

## THE INFLUENCE OF THE CRISIS OF RELIGION ON THE WEAKENING OF PATRIARCHAL FAMILY\*\*\*

### Summary

*Christians today have three opposing views on the biblical relationship between husband and wife. Those views range from Christian egalitarianism, which the New Testament interprets as a doctrine of complete equality of responsibility between men and women in marriage, to a call for a “return to complete patriarchy” in which relations are based on male domination and their authority in marriage. Whether patriarchal and religiously supported relations have led to the inferior position of women and the inadequate position of children in family relations of traditional patriarchal family, in which negative events within the family are hidden from the outside world, is always a topical question. On the other hand, some early church fathers valued family less, and celibacy and freedom from family ties were considered a more desirable choice. Deviation from traditional values, understandings, norms and reformism of modernists have significantly influenced the patriarchal family, the understanding of family relations and the institution of marriage. In the first part, the paper will provide a historical – theoretical view of the relationship between the church and the state, as well as a comparative overview of this relationship. In the second part of the paper, the emphasis will be on the concept of marriage in the world’s major religions, and on the, perhaps, the biggest challenge, which a patriarchal family has been facing with, which is reflected in the legalisation of same – sex marriages. By overturning the ruling in the case of Roe v. Wade, which legalized abortion almost 50 years ago, on 24 June 2022, by the decision in the case of Dobbs v. Jackson Women’s Health Organization, No. 19 –1392,*

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\*\*\*This article was written as a result of the financing of the scientific research work of the Institute of Comparative Law by the Ministry of Education, Science and Technological Development of the Republic of Serbia, according to the Agreement on the Implementation and Financing of Scientific Research Work of the NIO in 2023 (registration number: 451–03–47/2023–01/200049 from February 3, 2023).

597 U.S. (2022), jurisdiction was transferred from the federal level of the US to the jurisdiction of the states. How much influence did religion have in that case and what have been the consequences of the latest decision by the Supreme Court of the United States?

**Keywords:** religion, church and state, marriage, patriarchy, abortion, same-sex marriage, *Roe v. Wade*, *Dobbs v. Jackson Women's Health Organization*.

### 1. Introductory Remarks

In terms of customs and tradition, marriage has evolved into a law-governed social institution that regulates the relationship between two (monogamous marriage) or more people (polygamous marriage), whose goal is to live together and raise offspring, and the reasons for its conclusion can be legal, social, emotional, financial, spiritual, and religious.<sup>1</sup> Although the choice of a spouse can be influenced by gender, socially-defined incest-related rules, established marriage rules, parental choice and individual desire, it can be argued that religions have exerted the most profound influence on the historical position of women, their status in marriage, and their limited participation in social life, due to the fact that a certain form of discrimination against them has been present in all religious writings.<sup>2</sup> Today, the importance of traditional marriage is waning, while divorces and extramarital unions are becoming socially acceptable, which has led to changes in the demographic structure of marriage.

Depending on whether they are concluded by a secular or a spiritual (religious) authority, there is a difference between a civil and a church marriage. In secular countries, a religious wedding must be separated from a civil one, so the spouses are obliged to conclude the marriage before the registrar, while they can approach the religious ceremony based on their religious beliefs and tradition.<sup>3</sup> Bebel calls marriage “a selling of a woman into matrimonial prostitution, with the blessing of the law and the church, in order to find a breadwinner for her”, while Plutarch states “that Romans do not marry for the sake of an heir, but for inheritance.”<sup>4</sup> Some priests in the Middle Ages

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<sup>1</sup> A. Čović, *Porodičnopravni aspekti verskih brakova*, Institut za uporedno pravo, Beograd 2020, 13.

<sup>2</sup> *Ibid.*

<sup>3</sup> In some countries, a priest has the status of a civil servant, and the civil character of the wedding pertains to a record of the marriage in the secular registers. In European countries, the relationship between the church marriage law and the state marriage law differs, depending on the influence of the church and its relationship with the state. (For more on that, see *Ibid.*, 143–154).

<sup>4</sup> D. Smiljanić, *Brak kroz istoriju*, Narodna knjiga, Beograd 1955, 19–20.

had quite interesting views on marriage, especially for that time: for instance, in 1552, Luther stated in his book *On Married Life* that he, as a priest, was in favour of civil marriage and against priestly celibacy, and that faith should not meddle with a natural matter such as marriage, which can be concluded even between people of different faiths.<sup>5</sup> He contended that the state authority alone had the right to prescribe the conditions for the conclusion and termination of marriage, the sacramental character of which he completely denied.

The right to family planning is not explicitly guaranteed by any international document.<sup>6</sup> In current international legislation pertaining to this area, a significant document is the Resolution of the European Parliament, which stipulates that discrimination based on sexual orientation is prohibited (Art. 6), while all member states are invited to guarantee single-parent families, unmarried couples, and same-sex couples, the same rights guaranteed to traditional couples, and to submit amendments to existing laws pertaining to registering same-sex couples.<sup>7</sup> Article 7 of the Charter of Fundamental Rights in the European Union guarantees the protection of private and family life, while Article 9 guarantees the right to marry and start a family.<sup>8</sup> The EU Charter prohibits discrimination on the basis of sexual orientation (Art. 21) or religion (Art. 21/1). On the other hand, the European Convention prohibits discrimination based on religion in Article 14, but does not mention discrimination based on sexual orientation.<sup>9</sup>

Article 62 of the Constitution of the Republic of Serbia establishes the right to freely decide on the conclusion and termination of marriage, based on freely given consent of a man and a woman before a state authority.<sup>10</sup> Article 63 of the Constitution of the Republic of Serbia establishes “the

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<sup>5</sup> *Ibid.*, 54.

<sup>6</sup> The basis for its preservation may be found in Article 23 of the International Covenant on Civil and Political Rights (special protection of the family and the child), Article 12 of the European Convention on Human Rights (the right to marriage), and Article 16 of the UN Convention on the Elimination of All Forms of Discrimination against Women (the obligation of states to ensure the equality of men and women in terms of family planning). The European Convention on the Protection of Human Rights and Fundamental Freedoms from 1950 in Article 8 guarantees the protection of private and family life, which is a concept broader than that of marriage. It also includes relationships between extramarital partners and their children, relationships between same-sex couples, and transsexual relationships. Article 12 guarantees the protection of the right to marry and start a family for persons of different sexes, who have reached a certain age, although the jurisprudence of the European Court of Human Rights has shown that the traditional family is not the only one protected in this manner.

