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Christian Values in the Constitutions of Croatia and Slovenia—A Comparative Overview

- **ABSTRACT:** *This paper will strive to show that Christian values can be found in almost every constitution in the western world, although explicit invocations of Christian values are quite rare. There are constitutions that use *invocatio dei* and those that create state churches, but such constitutions represent a minority among constitutions. Croatia and Slovenia make good models for the purpose of this paper as they represent very similar and, at the same time, very different states with regard to the chosen model of state-church relations. The paper will show that, notwithstanding their different constitutional setup of state-church relations, Croatian and Slovene constitutions do not differ much with regard to the presence of Christian values in them.*
- **KEYWORDS:** Christian values, constitutions, Croatia, Slovenia, universal good.

1. Introduction

The use of Christian values in constitutional texts is an issue that is not universally accepted or dismissed. Usually, it does not provoke much debate, as some states include explicit invocations of God and/or explicit Christian values in their constitutions, but most states do not. However, the making of the (failed) European Constitution was marked with a fierce debate on whether the Christian roots of Europe would be included in it. Eventually, the decision was in the negative, but it created an opportunity to discuss the topic of Christian values and their incidence in various constitutions. The purpose of this paper is twofold. First, to show that, notwithstanding the fact whether a constitution contains a special *invocatio dei* or mention of a specific religion, all constitutions contain certain Christian values, as they are universal. In addition, it will be shown that there is nothing ‘wrong’ in including Christian values in constitutions, even when they include *invocatio dei*, as it is not possible to breach state neutrality in such a

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manner. Second, I will compare the constitutions of two very similar and closely connected states—Croatia and Slovenia. Both states emerged from communist Yugoslavia, and both states were part of the same state community for centuries (from 1527 to 1991). Therefore, one would expect similar constitutional texts and choices. However, analysis will confirm whether this is indeed the case, as the two states chose different state-church models in 1990/1991 and very different approaches towards religion. The Croatian Constitution contains some provisions that are explicitly rooted in Christian values, but the Slovenian Constitution, at first glance, lacks such provisions. However, both constitutions contain numerous provisions that can be linked with Christian values, especially the social teachings of the Catholic Church. Therefore, the paper will also show whether the chosen constitutional model of state-church relations correlates with the presence of Christian values in the constitutional texts of both states.

2. The use of Christian values in constitutional texts

The mention of God or other elements of Christian faith are not unusual or unknown in the Western world. However, it is uncommon. Few states include *invocatio dei* in their constitutional texts.

■ 2.1. Mention of God or a specific church in constitutional texts

If we consider the Constitution of the United States of America, it does not contain a reference to God, but the document that preceded it—the Declaration of Independence—contains a clear reference to God. It states, ‘We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness’. Although the federal constitution does not contain any reference of God, the situation is quite different at the state level. Specifically, God or the divine is mentioned at least once in each of the 50 state constitutions and nearly 200 times overall, according to a Pew Research Center analysis.²

If we consider Europe and the constitutions of European states, the mention of God in constitutional texts, while not very common, is not rare either. The Constitution of the Federal Republic of Germany (Basic Law or *Grundsgesetz*) begins with a preamble stating, ‘Conscious of their responsibility before God and man...’, and the Federal President takes an oath upon taking office that ends with ‘So help me God’. The

2 <https://www.pewresearch.org/fact-tank/2017/08/17/god-or-the-divine-is-referenced-in-every-state-constitution/>

See, for example, Arts. II and III of the Constitution of Massachusetts and other provisions of this state constitution (the word ‘God’ is referenced 11 times), the Preamble of the Constitution of the state of Georgia, which states: ‘To perpetuate the principles of free government, insure justice to all, preserve peace, promote the interest and happiness of the citizen and of the family, and transmit to posterity the enjoyment of liberty, we the people of Georgia, relying upon the protection and guidance of Almighty God, do ordain and establish this Constitution’.

