religion, the court first held that the doctrines of the Universal Life Church did not address the question of human morality or the purpose of life and therefore failed to reach the required standard of a concern for "fundamental and ultimate questions." The court seems to have failed to recognize, however, that the church did not discourage beliefs about morality and life's purpose; the church only declined to take an official stance on these questions, thereby leaving the resolution of such matters to the individual conscience. The court, then, by requiring the church to enunciate its doctrines on fundamental theological points, made the critical error of reducing religion to that embraced within traditional, accepted norms.

The court further found that the church lacked the comprehensiveness, cohesiveness, and commonality of beliefs characteristic of accepted religions, and that the church therefore failed the "comprehensiveness" test advanced by Judge Adams. The court noted that the inmates professed a sincere belief in a naturalistic all-pervasive force uniting all living things as well as a belief in the primacy of individual conscience, but stated that "it is difficult to envision how the church can promulgate 'ultimate and comprehensive truth' or how a 'shared world view' can exist when each individual is made the arbiter of his own truth."

Again, the emphasis on shared beliefs is misplaced. If courts are to remain open to religious diversity, they will recognize that American culture overall is becoming less and less insistent on absolute authority of a particular viewpoint. This is, indeed, the basic premise of postmodernism, which holds that there has been a fundamental shift away from certainty and commonality to uncertainty and diversity. As Craig Van Gelder has expressed it, "The search to find and/or state the central thesis, grand narrative, or essential principles of life has given way to an acceptance of pluralistic alternatives and competing viewpoints. Claims to an authoritative perspective or conclusive findings have given way to paradox, diversity and juxtaposition as new ways of seeing reality." Postmodern thinking, as an emerging worldview, is certain to influence religion as much as it is already influencing art, architecture, and literature. It therefore becomes increasingly incumbent upon the courts to accommodate, within a functional approach to defining religion, postmodern as well as all other religious perspectives that might not square with more traditional forms of faith and practice.

The *Jacques* court was far too intent on staying within the three-part test proposed by Judge Adams in *Malnak.* While it might be argued that the practices of the inmates in *Jacques* in fact met the three-part test, the application of facts to guiding principles is an admittedly difficult enterprise for all judges. The failure in *Jacques,* however, was not faulty application, but an unreserved adoption of the *Malnak* three-part test. The test is, in this author's opinion, overly restrictive and threatens to disqualify as religious those ideas and practices that fall too readily outside the trappings of traditional religion. Courts will do well in the future to avoid the unwarranted regulation of religion that sometimes occurs when a too restrictive definition-by-analogy approach, as exemplified by *Jacques,* is employed.

While Judge Adams's three indicia are helpful in ascertaining the religious nature of one's beliefs, other, more probing factors could be considered as well. For example, the inquiry into one's ultimate and fundamental concerns, in the framework of Judge Adams's definition-by-analogy approach, probes for ultimate beliefs that are comparable primarily to known religions. This tends to confine the inquiry to religions in which a deity or some controlling, universal force undergirds the belief system. This is inappropriate because belief in a deity, as the *Welsh* and *Seeger* cases affirm, is not always fundamental to religious belief. A religious belief system can be quite private and personal, and should be measured not by its conformity to traditional religious systems, but rather by the fundamental meaning it gives to any particular individual's life.

The same criticism can be leveled against Judge Adams's required inquiry into comprehensiveness and external signs of a religion; the search tends to look for traditional forms of religion that are all-encompassing in one's life and that bear the marks of established ritual forms. Rather than focusing on the comprehensiveness of a religion in one's life, the more important question is: Does an adherent's system of beliefs constitute the most comprehensive framework by which his or her life is lived? This is a very different inquiry because it recognizes that the belief system may not be as comprehensive in an adherent's life as are most traditional religious systems; it may hold a central place in the adherent's worldview, but there may be other, competing views that are brought into the mix. The real inquiry along these lines is: Does the belief system consistently make an important contribution to giving meaning and direction to the adherent's life? The prisoners' naturalistic beliefs in the *Jacques* case would likely have qualified as religious under this type of inquiry.

Finally, in considering external signs, it must be recognized that some religions have few or no rituals. Pantheism, for example, typically is accompanied by no formal rituals. It is the nature and sincerity of one's beliefs, rather than the external signs fostered by those beliefs, that is most crucial in determining the existence of a religion. Moreover, some of the most standard signs of traditional religions need not be part of a religious system. For example, most religions operate with recognized leaders: ministers, priests, or other recognized authorities. But some religions, the Gnostics in the early Christian era and the Quakers today as examples, have usually operated with an essentially egalitarian polity--all adherents are seen as equals, and none are deemed more authoritative than others.