<sup>7</sup> European Parliament Resolution No. A5 –0050/2000 of 16 March 2000.

<sup>8</sup> Charter of Fundamental Rights in the European Union, 2000/C 364/01.

<sup>9</sup> European Convention on Human Rights, European Council, 1950.

<sup>10</sup> Ustav Republike Srbije, Službeni glasnik RS, 96/2006, 115/2021.

right of everyone to decide on the birth of children”, which is a novelty in comparison to the wording from Article 27 of the previous constitution, which has established the right of a person to freely decide on the birth of children.<sup>11</sup> That vague and broad wording gives the possibility to the state, the church, and social groups, which are in favour of banning abortion, to make decisions on procreation. According to the Family Law, marriage is concluded before the registrar, while Article 5 of the Family Law states that a woman is free to decide whether to procreate or not.<sup>12</sup>

Some authors believe that “patriarchal and religiously justified relations have led to the inferior position of women and the inadequate position of children” within the traditional patriarchal family, in which all negative events are hidden from the outside world, due to the dominance of men.<sup>13</sup> Today, there are ongoing changes that are a consequence of understanding the necessity of protecting human rights, especially the rights of women and children in family relationships, which results in a kind of humanisation of rights. On the other hand, the latest decision of the US Supreme Court, which overturned the ruling in the case of *Roe v. Wade*, threatens to endanger previously achieved guaranteed level of human rights, while introducing deep divisions into American society and beyond.

## **2. The State –Church Relationship**

The relationship between the state and the church has always been of indubitable importance both for the government and for religious communities, as well as for society in general. The relationship has been undergoing a constant change throughout history, from the time when the church authorities imposed increasingly more important state decisions on the secular, until today, when those two authorities, in some countries, are completely separated and the church is placed on the same level with other organizations existing in society.

In a large number of countries, the church is completely or partially separated from state power, and its role lies exclusively in the domain of religious rights and affairs. To a varying degree, there is a constant and unbroken antagonism between the church and the state where Church regularly appears as a kind of opposition to all social arrangements and all state policies.<sup>14</sup> In

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<sup>11</sup> Ustav Republike Srbije, *Službeni glasnik RS*, 1/1990.

<sup>12</sup> Porodični zakon, *Službeni glasnik RS*, 18/2005, 72/2011, 6/2015.

<sup>13</sup> M. Počuča, N. Šarkić, *Porodično parvo i porodičnopravna zaštita*, Pravni fakultet Univerziteta Union, JP Službeni glasnik, Beograd 2014, 20.

<sup>14</sup> A. Đakovac, „Crkva, država i politika”, u: *Crkva u pluralističkom društvu* (ur. Jelena Jablanov Maksimović, Andrijana Krstić), Konrad Adenauer, Beograd 2009, 13.

some countries, secularism is emphasized as a constitutional principle, while in others a certain religion has the status of the state religion, that is, a certain church has the status of the state church, which automatically puts other churches in a subordinate position, while in some countries all or most religions have equal status, implying the same rights and obligations, the same financial and tax benefits, etc. The reason for such legal and social diversity, regarding the freedom of religion, is to be found in historical heritage, local tradition, and the development of multicultural society.<sup>15</sup>

The relationship between the state and religion, in which religion is completely separated from the public authority and represents the private matter of the individual, is most commonly called secularization (the root of which comes from the word *saeculum*, which originally meant a lifetime – a human age, while in the time of Emperor Augustus it acquired the meaning of a worldly age and, later, of something related to profane life, something that has nothing to do with religion, that stands in stark contrast to it). In political theory, secularization implies the retreat of religion into religious institutions, in the so-called private rights of people. From a religious point of view, secularization has multiple connotations: 1) an increased loss of the relevance of religion; 2) suppression of church authority from the domain of secular authority; 3) disinheritance and diminishment of Christian achievements in modern secular society; 4) the demythologising of faith and the “spiritualisation of the world”; 5) a loss of faith in general population.<sup>16</sup>

Secularism can also be seen as a political philosophy that defines the relationship between religion and the state with the stress on their separation. Most often, the highest legal acts of a state regulate the very relationship between the state and the church, whereas laws and other acts elaborate in more detail the relationships, activities, and other important matters for religious communities. In such countries, the state does not interfere in the matters of religion, just as churches are not allowed to meddle in state affairs. In any case, in liberal regimes, freedom of belief and religion is guaranteed by the constitution, whether the state is secular or not.

### *2.1. The Historical – Theoretical View of the State – Church Relationship*

Some of the earliest considerations of the need to separate church from the secular government are certainly those of the famous philosopher John Locke. In his work *A Letter Concerning Toleration* from 1689,

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<sup>15</sup> O. Nikolić, „Sloboda veroispovesti u Ujedinjenom Kraljevstvu”, *Strani pravni život* 1/2015, 71.

<sup>16</sup> M. Pisek, *Crkva i država. Procesi (de)sekularizacije*, GEA EKK, Zagreb 2014, 54.

he repeatedly emphasised the necessity of separating the secular and the spiritual authorities. Thus, he claims that the role of government and religion are essentially completely separate, because “the task of government is to care for civil interests such as property, material security, and protection and the task of religion is to care for the interests of the soul.”<sup>17</sup> Judges, none of whom appointed by God, cannot rightly demand that citizens leave the control or care of their souls to any earthly authority. The attempt by state authorities to stifle the freedom of conscience through state oppression is an abuse of power that may lead to civil unrest and instability. For all those reasons, it is important for government and religion to work independently of each other, while respecting religious tolerance.

It is essential to stress the contribution made by Thomas Jefferson and James Madison concerning the separation of church and state power. Following the American Revolution, the state of Virginia was the most prominent place of the debate over the separation of church and state. Thomas Jefferson drafted his Virginia Statute for Religious Freedom under the strong influence of Locke’s philosophy. It took nine years after Jefferson’s proposition of the bill for it to gain enough support to be passed into a law (originally proposed in 1777, the bill was not passed until 1786), with strong support from Madison.<sup>18</sup> Although the separation of church and the state is not explicitly mentioned anywhere in his 1802. letter to the Danbury Baptist association in Connecticut, Jefferson wrote about the “wall of separation” in terms of the relationship between the state and church. The principle of separation of church from the state represents a high and insurmountable wall” between those institutions, where one does not participate in the activities of the other: that means in particular that there is a number of prohibitions on the part of the state, while religious institutions and their representatives can express their opinions on moral and moral-political, and even purely political issues, but those opinions have the character of private opinions, as in the system of separation of church from the state, the former has the character of a private association. In the First Amendment to the Constitution of the United States of America, it is said that Congress shall not establish a state religion, which has made it the first constitution that recognizes the principle of separation of state and church. Regarding that, in the system of separation of church and state, the former has the character of a private association.