Constitution of the Republic of Ireland also starts with a preamble that is perhaps the most vivid incantation of Christian Values in all the constitutional texts the author of this paper has come across, as it states:

‘In the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,
We, the people of Éire,
Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial,
Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our Nation,
And seeking to promote the common good, with due observance of Prudence, Justice and Charity, so that the dignity and freedom of the individual may be assured, true social order attained, the unity of our country restored, and concord established with other nations,
Do hereby adopt, enact, and give to ourselves this Constitution’.

Similarly, the 1997 Constitution of Poland contains a preamble that proclaims:

‘We, the Polish Nation—all citizens of the Republic,
Both those who believe in God as the source of truth, justice, good and beauty,
As well as those not sharing such faith but respecting those universal values as arising from other sources...’

The newest among the European Constitutions—that of Hungary—also contains *invocatio dei* in its text, as it states:

‘God bless the Hungarians’;
‘We are proud that our king Saint Stephen built the Hungarian State on solid ground and made our country a part of Christian Europe one thousand years ago’.
‘We recognise the role of Christianity in preserving nationhood. We value the various religious traditions of our country’.
‘We, the Members of the National Assembly elected on 25 April 2010, being aware of our responsibility before God and man and in exercise of our constituent power, hereby adopt this to be the first unified Fundamental Law of Hungary’.

In addition, the Constitution of Greece starts with a Christian preamble that states, ‘In the name of the Holy and Consubstantial and Indivisible Trinity’, and in Art. 3,

the Orthodox faith is established as the prevailing faith and any alteration to the Holy Scripture is prohibited. Art. 14 allows the press to be curtailed in cases of offence against the Christian or other faiths.

The Constitution of Denmark establishes the Evangelical Lutheran Church of Denmark as the state church in Art. 4, and God is mentioned in Art. 67. The Constitution of Malta establishes the Roman Catholic Apostolic Religion as the state religion. The Spanish Constitution specifically orders the state to cooperate with the Catholic Church and other confessions (Art. 16). The Constitution of Armenia establishes the Armenian Apostolic Holy Church as the national church (Art. 8.1.).

■ 2.2. *Provisions important for religion*

Besides provisions that refer to God and/or church, some constitutions also contain provisions that affect religion and religious life in the state and the possibility to express religious and/or philosophical ideas. For example, the Constitution of Belgium prescribes that ‘all pupils of school age have the right to moral or religious education at the community’s expense’ (Para. 3). The Maltese Constitution prescribes obligatory Catholic religious education in all state schools (Art. 2/3). Most constitutions contain provisions stipulating that public expression of religious and philosophical ideas is permitted and cannot be prohibited, except in cases prescribed by law. They also contain provisions prescribing the separation of state and church, but some with a more strict approach (France, Slovenia), and others with cooperation in mind (Germany, Spain, Italy, Croatia, Austria, etc.). The Polish Constitution contains a provision³ defining marriage (as the union of man and woman) and prescribes that marriage, family, and motherhood/parenthood must be protected by the Republic. The Hungarian Constitution prescribes that Hungary ‘shall protect the institution of marriage as the union of a man and a woman established by voluntary decision, and the family as the basis of the survival of the nation. Family ties shall be based on marriage and/or the relationship between parents and children’. Moreover, it prescribes that ‘Hungary shall encourage the commitment to have children’. It also has provisions that are not explicitly Christian, but are in accordance with the social teachings of the Church; hence, it can be said that they are Christian in origin.

3. Is there a need to introduce Christian values and/or God in constitutional texts?

The question of whether Christian values and/or God should be included in constitutional texts was perhaps most debated when the (failed) Constitution of the European Union was in draft (The Draft Treaty establishing a Constitution for Europe). After a lengthy debate, it was decided not to include a reference to God or Christian values

³ ‘Marriage, being a union of a man and a woman, as well as the family, motherhood, and parenthood, shall be placed under the protection and care of the Republic of Poland’ (Art. 18).

