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**Contribution to Berkley forum:
Is Religious Freedom Under Threat in Ukraine?
January 30, 2023.**

The question this panel asks is: is religious freedom under threat in Ukraine? Maybe a more interesting question is: why now are we asking this question?

Because we would not have asked half a year ago. Note: I am not saying on February 24. We are asking now not because of any new actions on *Russia's part*, but because of concrete actions recently taken by *Ukrainian authorities*.

On the other hand, we *could* have asked this question already *three* years ago. Why? Because in 2019, a law was proposed to the Ukrainian Parliament that a church which has its leadership in an aggressor state has to change its name to incorporate the full name of that leadership into its own name. This law, incidentally, was made soon after the creation of the Orthodox Church of Ukraine, and was obviously aimed to promote and foster the OCU.

So this proposed law targeting the UOC would have compelled it to change its name to ROC in Ukraine, or MP in Ukraine. The law was under consideration in the Ukrainian constitutional court until late 2022. The Constitutional Court found it legal on December 28. The proposed law reads (and I apologize, because even for *legal language* this is cumbersome:

“Religious organizations (associations) that are part of the structure of (affiliated with) a religious organization (association) whose governing center (administration) is located outside Ukraine / in a state that is recognized by law as having implemented military

aggression against Ukraine / to reflect their affiliation with a religious organization (association) outside Ukraine, to which it is a member, by mandatory reproducing the full statutory name of such a religious organization.

Turgid, yes. But that's the law we have, and that is the religious freedom issue at hand. Can the state rename religious institutions against their will?

Alas, even this webinar description refers to the Ukrainian Orthodox Church as the UOC-MP. But that is not its name—and never was. Its name is the Ukrainian Orthodox Church. Why is *the Berkley Center* calling it something it does not call itself?

In fact, who can decide what a church calls itself is not a trick question. It actually gets at the core of the issue. In teaching the religious history of Ukraine for over twenty-five years, I have instructed students to refer to Ukrainian Greek Catholics, not Uniates — because those described regard the term 'Uniates' as derogatory, and because they call themselves Greek Catholics. That is their name. It is not for outsiders to decide what their name should be. So is it for anyone *other* than the UOC to decide for it? Is it the role of a state, is it the task of a state, to intervene in a religion — to the point of changing its name?

The Ukrainian Constitutional Court ruled yes: such a law is constitutional. This is rough if you're a good democrat. On the one hand, we have to respect the decision of democratically constituted courts, even if we may not like those decisions. On the other hand, one can and should criticize those decisions when they seem to be flawed. This applies in the US, it applies in Poland, and it applies in Ukraine.

So let us leave aside the matter of whether the Ukrainian Constitutional Court is apparently moving against religious freedom. Let us now consider the law on its own terms. Let's answer the question. Does the law apply to the UOC? Does the UOC have its leadership in Russia? Or is the UOC independent?

The UOC says it is no longer part of the ROC or affiliated with it. So if the state says it is, it will have to prove it. I must say the evidence we have seen so far does not seem convincing.

But what might be the arguments that the UOC *is* part of the ROC?

1. That the UOC *was* part of the ROC, albeit with great autonomy. But after May 2022, a UOC council declared that it was independent. Other than a nod to history, its new statute does not mention either Russia or the Russian Orthodox Church. It behaves like an autocephalous church. Metropolitan Onufriy celebrates liturgy as the head of an autocephalous church, the UOC has established parishes abroad with a bishop who is responsible for them, and they have reinstated the practice of making their own chrism.
2. The ROC continues to claim that UOC is a part of it, and that the UOC changes have been made under duress, under pressure from the so-called ‘Ukrainian fascists.’ Despite the UOC’s rejecting this claim, the ROC continues to list the UOC on its website. But. If I claim that someone is my girlfriend, while she says no, we split up a long time ago, I am living on my own and am independent, — who do we believe? The one who has left or the bullying ex?

More concretely. A few weeks ago, Russia demanded that religious persecution in Ukraine be discussed at the UN Security Council. The UOC immediately protested:

The Ukrainian Orthodox Church has not asked any state to assist in the protection of its rights, **let alone** the state that committed the treacherous armed attack on our country. Nor did we authorize anyone from the ROC MP to speak on our behalf at the UN. We are concerned that the issue of the Ukrainian Orthodox Church is being raised by **organizations that have nothing to do with us**. We call on the Russian authorities not to speak on behalf of our Church on international platforms and not to use religion for their own political purposes.

Clearly, the UOC is drawing lines that show its independence.

3. There have been individual collaborators in the UOC hierarchy and clergy with the occupying Russian forces. That is true. The UOC missed a chance to distance itself early enough from these people. Yes. But a few bad apples do not give us the

right to damn or ban the entire organization. We have to evaluate the church's *official* position.

4. The Ukrainian security services, the SBU, performed searches to try to find evidence of Russian affiliation. But what have they *shown* so far does not prove that the UOC is a church directed by Russia. So if we say "Recent probes by the Ukrainian government have exposed the still-existing ties between the UOC and the ROC," I'd like to know what that means.

To conclude. I am not claiming that the UOC is impeccable, or that has done everything right. Far from it. They have made more than a few mistakes. But those mistakes do not constitute hanging offenses. They do not give the Ukrainian government the right to deny the UOC the right to exist.