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<sup>17</sup> J. Locke, *A Letter Concerning Toleration*, Prometheus Books, Amherst 1689, 9.

<sup>18</sup> For more information on the matter, see: *The Separation of Church and State: Writings on a Fundamental Freedom by America’s Founders* (ed. Forrest Church), Beacon Press, Boston 2004.

The abolition of the state religion was declared in France in 1789, but it was not until the laws of 1905<sup>19</sup> that a secular<sup>20</sup> state was officially declared. Secularism is sometimes a way to prevent religion from playing a political role and to be a divisive factor for religious pluralism. However, it is a way of fighting against religion by way of banning all religious teaching. That second hypothesis was valid in 1905.<sup>21</sup>

## 2.2. *A Comparative Overview of the State–Church Relationship*

The relationship between state and church power is regulated in different ways in the highest legal acts of European countries, starting from those defining the state church to those where a strict separation of the state and church has been implemented in the sense of secularism. Between those extremes, we can find all the other countries, where the relationship between the state and church is regulated in various ways, through contractual relations or state legal acts, and where there is a separation with elements of a relationship and joint work.<sup>22</sup>

In legal science, there is a large number of various types of systems of state–church relations, although, to be fair, without no drastic differences, and on this occasion, only a handful of the most relevant models will be mentioned. According to Gerhard Robbers, we have three basic types of state–church law systems:

“The first basic type is characterised by the existence of a state religion or predominant religion. In this system, there are close links between state power and the existence of religious institutions. The systems of England, Denmark, Greece, Malta, and Finland belong to this basic category. On the other hand, there are systems founded on the idea of a strict separation of state and religious organizations, for instance, in the US, in France, with the exception of the three eastern departments and some other regions, and also in the Netherlands. There is, to a great extent, a legal separation in Ireland, too. The third type features the basic separation of state and

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<sup>19</sup> For more information on the matter, see V. Đurić, „Sloboda veroispovesti i pravni subjektivitet crkava i verskih zajedica u evropskim zemljama”, *Strani pravni život* 1/2012, 36, 40–42.

<sup>20</sup> For more information on the matter, see V. Marković, „Pojam sekularnosti – istorijski, pravni i aksiološko–etimološki aspekti”, *Bogoslovlje* 2/2020, 103–126.

<sup>21</sup> D. G. Lavroff, „Les tendances actuelles dans les relations entre l’État et la religion”, *Anuario Iberoamericano de Justicia Constitucional* 8/2004, 324.

<sup>22</sup> O. Nikolić, „Odnos države i crkve u Evropskoj uniji”, u: *Državno–crkveno pravo kroz vekove* (ur. Vladimir Čolović *et al.*), Institut za uporedno pravo, Pravoslavna Mitropolija crnogorsko-primorska, Beograd 2019, 474.

religions, while simultaneously recognising a multitude of common tasks, in the fulfilment of which state and religious organisations activity are linked: Belgium, Poland, Spain, Italy, Hungary, Austria, the Baltic States, and Portugal belong to this group.”<sup>23</sup>

According to Professor Ferrari, the traditional classification of state–church relations in Western Europe, meaning the concordat system, the system of a national church and the system of separation of state and church, is outdated and is based more on formal side of those relations and to a lesser degree on the content.<sup>24</sup> Classic examples of the concordat system are Italy, Germany, and Spain (even though secularism was proclaimed by the 1978 Constitution), as their relationship with religious communities is based on the concordat with the Roman Catholic Church and various state–church agreements with other religious communities. The national church system is represented in the United Kingdom, Denmark, Iceland, Sweden, Greece, etc., with these countries having a so-called national church, which enjoys a more favourable treatment than other church communities. Those privileges exist in the field of religious teaching, the presence of religious officials in hospitals, the army, and the like, whereas the state’s influence exists in relation to the control of the church itself, and in some cases even in the appointment of religious dignitaries. The system of separation between church and state is certainly the most conspicuous in France, but it is also present in other countries such as Ireland, Belgium, Holland, etc. It is certain that the system of separation of state and church is not as rigid as in earlier periods. For example, the Catholic Church in Ireland, despite not having a signed concordat with the state authorities, enjoys, perhaps, a more privileged position than a church in the concordat system.

A large number of post-communist countries have concluded concordats with the Vatican in a short time (Slovenia, Croatia, Hungary, Latvia, etc.), even though those countries officially belong to the system where, according to the Constitution, state and church are separated. That only confirms Ferrari’s idea of the obsolescence of that particular model of state-church relations, as it is increasingly difficult to find a state in which any of those three systems of state-church government relations are truly represented.

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<sup>23</sup> G. Robbers, „Država i crkva u Evropskoj uniji”, u: *Država i crkva u Evropskoj uniji*. (ur. Gerhard Robbers), Pravoslavni bogoslovski fakultet Univerziteta u Beogradu, Institut za teološka istraživanja, Beograd 2012, 9–16.

<sup>24</sup> S. Ferrari, “The Emerging Pattern of Church and State in Wester Europe. The Italian Model”, *BYU Law Review* 2/1995, 421.



Maurice Barbier takes constitutional separation of church and state as a measure of the division of certain European states into secular (France), quasi-secular (Italy, Spain, and Portugal), semi-secular (Belgium, Germany, Ireland, Luxembourg, and the Netherlands) and non-secular one (Denmark, England, and Greece).<sup>25</sup>

Rick Torfs observes the relationship between the state and church from the financial point of view, that is, in relation to the share of state support for church communities, resulting in three different systems: 1. Direct and immediate financial assistance provided by the state, with Greece being an example; 2. Some kind of financial framework, where churches have financial assistance from the taxes collected either by the state itself or by the church, which is the model present in Germany, Italy and some other countries; 3. Indirect financial assistance, regardless of the separation of state and church, primarily in France.<sup>26</sup>

Francesco Margiotta Broglio understands the state–church relations as: a) relations of subordination, that is, subservience (where the church authority is under the influence of the state authority, and is often called the national or state church), b) relations of separation (where church and the state are strictly separated), and c) coordination relations (often called a hybrid model or the model of cooperation between the state and church). Such models never appear in their pure form, but are always modified in reality.<sup>27</sup>

### 3. Marriage in the World Religions

The Holy Scriptures of the Old Testament speak of the marriage in paradise and the marriage following the original sin, and the relationship between husband and wife is illustrated in the Bible by the relationship between Christ and the Church. It is pointed out that marriage was created by God, who joined “male and female” together (Genesis 1:27), for lifetime (“let no man separate”) and in the monogamous manner (“a man and his wife”).<sup>28</sup> With the passing of the Edict of Milan, the principle of faith in marriage was emphasised. From the earliest days of the Christian

<sup>25</sup> M. Barbier, *La laïcité*, L'Harmattan, Paris 1995, 171–200.