in its preamble.⁴ This was criticised, especially by the Catholic Church,⁵ and by legal theorists such as Weiler, who said that such a solution meant the ‘Christian deficit’⁶ or an ideologically loaded ‘thundering silence’.⁷ He argued that a refusal to include Christian values in the European constitution reflects a particular ideological position. His arguments were considered such that they should ultimately be rejected by some authors,⁸ and the ‘expulsion’ of God from the primary source of EU law is still debated. Weiler found that Christianity, conceived in the thin sense, is for many reasons not only an acceptable, but also an indispensable element of the European Constitutional project, and therefore cannot be eliminated from the historical heritage and the present identity of Europeans any more than one can remove the crosses from European cemeteries.⁹ However, one must ask oneself, what is the function of a constitution? Cvijic and Zucca pose two very important questions—is the function of the constitution to create an ethical community or provide the basis for the creation of the ethical community, and second, even if one accepts that the constitution should create an ethical community, one must justify the argument that the identity of such a community and of its normative system derives from and must be grounded in the historical memory of the given community.¹⁰ As Weiler puts it, ‘Christian thought is part of Europe’s heritage, both for believers and non-believers, Christians and non-Christians. A voice that one can dispute, undoubtedly; that can be discussed, of course; that one can reject, certainly. After all, we live in a democracy. But its absence impoverishes us all.’¹¹

Every constitution has a minimum of three functions: constituting (the state and the institutions of government), legitimating (the exercise of public power), and limiting (state power to safeguard citizens).¹² However, those are the minimum functions of the constitution, and one can argue that the constitution is also to be regarded as a kind of a deposit that conserves and reflects the values, ideals, and symbols shared in a particular society. In a sense, it can be considered a mirror of the society for which

4 Cvijic and Zucca, 2004, p. 739.

The preamble contained, in its first two paragraphs, the following:

‘Conscious that Europe is a continent that has brought forth civilization; that its inhabitants, arriving in successive waves from earliest times, have gradually developed the values underlying humanism: equality of persons, freedom, respect for reason;

Drawing inspiration from the cultural, religious and humanist inheritance of Europe, the values of which, still present in its heritage, have embedded within the life of society the central role of the human person and his or her inviolable and inalienable rights, and respect for law’.

5 Pope criticises EU for excluding God, <https://www.reuters.com/article/us-eu-anniversary-pope-idUSL2421365520070324>

6 Weiler, 2007, p. 145.

7 Weiler, 2003, according to Cvijic and Zucca, 2004, p. 740.

8 Cvijic and Zucca, 2004, p. 740.

9 Weiler, 2003, p. 48.

10 Cvijic and Zucca, 2004, p. 742.

11 Weiler, 2007, p. 145.

12 Horsley, 2021, p. 2.

it has been created.¹³ Therefore, as Europe is so strongly linked with Christianity, God should have been included in the constitution. Moreover, the state-church relations of today are different from those of the past as there is more understanding and common ground between the state and church(es). On the other hand, one could argue that the inclusion of Christian values in the European Constitution (or any other constitution) would mean the inclusion of Christian morals in the respective law system. However, it should be noted that Christian morals should be viewed as common ethical values that are, although derived from Christian roots, acceptable to the faithful that belong to other monotheistic religions and those who do not belong to any religious community. One should not view the inclusion of Christian values in the constitutional texts as a way to enforce Christian morals and/or dogma on others. Rather, it should be viewed as a symbolic way to emphasise the need to embrace certain ethical common ground that is acceptable to all. After all, is the essence of Christianity not love, piety, and tolerance? Of course, one can also argue that a secular state must be neutral and that it should not support nor impinge on any religion and that is the reason including Christian values in the constitution would represent a breach of state neutrality. It is obvious that there are arguments *pro et contra* regarding the inclusion of Christian values and/or God in constitutions. However, as it has been shown, there are states that have included Christian values and/or God in their constitutions, and there are those that are considered strictly secular (I would rather say secularised) and that, at first glance, do not include any Christian values and/or God in their constitutions. However, I would argue that there is no constitution in the world, or in the Western world at least, that does not have Christian values inherently embedded in it. What is equality in front of the law if not a Christian value? That all men are equal and created in the image of God? As Fletcher says, the principle of equality under law is best grounded in a holistic view of human dignity.¹⁴ There are also some views that recognising God in the constitution of a modern liberal democracy benefits both religious and non-religious citizens by symbolising transcendent meaning and facilitating political solidarity.¹⁵ Recognising God in a constitution does not necessarily impose a religious character, belief, or practice detrimental to non-religious citizens. Rather, recognition alludes to a shared heritage and tradition and acknowledges that religious individuals and groups are legitimately part of the modern democratic state and interact with it.¹⁶ It is important to remind ourselves what the European Court of Human Rights said in its famous *Kokkinakis v. Greece* judgement (1993). It found that freedom of thought, conscience, and religion is ‘one of the foundations of a democratic society. This freedom, in its religious dimension, is one of the most important elements that create the identity of believers and their conception of life, but it is also a precious tool of atheists, agnostics, sceptics and those who do not have any relation towards faith’. This is especially because of its