These are only suggested possible inquiries that could be added to those proposed by Judge Adams. The suggestions are by no means intended to be exhaustive. It is only submitted here that Judge Adams's three-pronged test does not go nearly far enough in probing the kinds of factors that should be considered in determining the existence of a religion.

ATHEISM AND THE CONSTITUTION. *Kaufman* presents a new, but foreseeable, difficulty for American courts. Never before has a court so directly equated atheism with religion, but in many ways *Kaufman* is a logical extension of what the Supreme Court held in cases like *Seeger* and *Welsh.* The Court has so expanded the meaning of religion that, while never extending the definition to expressly include atheism, its motive in expanding the definition so broadly—to achieve equality among the panoply of worldviews that give meaning to life—nevertheless paved the way for atheism to be considered the equivalent of religion for First Amendment purposes.

One possible way out of this conundrum would be to say that the conscientious objector cases (*Seeger*, *Welsh*, etc.) were not decided on First Amendment grounds but were a special case. Indeed they were decided on statutory grounds; the Court merely gave an expanded definition to the term "Supreme Being" as it appeared in the Selective Service Act. So, courts could conceivably limit the application of the expanded definition of religion to conscientious objector cases, but that would be difficult because so many courts have now taken the lead in applying the *Seeger-Welsh* expanded definition to other contexts.

The constitutional status of atheism raises many questions that courts will have to grapple with. The outcome of a variety of cases hinges upon the definition of the term "religion" as well as related terms such as "religious belief" and "religious organization." For example, entitlement to federal income tax exemptions and state property or sales tax exemptions are often dependent upon an organization's being classified as "religious." The ability of an organization to receive tax deductible contributions frequently depends upon its "religious" characterization. One's entitlement to an exemption from military service under federal law has usually required conscientious objection on "religious" grounds. And a minister's ability to opt out of the federal social security system requires proof of the "religious" character of his or her work. Finally, as seen in *Kaufman*, if atheism qualifies as "religion," it is entitled to the same free exercise privileges accorded to religion under the Constitution. Are all of these benefits now to be granted to atheists and atheist organizations? It is doubtful that courts will extend benefits in all of these directions, but it is possible.

Critics of the Supreme Court's holdings in *Seeger* and *Welsh* have argued that the functional approach to describing religion set forth in those cases is so broad as to obliterate any distinction between religion and nonreligion. Now the same critics are saying that *Kaufman* once and for all blurs any possible distinction between religion and nonreligion. But as this author reads *Seeger* and *Welsh*, and now *Kaufman*, these cases do not necessarily sanction *nonreligion;* they merely propose that *religion*, for at least some First Amendment purposes, embraces ideas and beliefs that go beyond those that have historically been considered religious. *Seeger* and *Welsh* acknowledge that religion cannot be reduced to precise definition or description. Moreover, the expansive approach to describing religion set forth in those cases recognizes that the exercise of one's religion is an inviolable, protected right under the First Amendment, and that only a broad framework for describing various religious forms will protect all religious ideas. How *Kaufman* alters this framework is yet to be determined with any finality.

For those who are concerned about atheism qualifying as religion constitutionally, they might take comfort in realizing that at the very least, such a result prohibits the government, per Establishment Clause standards, from ever advancing or promoting atheism in the same way it is prohibited from advancing any religion. Critics of Supreme Court restrictions on advancing religion have argued for years that the unintended consequence of government's inability to advance religious ideas is the entrance into the public square—and especially into the public schools—of a secular humanism/atheism worldview to fill the void. If this is true, the courts would have to acknowledge this and prevent the advancement of such a worldview.

Seeger and *Welsh* left many cloudy issues that the Supreme Court, now more than three decades after they were decided, has yet to address. Specifically, the Court left open the meaning of terms such as "ultimate concern" and "parallel belief" and failed to address the degree to which inquiries into the content of beliefs arguably falling within the meaning of those terms is appropriate. Judges like Arlin Adams are to be commended for their efforts to resolve some of these problems. Adams's three-pronged test for determining what is a religion is a welcome start towards fleshing out the twin tests of *Seeger* and *Welsh*, although it is, in this author's view, too limited in naming the kinds of factors that courts should consider in making their assessments. In its present form, Adams's test tends too obviously to favor traditional over nontraditional religions.

The commitment of courts to the essential parameters of the *Seeger-Welsh* formulation will serve to protect individuals and communities of faith in the emerging postmodern world from unwarranted regulation of religion at the hands of government. But more clarification is needed to know exactly how the *Kaufman* decision fits within this fundamental framework. As stated earlier, if an atheist can demonstrate that his beliefs constitute the most comprehensive framework by which he lives, and it guides and directs fundamentally his entire life, it should

probably qualify as "religion" under the *Seeger-Welsh* framework. In this sense an atheist's belief system would constitute an "ultimate concern" and hold a "parallel position" to religion in his life. The *Kaufman* court, however, stopped short of suggesting that James Kaufman's atheism specifically fits within the *Seeger-Welsh* framework for constitutional purposes. Needless to say, the issue is complex and the U.S. Supreme Court should one day take up this important issue and provide the clarification that is so desperately needed.