<sup>26</sup> R. Torfs, “Should Churches Be Subsidized? Different models. Some Perspectives”, in: *The Role of the Churches in the Renewing Societies* (ed. Reinder Bruinsma), Budapest 1997, 45–53.

<sup>27</sup> F. M. Broglio, C. Mirabelli, F. Onida, *Religioni e sistemi giuridici. Introduzione al diritto ecclesiastico comparato*, Il Mulino, Bologna 1997, 122.

<sup>28</sup> *Biblija: Sveto pismo Staroga i Novoga zavjeta* (prevod: Đura Daničić, Komisija Svetog arhijerejskog sinoda Srpske pravoslavne crkve), Sveti arhijerejski sinod Srpske pravoslavne crkve, Beograd 2020, 10.

faith, Christians have respected marriage, or holy matrimony, as a divinely blessed, lifelong, monogamous union between a man and a woman. Jesus replaced the Mosaic Law allowing divorce with his teaching that “...whoever divorces his wife for any reason except sexual immorality causes her to commit adultery; and whoever marries a woman who is divorced commits adultery”. (Mt. 5:32) (Mk. 10:11) (Lk. 16:18).<sup>29</sup>

From the aspect of state law, marriage is the result of social and economic factors. On the other hand, church sees in it a remnant of heaven on earth, i.e. a divine institution, an ecclesiastical and supernatural institution between a woman and a man, which precedes all other organizations and helps man to maintain the harmony between reason and emotions (“Nevertheless, neither is man independent of woman, nor woman independent of man, in the Lord. For as woman came from man, even so man also comes through woman; but all things are from God.” – I Cor. 11, 11–12).<sup>30</sup> It is stated that civil legislation cannot regulate the essence of marriage, and that the moral–religious side should be left to the church. Christian marriage is a “union of husband and wife in heart, body, and mind is intended by God for their mutual joy; for the help and comfort given one another in prosperity and adversity; and, when it is God’s will, for the procreation of children and their nurture in the knowledge and love of the Lord.”<sup>31</sup>

In the Holy Scriptures of the Old and New Testaments, there is not a single mention of any obligatory form for entering into marriage, while toward the end of the 9<sup>th</sup> century, in 893, church blessing became the only form of entering into marriage, thanks to the 89<sup>th</sup> novel (‘new law’) of Emperor Leo VI the Wise.<sup>32</sup> Today, all Christian denominations consider marriage a sacred institution. Roman Catholics consider it a sacrament and it was officially recognized as such at the Council of Verona in 1184.<sup>33</sup> Despite having been created mutually different, man and woman complement each other, and the marriage of baptized Christians is one of the seven Roman Catholic sacraments.<sup>34</sup> All Protestant confessions believe that God ordained marriage for the union of a man and a woman for the

<sup>29</sup> *Ibid.*, 1203, 1253, 1293.

<sup>30</sup> B. Cizarž, *Crkveno pravo II (Bračno pravo i crkveno sudski postupak Srpske pravoslavne crkve)*, Kosmos, Beograd 1973, 9–11. According to: A. Čović, 27.

<sup>31</sup> See “Celebration and Blessing of a Marriage: Concerning the Service”. The Online Book of Common Prayer. Church Hymnal Corporation, New York City (The Episcopal Church), <https://www.bcponline.org> 7. 7. 2023.

<sup>32</sup> B. Cizarž, 32–33.

<sup>33</sup> “Christian Views On Marriage”, The Spiritual Life, <https://slife.org/christian-views-on-marriage/> 7. 7. 2023.

<sup>34</sup> *Ibid.*

sake of intimate companionship, raising offspring, and mutual support, and they are generally approve of birth control and believe that marital sexual pleasure is a gift from God, while divorce is only permitted under certain circumstances.<sup>35</sup>

In the Eastern Orthodox Church, marriage is considered a holy sacrament and serves to unite a woman and a man in an eternal union before God; marriage is a martyrdom, since each spouse dies separately for the sake of the other and transforms the couple into husband and wife in the Body of Christ.<sup>36</sup> Marriage is an icon (image) of the relationship between Jesus and the Church, which is similar to the Old Testament prophets, who used marriage as an analogy to describe the relationship between God and Israel and the simplest, most fundamental unity of the church: a congregation in which “two or three are gathered together” in the name of Jesus (Mt. 18, 20). It is considered a pilgrimage in which the couple walks side by side, towards the Kingdom of Heaven, and unlike Western Christians, Eastern Christians believe that the sacramental aspect of marriage is conferred by the Holy Spirit, who acts through the priest, and so nobody but a bishop or priest, not even a deacon, may administer the sacrament.<sup>37</sup>

After the Serbs received Christianity from Byzantium, St. Sava prepared and translated from Greek into Slavic a new church–civil collection The Nomocanon or Code, later called Krmčija, which contained a large number of Byzantine civil regulations of ecclesiastical nature. The section titled “On the Sacrament of Marriage” is in the second part of Krmčija (chapters 50 and 51). In the 13th century, Christian church legislation was fully adopted in our country, and marriage acquired a religious character.<sup>38</sup>

Christians today have three opposing views on what the biblical relationship between husband and wife is. The supporters of Christian egalitarianism believe in an equal partnership of husband and wife, where neither of them is designated as the head of the marriage or family, which

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<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> Except in Krmčija, the marriage law regulations were contained in the Žiča Charter of King Stefan the First-Crowned from 1220, in which 13 out of the total 32 articles are related to marriage. In 1349, Emperor Dušan banned non-church marriages in his Code in order to ensure a consistent compliance with these regulations, whereas the adoption of the Serbian Civil Code in 1844 saw the acceptance of all the existing marriage-related regulations. Marriage lost its religious character with the adoption of the 1946 Basic Law on Marriage, while in other European countries it happened much earlier under the influence of the Reformation, philosophy, and the French Revolution (for more information, see A. Čović, 32–34).