13 Cvijic and Zucca, 2004, p. 742.

14 Fletcher, 1999, p. 1608.

15 Deagon, 2019.

16 Deagon, 2019.

‘mirror image’ right that is not formally articulated anywhere —the right to be free from religion.¹⁷

Therefore, my first and foremost thesis is that every constitution in the western world enshrines some Christian values. My second thesis is that there is nothing ‘wrong’ with invoking God or including some other way of addressing the ‘higher being’ in constitutions and that such provisions in constitutions do not constitute a breach of state neutrality towards faith. The now famous *Lautsi v. Italy* judgement (2011) can be used with this regard as the Court stated that states ‘have responsibility for ensuring, neutrally and impartially, the exercise of various religions, faiths and beliefs. Their role is to help maintain public order, religious harmony, and tolerance in a democratic society, particularly between opposing groups’. However, the Court also stated that ‘There is no evidence before the Court that the display of a religious symbol on classroom walls may have an influence on pupils and so it cannot reasonably be asserted that it does or does not have an effect on young persons whose convictions are still in the process of being formed’. If such a display of an indisputably Christian symbol, which is present every day to all pupils and teachers, does not have an effect of proselytism, how could such a conclusion be derived from the use of the word ‘God’ in constitutions (no one reads the constitution every day, if ever)?

4. Christian values in the Constitution of the Republic of Croatia

The Constitution of the Republic of Croatia¹⁸ entered into force in December 1990. It marked the beginning of Croatia’s path to independence, which was proclaimed in 1991. Croatia was internationally recognised in January 1992, and it was a part of socialist (communist) Yugoslavia until 8 October 1991. This should be remembered when discussing the existence and scope of Christian values in the constitution. Of course, the constitution was the result of the first free election held in May 1990 and the fall of communism in Croatia.

The constitution does not contain any provisions in which God or any particular faith is mentioned. However, there are many provisions that are important for the freedom of religion and the understanding of the Croatian state-church model. In particular, one provision is strongly linked with Christian values regarding the definition of marriage.

■ 4.1. The Croatian constitutional state-church model

In Croatia, the separation of state and church, in the spirit of Art. 41 of the Constitution, is often defined in the strictest ideological meaning of secularism, which originated in France, that is, in the constitutional designation of the French Republic as

17 Staničić, 2019, pp. 190–191.

18 *Ustav Republike Hrvatske*, Narodne novine, nos. 56/1990, 135/1997, 08/1998, 113/2000, 124/2000, 28/2001, 41/2001, 55/2001, 76/2010, 85/2010, and 05/2014.