С. Головащенко*

Розвиток релігійного середовища в Європі та Україні: проблема відповідності.

Тематика дискусій (в т.ч. круглих столів та конференцій різного масштабу), на які тут, в Україні, запрошують професійних дослідників релігії, вподовж багатьох останніх років визначається конгеніальним збігом: переважають проблеми суспільного функціонування релігії та її інституції, взаємодії релігії та політики, проблеми церковно-державних та міжконфесійних відносин. Цікаво було б, на нашу думку, спеціально проаналізувати як внутрішні, так і зовнішні чинники, що викликають до життя саме таку проблематику та спричиняють її домінування у вітчизняних дослідженнях релігії.

І тут би ми, зокрема, змогли побачити, з одного боку, зацікавленість суспільно-державну (як ото у випадку з тематичними круглими столами, що їх останнім часом досить регулярно проводить Державний департамент у справах релігій при Міністерстві юстиції України), так і зацікавленість іноземних спонсорів, які, врешті-решт, дають кошти на більшість міжнародних конференцій з релігійної проблематики в Україні (і дають їх на проведення конференцій в основному на тему свободи совісті та релігійної свободи).

З огляду особливо на цей другий чинник, ми усі, з усіма нашими традиційними та не дуже віруваннями, з усіма нашими уподобаннями та забобонами, з усіма нашими міжконфесійними та міжцерковними конфліктами та надіями на їх розв'язання, цілком ймовірно, вже давно є об'єктом такого собі „моніторингу" з боку „світової спільноти", її відверто, або не зовсім, вповноважених структур. Як то там у нас розвиватиметься „релігійне середовище"? Причому від відповіді на це та цілу низку сукупних питань вочевидь залежатиме і доля України у всіляких „вступах", „входженнях", „членствах" тощо.

Отже, якщо констатувати вихідну позицію, то вона така: за нами спостерігають і нами цікавляться у цілком конкретній площині, зокрема, не даючи академічним та не дуже академічним релігієзнавцям дарма відволікатися на всілякі там „теоретично-методологічні", „аналітично-семіотичні" та якісь інші „кабінетні" дурниці.

Але що ми можемо взяти з цієї ситуації, з цієї доволі-таки пасивної пресупозиції, окрім підтримання контактів з урядовцями, закордонних контактів та освоєння кошторисів міжнародних конференцій? Тобто запитаємо у себе, що ми усі змістовно та осмислено можемо з цього мати? Для більш плідного пошуку відповіді на це запитання варто нам було би здійснити такий собі „рефреймінг" означеної пасивної пресупозиції або, по-простому кажучи, „змінити позу". А зробивши це, подивитися на ситуацію під новим кутом зору – головне, щоб голова і очі тут були вищі за інші органи тіла. Отже, якщо ми випрямляємося, „повстаємо" (а „повставати", або ж „воскресати", у ці дні сам Господь велів особливо), що ж ми тоді побачимо? А побачимо ми вже речі, евристично доволі цікаві та цінні.

По-перше, побачимо, що в Україні таки-то є політика (на відміну, до речі, від деяких сусідніх країн, де кабінетна теорія volens-nolens і не завжди від гарного життя визначає зацікавлення дослідників). А, оскільки в Україні таки-то є політика, то роль релігійного чинника в ній і роль політичного чинника в розвитку „релігійного середовища" неодмінно має стати об'єктом пильної та багатоаспектної уваги.

По-друге, ми побачимо, що між Україною та іншим світом (і Європою безпосередньо) існує той різновид „відстані", або „простору", який можна визначити радше як „шлях", ніж як „стіна". І зовсім не якісь суб'єктивні установки типу „бажання-небажання" визначають зацікавлення нами з боку світу до всього іншого ще й з релігійної точки зору, але об'єктивна неминучість того, що Україна той „шлях" таки-то пройде та ту „відстань" таки-то подолає.

А, по-третє, ми побачимо (і про це варто сказати окремо), що оцінює нас світ (і Європа у першу чергу) на основі певної системи критеріїв, що там історично вибудувалися як індикатори „цивілізованості-нецивілізованості" (водночас – і як мітки „свій-чужий", якщо завгодно). Об'єктивно ж ці критерії є показниками „спільності досвіду" – досвіду історичного, культурного, духовного; спільності досвіду, яка нині практично уможливлює порозуміння під орудою певної системи спільних цінностей. Зокрема, це:

* *Доцент Національного університету „Києво-Могилянська академія", к. філос.н.*