is based on the basic biblical principle of the equality of all human beings before God.<sup>39</sup>

Christian complementarians advocate a male-headed hierarchy, husband and wife have equal value in the eyes of God, but are given different functions and responsibilities by Him based on gender, and male leadership is biblically ordained so that the husband is always the higher authority.<sup>40</sup> Grudem states that a “woman’s submission does not imply that she should follow her husband into sin.”<sup>41</sup>

Biblical patriarchy prescribes a strict male-dominated hierarchy, in which the man is the ruler of the woman and his household.<sup>42</sup> The first principle of their organization is that “God is revealed as male, not female. God is the eternal Father and the eternal Son, the Holy Spirit is also addressed as Him, and Jesus Christ is male”; they believe that the husband-the father is the sovereign over his household, the head of the family, the provider of services and the protector, while the wife is called to be obedient to her superior (husband).<sup>43</sup>

Judaism as a religion began to form from around the 6th century BC until 600 AD, and the basic teaching is founded on the Old Testament as well as the people’s traditions, which they brought along while entering Judaism. The Talmud was created for the sake of easier understanding of one’s own tradition, and there are two versions of it, the Babylonian Talmud and the Jerusalem Talmud. In New Judaism, in addition to Talmudic teachings, there are also other teachings and books related to Judaism, such as Kabbalah and Zohar.<sup>44</sup> The position of women in Jewish law is more than clearly defined by the fact that a woman, whose three husbands have died of natural causes is forbidden to marry, while rabbinical law also forbids

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<sup>39</sup> “There is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female; for you are all one in Christ Jesus.” (Gal. 3:28). The apostle Paul invites husbands and wives to be “submitting to one another in the fear of God” – a mutual submission (Eph. 5:21).

<sup>40</sup> “Christian Views On Marriage”, The Spiritual Life, <https://slife.org/christian-views-on-marriage/>

<sup>41</sup> W. Grudem, “Wives Like Sarah, and the Husbands Who Honor Them (1 Peter 3:1–7)”, Bible. org, 14 April 2005, Wives Like Sarah, and the Husbands Who Honor Them 1 Peter 3:1 –7, 8. 7. 2023.

<sup>42</sup> B. Ware, “Summaries of the Egalitarian and Complementarian Positions”, CBMW ORG – The Council on Biblical Manhood and Womanhood, June 26, 2007, <https://cbmw.org/uncategorized/summaries-of-the-egalitarian-and-complementarian-positions>, 8. 7. 2023.

<sup>43</sup> “Christian Views On Marriage”, The Spiritual Life, <https://slife.org/christian-views-on-marriage/>

<sup>44</sup> B. Končarević, *Lekcije iz uvoda u pravoslavno bogoslovije*, Spasovdan, Beograd 2008, 35. According to: A. Čović, 36.

reading blessings or prayers in the presence of married women, who are bare-headed, which is considered nudity.

The unique system of Islamic marriage law has been created by revising Arab marriage customs in such a way that some of them have been abolished, others have been altered, and some new provisions have been adopted.<sup>45</sup> The Qur'an explicitly condemns the burying of live girls immediately after birth, which was the custom of the Arabs in Arabia before the adoption of Islam, while, contrary to popular belief, covering the face was not prescribed by the Qur'an, and in the early days of Islam women did not cover their faces in any way. Professor Begović states that covering the face and the confinement of women in harems had the effect of reducing the number of Muslim women, who were public workers, scientists, lawyers, and artists, which was a consequence of stifling freedoms and Muslims' violation of the God's law.<sup>46</sup> The Qur'an considers monogamy to be the basic form of marriage, whereas polygamy is conditioned by husband's ability to treat all wives equally, and his right to marry more than one wife can be limited by the marriage contract. The Qur'an has abolished all the marriage customs of the Arabs that were in conflict with their moral norms, so instead of a contract of sale, marriage becomes a contract of a communal life, in which the husband is recognized as having authority over the wife, but not over her property. The custom, according to which a woman entered into his inheritance, is abolished and she is recognized the right to inherit her husband, as well as legal and business capacity, the right to divorce, the right to freely dispose of property, and the right to inherit her husband's estate.<sup>47</sup>

In Hinduism, the text of the Manusmriti is divided into 12 lessons, dealing with the following four topics: the creation of the world, the sources of Dharma, the dharmas of the four social classes, and the law of Karma, rebirth, and final liberation.<sup>48</sup> The Manusmritis are considered responsible for the subjugated position of women in the post-Vedic period.<sup>49</sup>

<sup>45</sup> For more information on the matter, see: S. Stjepanović, B. Stjepanović, „Primena šerijatskog prava u mešovitim brakovima u Kraljevini Jugoslaviji” u: *Uvod u šerijatsko parvo* (ur. Vladimir Čolović, Samir Manić), Beograd 2020, 147–157.

<sup>46</sup> M. Begović, *O položaju i dužnostima muslimanke prema islamskoj nauci i duhu današnjeg vremena*, Grafički umetnički zavod Planeta, Beograd 1931, 30. According to: A. Čović, 43.

<sup>47</sup> A. Čović, 43–45.

<sup>48</sup> S. Ghosh, “Manusmriti. The Ultimate Guide To Becoming A ‘Good Woman’ Feminism in India, 11 January 2018, <https://feminisminindia.com/2018/01/11/manusmriti-ultimate-guide-good-woman/> According to: A. Čović, 49.

<sup>49</sup> *Ibid.*

The Manusmriti, which explicitly promoted child marriage, has always remained the backbone of India's patriarchal and caste structure, and the author Ghosh believes that "a critical evaluation of ancient texts like the Manusmriti is imperative for women to understand that they are prisoners of historically invented shackles."<sup>50</sup> Hindu marriage harmonises two people for all eternity so that they can follow dharma (truth), sense, and worldly desires; marriage is not accompanied by traditional rituals and according to Hinduism, marriage between two people is a sacred bond that is not limited to this lifetime, but lasts for seven or more lifetimes, during which the couple helps each other in progressing spiritually.<sup>51</sup>

The Buddhist view is that matters such as marriage must be regulated by society in a social, political or legal process, and that different types of social and family arrangements are possible. Just as a wife has prescribed obligations towards her husband, so does a husband have similar obligations towards his wife. Marriage is not a religious obligation, a means of procreation or a romantic concept of love, but only an option, an individual choice that each person can make, if they believe that it will bring them happiness and keep them on the path to enlightenment.<sup>52</sup> Buddhists do not forbid divorce, but the idea of living a Buddhist way of life suggests that one should not divorce.<sup>53</sup>

### 3.1. Same-Sex Marriage

One of the attacks on the foundations of the religious concept of patriarchal marriage is certainly same-sex marriage. When we say same-sex marriage, we mean a marriage between two people of the same sex, and do not mean a same-sex registered partnership or civil union. Today, same-sex marriage is legally recognised in over thirty countries, with a growing tendency. However, in many countries that type of marriage is constitutionally prohibited, i.e. often in the constitutions, marriage is often explicitly defined as the union between a man and a woman.