a secular (*laïque*) state. However, in our public space, there are such interpretations of Art. 41 of the constitution that emphasise only its second section, which stipulates the obligation of the state to assist and cooperate with religious communities, and the conclusion drawn from this is that the Republic of Croatia is not a secular state.¹⁹ In the Constitution of the Republic of Croatia, the character of the Croatian state regarding the relationship between the state and the church is regulated in a more complex way than in the case of the French Constitution. To be specific, the subject of the regulation of Art. 1 Section 1 of the French Constitution is stipulated by Art. 1 Section 1,²⁰ Art. 14,²¹ and Art. 41,²² as well as Art. 40²³ in connection with Art. 17 Section 3²⁴ of the Constitution of the Republic of Croatia. The constitutional regulation of relations between the state and the church in the Republic of Croatia is further complicated by the provision of Art. 134²⁵ of the constitution because of the four treaties concluded between the Republic of Croatia and the Holy See.²⁶ It should be emphasised that it is undisputable that the Republic of Croatia is a secular state in which the principle of separation of state and church applies. However, what does the Republic of Croatia being a secular state mean? In each state, the question of church-state relations is important. The answer to the question of what the relationship between church and state is like also represents the determination of the status of religious communities in the territory of the state, as well as the establishment of freedom of religion as one of the fundamental human rights.²⁷ The constitutional text forms a whole, and hence, it should be interpreted in that manner. In this context, I am of the opinion that it is impossible to observe Art. 41 of the constitution separately from Art. 1 of the constitution, which defines the Republic of Croatia as a unitary and indivisible democratic and social state in which power originates from the people and belongs to the people as a community of free and equal citizens. In addition, I am of the opinion that Art. 41 of the

19 Staničić, 2019a, p. 9.

20 'The Republic of Croatia is a unitary and indivisible democratic and social state'.

21 'All persons in the Republic of Croatia shall enjoy rights and freedoms, regardless of... religion (...).

All persons shall be equal before the law'.

22 'All religious communities shall be equal before the law and separate from the state. Religious communities shall be free, in compliance with the law, to publicly conduct religious services, open schools, colleges or other institutions, and welfare and charitable organisations and to manage them, and they shall enjoy the protection and assistance of the state in their activities'.

23 'Freedom of conscience and religion and the freedom to demonstrate religious or other convictions shall be guaranteed'.

24 'Even in cases of clear and present danger to the existence of the state, no restrictions may be imposed upon the provisions of this Constitution stipulating the (...) freedom of (...) religion'.

25 'International treaties which have been concluded and ratified in accordance with the Constitution, which have been published and which have entered into force shall be a component of the domestic legal order of the Republic of Croatia and shall have primacy over domestic law. Their provisions may be altered or repealed only under the conditions and in the manner specified therein or in accordance with the general rules of international law'.

26 Staničić, 2019a, p. 10.

27 Staničić, 2019a, pp. 16–17.

constitution should also be considered in conjunction with Art. 3 of the constitution, by which essential values of Croatian constitutional order are established, including equality and rule of law. In order to ensure that all citizens are equal (the basis for the existence of the Republic of Croatia as a democratic state), the state must be neutral towards all religions. In other words, it must enable everyone to enjoy equal rights. This also arises from the understanding of the principle of freedom of religion (Art. 40 of the constitution), which is also required by the state. For this reason, I believe it is indisputable that the principle of separation of state and church is a constitutional principle.²⁸ The constitution truly and completely stipulates the separation of the state and the church (Art. 41, para. 1). According to the basic Fox model, this would mean that the Republic of Croatia has a system of separation that represents state neutrality towards religion in which the state, at least officially, does not favour any religion, but does not restrict the presence of religion in the public sphere either. This is not Fox's other basic model of laicity, which states that not only does the state not support any religion, but it also limits the presence of religion in the public sphere.²⁹ However, para. 2, Art. 41 of the constitution shows that in the Republic of Croatia, neither of the above two basic Fox models is applied. If we look carefully at Art. 41, para. 2 of the constitution, we see that the constitution stipulates the obligation of the state to assist and protect religious communities in their activities. This fact clearly implies that the Republic of Croatia does not belong to the model of strict separation, that is, the separation model as developed in France, which many supporters of the thesis on the secular organisation of the Republic of Croatia use as the only valid model of secularity, equating secularism in its extreme ideological-political meaning with secularity.³⁰ Of course, at the same time, this does not mean that the state and the church are not and should not be separated since the constitution prescribes the separation of religious communities and the state. However, it is about separation in terms of the inability of religious communities to influence the organisation and functioning of the state and vice versa. Therefore, according to the constitutional order of the Republic of Croatia, the church interfering with the internal affairs of the state is not possible, just as it is not possible for the state to interfere with the internal affairs of the church. In all other aspects, mandatory cooperation from the state is possible and necessary.³¹ In my view, two factors are discernible from the provision of Art. 41 of the constitution: first, in the Republic of Croatia, the state and the church are separate, and second, 'the duty and obligation of the state to protect religious communities and assist them in their activities has been established by the provision of Art. 41, para. 2 of the constitution. Accordingly, in the Republic of Croatia, a cooperative or concordat model of church-state relations is in force'.³²

28 Staničić, 2019a, p. 23.

29 Staničić, 2019a, p. 24.

30 Staničić, 2019a, p. 24.

31 Staničić, 2019a, p. 24.

32 Sokol and Staničić, 2018, pp. 44–45.

■ 4.2. Provisions of the Croatian Constitution linked with Christian values

If we consider the provisions of the Croatian Constitution, explicit invocations of God, provisions establishing the state religion, or special provisions that would explicitly endorse certain Christian values are not included. This is to be expected, considering that it was enacted in the still existent communist Yugoslavia and considering the sharp division in the Croatian public between the left and right and grudges from the past. With this in mind, the constitution was a compromise. However, one cannot neglect the many provisions that mirror certain Christian values. As stated above, some Christian values are universal, and every constitution contains such values. However, some parts of the constitution are undoubtedly Christian in origin, although it is not explicitly written down in it. For example, in the preamble, when discussing the historic origins of Croatian statehood, ‘the independent medieval state of Croatia established in the ninth century’ has been mentioned. The independence of the medieval Croatian state is heavily linked with the papal recognition of Croatia when Pope John VIII and *comes* Branimir exchanged letters and the pope addressed Branimir as *dux/comes Croatorum* in 879 and blessed him and ‘the nation and land’. This letter was considered among Croatian historians as the first international recognition of Croatia.³³ Therefore, the mention of the ‘independent medieval state’ is strongly linked with Christianity and papacy, as Branimir became the pope’s vassal. The second example of the clear depiction of Christian values is Art. 61/2³⁴, which defines marriage as a living union between a woman and a man. This provision was added to the constitution after the success of a referendum of a people’s initiative in 2014. The people’s initiative was obviously motivated by Christian values. The referendum on the constitutional definition of marriage as a union between a man and a woman, held in December 2013, was the first successful national referendum in Croatia initiated by a citizens’ initiative. ‘In the Name of the Family’ (*U ime obitelji*) argued that the traditional values of Croatian society must be protected by enshrining the traditional, heteronormative definition of family.³⁵ After the referendum, for which the initiative collected 749,316 signatures (the required threshold was just above 400,000 signatures) in a two-week period in May 2013, the definition of marriage as the union of woman and man was entered into the constitution. The constitutional referendum was held on 1 December 2013, and 37.9% of eligible voters voted. The State Election Commission announced that 65.87% voted ‘yes’, 33.51% voted ‘no’, and 0.57% of the ballots were invalid.³⁶

Additionally, the provision of Art. 47 allows for the conscientious objection of those who are not ready to participate in military duties in the Armed forces because

33 Goldstein, 1995, p. 267. Goldstein does not concur with this view.

34 ‘Marriage is a living union between a woman and a man’—Popular constitutional initiative of 1 December 2013, OG 5/14, Decision of the Constitutional Court No. SuP-O-1/2014 of 14 January 2014

35 Petričušić, Čehulić, and Čepo, 2017, p. 61.

36 Petričušić, Čehulić, and Čepo, 2017, p. 74. Although the sum does not add up to 100%, these are the official results of the referendum.

of their religious or moral views.³⁷ This provision is the only one in the constitution that deals with the topic of conscientious objection, and there are doubts regarding its reach. Some authors have found that it can be construed that this provision protects other conscientious objections, for example, in medical procedures.³⁸ The confirmation of such claims can be found in legislature allowing for conscientious objection in medicine, dental medicine, etc.