Hundreds of scientific and other books, articles, analyses and texts have been written on that topic, and it has provoked great polemics, discussions, petitions and the like, so here we will only briefly outline the basic features of the development of same-sex marriage. The topic of same-sex

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<sup>50</sup> *Ibid.*

<sup>51</sup> L. Borah, "Philosophy of Hindu Marriage", Pragyata, 21 May 2018, <https://pragyata.com/philosophy-of-hindu-marriage/> 8. 7. 2023.

<sup>52</sup> K. Sri Dhammananda, "Buddhist Views on Marriage." Buddha Sasana, <https://www.budsas.org/ebud/whatbudbeliev/237.htm>, 8. 7. 2023.

<sup>53</sup> *Ibid.*

marriage became extremely prominent in the 1980s and 1990s, when serious talks began about legalising same-sex marriage, or more precisely, about changing the constitutional and legal framework that prevented such marriages. Even though Professor John Boswell, in his book *Same-sex Unions in Premodern Europe* published in 1994, talks about the acceptance of same-sex relationships, i.e. marriages, way back in medieval Catholic Europe, and even earlier in Ancient Greece and Rome, the conclusions he expresses are often questionable, either due to the translation from Latin or Ancient Greek, or because of his preconceptions.<sup>54</sup>

Supporters of same-sex marriage, primarily those from the United States of America, had to go through an arduous struggle for the legalisation of that type of marriage. A large number of conservative politicians, theoreticians and citizens, as well as religious followers, firmly fought against same-sex marriage being constitutionally and legally recognized, and in that context cited a considerable number of examples why it should not be legalised. Roughly, those remarks could be classified into three categories: religious, traditional, and state-interest. Of course, the most vehement pressures came from the ranks, both from church dignitaries, and from their followers, who called upon the biblical interpretation of heterosexual union, as well as the immorality of homosexuality. Later, when the legalisation of same-sex marriages was already in sight, church authorities began to be bothered and even frightened by possible legal consequences and penalties for refusing to perform religious weddings between same-sex partners and the possibility of losing the privilege of tax exemption. Under traditional objections one can subsume the views that any type of marriage that is not heterosexual is aimed at the collapse of the traditional value of the family, even the views, which are the downfall of human species. The state-interest objections include the political positions that each state of the USA has advocated differently, and mostly concerned the values of the traditional American family, incentives to increase births, conservatism, the morality of the traditional family environment, and the like.

Among the first victories for same-sex marriage supporters was the Hawaii Supreme Court's decision (74 Haw. 530 Haw. 1993) in *Baehr v. Lewin*<sup>55</sup>, where same-sex marriage was not explicitly recognised, but the Court ruled that the refusal to register the marriage between two women was in violation of the Hawaii Constitution, which prohibited any discrimination,

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<sup>54</sup> See J. Boswell, *Same-sex Unions in Premodern Europe*, Villard Books, New York 1994.

<sup>55</sup> *Baehr v. Lewin*. No. 15689. (1993). 74 Haw. 530,852 P.2d 44. Decision date May 5<sup>th</sup> 1993.

including sex or gender discrimination. “Although there are different types of non-traditional family and not just one form of family life, punishing the homosexual union in order to protect the traditional family is arbitrary and unfair”.<sup>56</sup> The first country in the world to legally recognise same-sex marriage was the Netherlands in 2001, followed by Belgium in 2003, Spain and Canada in 2005, with thirty-one countries having recognized same-sex marriage so far. Admittedly, some countries had to do it because the court ordered it with their decisions (South Africa, Brazil, Austria, Slovenia, and some others), while others did via parliamentary procedure, by modifying the constitutional and legal texts, and some based on referendum results. (Switzerland, Ireland, and Australia).

Churches and religious communities around the world are still generally opposed to same-sex marriage, including the largest ones, such as the Catholic Church, the Orthodox Church, the Jewish Orthodox and all Islamic religious communities, most Hindu religious communities and some Protestant churches. Churches that do not oppose same-sex marriage include Lutheran Church in Sweden, the United Church of Canada, some evangelical churches in Switzerland, Germany, and the Netherlands, elementary schools of Buddhism, whereas in the US “traditional religious communities such as the United Church of Christ, Metropolitan Community Churches, and Unitarian Universalist Association not only recognize but gladly perform religious rites of same-sex marriage”.<sup>57</sup>

#### **4. The Influence of Religion on the (Non)Permissibility of Abortion (the Supreme Court Overturning *Roe v. Wade*)**

Abortion and murder are equated in the teachings of St. Basil the Great in the 4th century, as well as by the decision of the Council of Constantinople in 692. The Orthodox and Catholic Church justify abortion only if the life of a pregnant woman is threatened and if a foetus has already died, while some more liberal Protestant circles accept fetal anomalies and pregnancy as a result of rape or incest as reasons for abortion; Jewish religious authorities have approved abortion in various situations, such as in a situation, where a medical expert has determined that maintaining the pregnancy will cause the mother to lose her hearing completely.<sup>58</sup> Abortion

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<sup>56</sup> D. Gray, “Marriage: Homosexual Couples Need Not Apply”, *New England Law Review* 23/1988, 523.

<sup>57</sup> E. A. Isaacson, “Are Same-Sex Marriages Really a Threat to Religious Liberty”, *Stanford Journal of Civil Rights and Civil Liberties* 8/2012, 152.

<sup>58</sup> N. Glumbić, „Etičke dileme u prevenciji i tretmanu ometenosti”, u: *Nove tendencije u specijalnoj edukaciji i rehabilitaciji* (ur. Zorica Matejić–Đuričić), Beograd 2007, 187–188.



is not mentioned in the Qur'an, but it is stated that killing a child is a serious crime, so the debate about the ethical justification of abortion is mainly based on determining the period when an embryo or foetus can be considered a child. Hinduism opposes abortion, unless terminating the pregnancy is necessary to save the mother's life.<sup>59</sup>

Although the views of religions on the moral justification of abortion do not differ much, there are significant differences in comparative legal regulations and judicial practice. In our law, between the tenth and the twentieth weeks, the termination of pregnancy is considered exceptional and is decided on by council of doctors, and the reasons can be medical, eugenic or moral.<sup>60</sup> The position of the World Health Organization is that abortion is not considered a means of family planning.<sup>61</sup> Latin American countries have included a provision in Article 4 paragraph 1 of the American Convention on Human Rights, which reads: "Everyone has the right to respect their right to life. This right shall be protected by law, in principle from the moment of conception."<sup>62</sup>

In China, the policy of forced family planning represented a severe form of human rights violation, since forced abortions and forced sterilisations of women were frequent due to the Family Planning Law, which allowed only one child per family. However, faced with a demographic crisis, on May 31, 2021, China introduced the third child policy, which allows a family to have three children. According to the data of the latest research, conducted in June 2021, in a survey that included 9,243 respondents aged 18–49, from 31 provinces using a random sampling method, the intention to have a second child is currently expressed by about 60% of people (56% of women vs. 65% of men), and the intention to have a third child is present in about 13% (10% of women vs. 17% of men) among the Chinese population.<sup>63</sup>

On the American continent, almost 50 years ago, a revolutionary ruling was made in the case of *Roe v. Wade*. In that case, the US Supreme Court ruled that abortion is a constitutional right, and that a woman has the right to freely decide on giving birth, based on the lawsuit of the plaintiff, who filed the lawsuit due to the Texas law that prohibited abortion.

<sup>59</sup> C. I. Damian, "Abortion from the Perspective of Eastern Religions: Hinduism and Buddhism", *Romanian Journal of Bioethics* 1/2010, 128.

<sup>60</sup> A. Čović, D. Čović, „Abortus između prava na život i prava na slobodno odlučivanje o rađanju”, *Religija i tolerancija* 17/2012, 130–131.

<sup>61</sup> *Ibid.*, 126.

<sup>62</sup> American Convention on Human Rights, San José, Costa Rica, 22 November 1969.

<sup>63</sup> W. Jing *et al.*, "Fertility intentions to have a second or third child under China's three-child policy: a national cross-sectional study", *Human Reproduction* 8/2022, 1907–1918.

Meanwhile, while waiting for the court's decision, the plaintiff gave birth, but the decision is significant because its adoption has legalised abortion throughout the country.<sup>64</sup> After that decision, there has been a decrease in the number of infanticides, abandoned infants, children given up for adoption and forced marriages. However, opponents of abortion have pointed out that millions of Americans have been deprived of their right to life since the ruling. In January 2009, US President Barack Obama signed an order, criticised by anti-abortion groups, which lifted the ban on funding international family planning groups that promote abortion, revising the so-called "Mexico City policy," which was initiated by President Ronald Reagan at the United Nations conference in 1984, when non-governmental organisations were asked, before receiving funds from the US government, to agree that they would not perform or actively promote abortion as a method of family planning.<sup>65</sup>

By overturning the ruling in *Roe v. Wade*, which legalised abortion almost 50 years ago, on June 24, 2022, *Dobbs v. Jackson Women's Health Organization*, No. 19–1392, 597 U.S. (2022), jurisdiction over that issue was transferred from the federal level to the jurisdiction of the states, which may result in some of them tightening the conditions for abortion or even banning it completely on their territory, as the federal constitutional right to abortion is now abolished.<sup>66</sup> The justices thought (six voted for and three against) that the *Roe v. Wade* ruling, which allowed abortions between the 24th and 28th week of pregnancy, was wrong because the US Constitution does not mention the right to an abortion. "Instead of contributing to a national consensus on abortion, the *Roe* and *Casey* cases further inflamed divisions," said Justice Samuel Alito, known as a conservative Catholic, in the explanation of the decision. That ruling was followed by US President Joseph Biden signing the decree, which should protect the right to abortion and make it easier for women to access pills that can terminate pregnancy. In the states, where abortion is now banned, women have the option to terminate their pregnancy in another state, buy the pill online, or opt for an illegal abortion with all the risks it entails. The Supreme Court's latest decision is called "a victory for the Christian right that took over the judiciary and changed America", with the conclusion that "the power of the government is being used to impose a certain moral and religious vision – an allegedly biblical and regressive understanding of

<sup>64</sup> *Roe v. Wade*, 410 U.S. 113 (1973). Decided January 22 1973.

<sup>65</sup> A. Čović, D. Čović, 130.

<sup>66</sup> *Dobbs v. Jackson Women's Health Organization*, No. 19 –1392, 597 U.S. (2022). Decided June 24th 2022.

the Christian religion – on the population as a whole.”<sup>67</sup> All that is happening despite the longstanding American principle of church and state separation. Author Stewart notes that in recent decades the religious right has invested hundreds of millions of dollars in infrastructural development, which includes right-wing political groups, networking organisations, data and media initiatives, and the legal sphere.<sup>68</sup> She concludes that “a Christian nationalist judiciary changes the law to suit a vision of a society with a preferred religion and a prescribed code of sexual behavior, supported by the coercive power of the state.”<sup>69</sup>

The reactions of religious leaders and organizations have been different.<sup>70</sup> Representatives of Muslim Advocates Farah Brelvi and Asifa Quraishi-Landes believe that “...the Supreme Court’s radical decision represents a dangerous Christian nationalization of American law and opens the door to the future abolition of the right to contraception, the right to marry whomever you want... The US Supreme Court is introducing the religious doctrine of a minority religion communities into law – thus violating the First Amendment’s principle of religious freedom, which affects all Americans, and is especially dangerous for those who belong to minority religions like Islam.”<sup>71</sup>

Nathan Empsall, an Episcopal priest and executive director of Faithful America, shares a similar opinion, saying that

“...Jesus empowered women and Christians know that control over their own bodies is a sacred, God-given right, so the Supreme Court’s decision to attack the health and rights of pregnant American women is devastating... Many Christian denominations, from the Episcopal Church to the United Church of Christ, explicitly support legal access to abortion on religious grounds, as do our friends in the Jewish community.”<sup>72</sup>

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<sup>67</sup> K. Stewart, “How the Christian right took over the judiciary and changed America”, *The Guardian*, 25 June 2022, <https://www.theguardian.com/world/2022/jun/25/roe-v-wade-abortion-christian-right-america>, 10. 7. 2023.