At first glance, there are no other provisions in the constitution that depict Christian values. However, when we consider the Compendium of the Social Doctrine of the Church (Compendium),³⁹ another thought comes to mind. This is that the Compendium ‘intends to present in a complete and systematic manner, even if by means of an overview, the Church’s social teaching, which is the fruit of careful Magisterial reflection and an expression of the Church’s constant commitment in fidelity to the grace of salvation wrought in Christ and in loving concern for humanity’s destiny’. It also ‘offers a complete overview of the fundamental framework of the doctrinal corpus of Catholic social teaching’. When we go through the Compendium and compare it with the Croatian Constitution, we can find many similarities. This is, of course, true for most constitutions. For example, the Compendium calls for equal dignity of all people⁴⁰ and it stresses that ‘also in relations between peoples and States, conditions of equality and parity are prerequisites for the authentic progress of the international community’. If we look at the constitution, we can see that in Art. 3, in which the fundamental values of the Croatian constitutional framework are prescribed, freedom, equal rights, national and gender equality,⁴¹ peace-making, social justice, and respect for human rights⁴² are listed. The link between Art. 3 and the Compendium is obvious, as the social teachings of the Church insist on equality, peace, and respect for human rights. Furthermore, the first article of the constitution describes Croatia as a social state,⁴³ and the Compendium states that ‘the permanent principles of the Church’s social doctrine ... are the principles of: the dignity of the human person, which has already been dealt with in the preceding chapter, and which is the foundation of all the other principles and content of the Church’s social doctrine; the common good;

37 See, especially, the *Bayatyan v. Armenia* judgement (2011) of the ECtHR on this issue.

38 Čizmić, 2016, p. 763.

39 https://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html

40 ‘God shows no partiality’ (Acts 10:34; cf. Rom 2:11; Gal 2:6; Eph 6:9), since all people have the same dignity as creatures made in his image and likeness.

41 Compendium: ‘Woman is the complement of man, as man is the complement of woman: man and woman complete each other mutually, not only from a physical and psychological point of view, but also ontologically. It is only because of the duality of ‘male’ and ‘female’ that the ‘human’ being becomes a full reality’.

42 Compendium: ‘The movement towards the identification and proclamation of human rights is one of the most significant attempts to respond effectively to the inescapable demands of human dignity. ... Human rights are to be defended not only individually but also as a whole: protecting them only partially would imply a kind of failure to recognize them’.

43 ‘The Republic of Croatia is a unitary and indivisible democratic and social state’.

subsidiarity; and solidarity'. Art. 14 of the constitution is also indisputably linked with these teachings.⁴⁴

Furthermore, it is obvious that the constitutional provision protecting human right to life is deeply Christian in its origin.⁴⁵ However, there are many disputes regarding its meaning (in the context of abortion—the problem of the definition of a 'human being'). This is also true for the constitutional provisions safeguarding family life (Art. 35) and family, which enjoys special protection of the state (Art. 61/1), and the provisions that obligate the state and all to protect maternity, children, and the young (Art. 62, Art. 64). Children are obliged to look after their elderly and incapacitated parents (Art. 64/4).

Lastly, one should also highlight one provision that is not contained in the constitution, but is perhaps the only one that specifically mentions God in the Croatian legal order. This is the provision of the Act on the Election of the President of the Republic of Croatia⁴⁶ (Art. 49/3). It prescribes the oath of the President, which ends with 'So help me God' (*Tako mi Bog pomogao*). This provision was not originally in the text, but President Tuđman inserted it in his first inauguration in 1992, and it was later inserted into the Act (in 1997). It was challenged in front of the Constitutional Court of the Republic of Croatia as unconstitutional (it was said that it endangers the secular character of the Republic of Croatia). The Court ruled that this was not the case, that the ending of the oath does not endanger atheists or agnostics, and that it does not endanger the secular character of the state.⁴⁷

5. Christian values in the Constitution of the Republic of Slovenia

Following the country's secession from federal Yugoslavia, the 1991 Constitution of the newly independent Slovenia stipulated the freedom of religion and the continued separation of church and state. Certain provisions of the 1976 Act on Religious Communities were repealed, churches were granted the right to establish schools, and the (Catholic) Faculty of Theology was reintegrated into the University of Ljubljana.⁴⁸ It is important to mention that the Catholic Church strongly supported the establishment of independent Slovenia. Consequently, the Holy See was among the first states to internationally recognise Slovenia.⁴⁹

44 'All persons in the Republic of Croatia shall enjoy rights and freedoms, regardless of race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth, education, social status or other status.