<sup>68</sup> LGBT advocacy groups are worried that the Supreme Court next session will hear the case of a Colorado website designer who wants to refuse service to same-sex couples, and that it will be a critical step toward overturning a broad range of anti-discrimination laws that protect LGBT Americans along with women, members of religious minority groups and others. *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> M. Jaradat, “Religious leaders and organizations react to Supreme Court decision striking down Roe v. Wade”, *Deseret News*, 24 June 2022, <https://www.deseret.com/fair/2022/6/24/23181660/religious-leaders-and-organizations-react-to-supreme-court-striking-down-roe-v-wade-abortion-ruling>, 10. 7. 2023.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

Katy Joseph, Director of Policy and Public Advocacy of the Interfaith Alliance, believes that “the members of the religious right believe that this decision is a victory for religious freedom, but they are wrong, as true religious freedom means that people seeking basic care can make decisions on based on their own beliefs and circumstances, not the religious views of politicians. By undermining the right to abortion as a matter of privacy and religious freedom, the Court imposed one religious view on everyone, violated basic liberties, and betrayed the Constitution’s promise of secular government.”<sup>73</sup>

On the other hand, the Catholic Diocese of Salt Lake City expresses gratitude for the efforts of the US Supreme Court to “protect the dignity and sanctity of every life from conception to natural death.” Archbishop José H. Gomez, president of the US Conference of Catholic Bishops and Archbishop William E. Lori of Baltimore said “thank God that the Court overturned *Roe v. Wade*... It is time to heal wounds and mend social divisions; it is time for common sense and civil dialogue, and for coming together to build a society and economy that supports marriages and families, and where every woman has the support and resources she needs to bring her child into this world in love.”<sup>74</sup> Jason Ruppert, the founder and the president of the National Association of Christian Legislators, also believes that now “future generations of Americans will have a greater chance to realize their own lives, liberties, and pursuit of happiness by being born in the greatest country the world has ever known.”<sup>75</sup>

## **5. Concluding Remarks**

All major world religions are fundamentally patriarchal. The consequences of such patriarchy are therefore reflected in the inequality of the sexes in private and public life, in wars in which people have been killed because of their religious convictions, as well as in the wrong idea about the content of the male–female relationship.

Such centuries-old, cruel patriarchy, has provoked a response in the form of the radical feminist movement of the twentieth century, also causing an increase in the number of the LGBT movement members, who have loudly begun to demand their rights and acceptance by the social community and institutions, despite the opposition from the conservative, traditional segments of society, and the majority of churches and religious communities, i.e. their representatives. The number of divorces has increased,

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<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

as well as the number of illegitimate unions and illegitimate children, and suddenly, almost overnight, a single, irreplaceable, rigid patriarchal family has been given various possible alternatives in the form of some different family arrangements, with or without children. The adoption of children, the possibility of in vitro fertilisation, even after the age of forty, as well as surrogate motherhood in many countries today, have all opened up family planning opportunities for individuals and couples that were unimaginable until just a few decades ago. The creation of softer, more fluid, more open, freer communities, and the aspiration to develop truly equal, partnership relations, is felt by even the youngest members of society, whose growing up is accompanied by a less strict upbringing and appreciation of a child on a personal level, regardless of their age. At the same time, the internet, the global use of English language, the connection among people, and the availability of information and data have weakened the boundaries that separated people on national and religious grounds, enabling more and more people to see the flaws and all the absurdity and senselessness of the politics and religious teachings that divide them. However, religions do not seem to follow the course of development and the wheel moving forward, thus perhaps missing the opportunity to be a real, and always necessary, spiritual refuge for people in line with contemporary circumstances and social environment. Instead, by rigidly clinging to the patterns that worked in the past, and underestimating the revolutionary social and spiritual changes in people all over the world, patriarchal religions are moving towards the culmination of their crisis, which is in the cause-and-effect relationship with the crisis of a patriarchal family, but also with the crisis of a modern state.

The repeal of the *Roe v. Wade* ruling in the USA represents an attempt by people within the church circles and state structures to stop the process of change and return the world to certain long gone frameworks they consider acceptable. The concept of family planning should be understood in connection with the prevention of pregnancy, but also in connection with the free decision to terminate it. The European Court of Human Rights finds a compromise between the right to life and the right to make a free decision about childbirth, as it is assumed that the foetus is not a subject of the right to life until a certain period of pregnancy, or that the interests of the mother prevail if her health is threatened, and it is considered that giving birth to a child as a result of rape or incest would be against the dignity of a mother and the interests of a child.<sup>76</sup>

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<sup>76</sup> A. Čović, D. Čović, 134.

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## УТИЦАЈ КРИЗЕ РЕЛИГИЈЕ НА СЛАБЉЕЊЕ ПАТРИЈАРХАЛНЕ ПОРОДИЦЕ

### Сажетак

*Данашњи хришћани имају три супротна гледишта о библијском односу између мужа и жене. Ова гледишта се крећу од хришћанског егалитаризма, који Нови завет тумачи као доктрину о потпуној једнакости одговорности између мушкараца и жена у браку, до позива на „повратак потпуном патријархату” у коме се односи заснивају на доминацији мушкараца и њиховом ауторитету у браку. Да ли су патријархални и верски подржани односи довели до инфериорног положаја жене и неадекватног положаја деце у породичним односима традиционалне патријархалне породице, у којој су негативни догађаји унутар породице скривени од спољашњег света, увек је актуелно питање. С друге стране, неки рани црквени оци мање су ценили породицу, а целибат и слобода од породичних веза сматрани су пожељнијим избором. Одступање од традиционалних вредности, схватања, норми и реформизам модерниста значајно су утицали на патријархалну породицу, схватање породичних односа и институцију брака. У првом делу рад ће дати историјско – теоријски приказ односа цркве и државе, као и упоредни преглед овог односа. У другом делу рада акценат ће бити на концепту брака у највећим светским религијама и на, можда, највећем изазову са којим се патријархална породица суочава, а који се огледа у легализацији истополних бракова. Укидањем пресуде у случају *Roe v. Wade*, који је легализовао абортус пре скоро 50 година, 24. јуна 2022. године, одлуком у предмету *Dobbs v. Jackson Women’s Health Organization*, надлежност је пренета са федералног нивоа САД у надлежност држава. Колики је утицај религија имала у овом случају и какве су биле последице последње одлуке Врховног суда Сједињених Држава?*

**Кључне речи:** религија, држава и Црква, брак, патријархат, абортус, истополни бракови, *Roe v. Wade*, *Dobbs v. Jackson Women’s Health Organization*.

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