All persons shall be equal before the law'.

45 'Each human being has the right to life.

There shall be no capital punishment in the Republic of Croatia' (Art. 21).

46 *Zakon o izboru Predsjednika Republike Hrvatske*, Narodne novine, nos. 22/1992, 42/1992, 71/1997, 69/2004, 99/2004, 44/2006, 24/2011, and 128/2014.

47 U-I-64500/2009 from 23 May 2017.

48 Črnič et al., 2013, p. 216.

49 Ivanc, 2015, p. 38.

■ 5.1. Slovene constitutional state-church model⁵⁰

The Slovenian model of relations between the state and the church is established by Art. 7 of the constitution.⁵¹ According to Slovenian legal theory, the equality of religious communities has been, at least until the end of the first half of 2000, understood by the state as an ‘undiscriminating affirmation of the whole religious field’.⁵² The meaning of this is that different religious communities are equal before the law. It is said, by some, that the Slovene model of state-church relations can be called ‘model of separation with simultaneous cooperation’ (*model ločitve ob hkratnem sodelovanju*).⁵³ In other words, religious communities are separated from the system of separation of powers owing to Art. 3 of the constitution or from state institutions *stricto sensu*. However, because believers are citizens with the right to vote, the limitation for religious communities is derived from Art. 7: religious communities are not allowed to organise themselves as political parties or act within state institutions.⁵⁴ On the other hand, some feel that Slovenia follows the French model of *laïcité*, and that the principle of separation establishes the secularism⁵⁵ of the state. This means that the state must not be tied to any church and that it cannot privilege, discriminate against, or opt for religiosity or non-religiosity.⁵⁶ Kaučič wrote that in Slovenian legal theory and practice, the principle of separation of state and religious communities is predominantly understood and interpreted in terms of consistent and strict separation modelled on states with a more pronounced separation of state and church. Such a position is not to be attributed to the constitutional order, but the legal and executive derivation of this constitutional principle, and in particular, the influence of the previous political system.⁵⁷

Slovenian authors agree that Art. 7 of the constitution prescribes three principles that define the legal position of religious communities in Slovenia: the principle of separation, the principle of free action of religious communities, and the principle of equality of religious communities.⁵⁸ However, the Religious Freedom Act, in accordance with Art. 5 of the constitution, regulates the duty of the state to respect the identity of religious communities and maintain open and continuous dialogue with them while developing forms of permanent cooperation. The principle of separation does not prevent religious communities from pursuing activities freely in their sphere. If the activities of the state and religious communities collide, their competence should

50 I am using parts of my paper ‘Religious symbols in the public sphere in the legal order in Slovenia’ (ip.) in this subchapter.

51 Constitution of the Republic of Slovenia (Ustava Republike Slovenije), Uradni list RS, nos. 331/1991, 42/1997, 66/2000, 24/2003, 69/2004, 69/2004, 69/2004, 68/2006, 47/2013, 47/2013, 75/2016, and 92/2021.

52 Črnič and Lesjak, 2003, p. 362; Dragoš, 2001, p. 41.

53 Avbelj, 2019, commentary of Art. 7.

54 Ibid.

55 Naglič uses the term ‘*laïcnost*’ or ‘*laïcité*’ in French. See in Naglič, 2017, p. 16.

56 Ibid.

57 Kaučič, 2002, p. 404.

58 Mihelič, 2015, 1, p. 132; Naglič, 2010, 4, pp. 491–492. See also in decision U-I-92/07.

be delimited according to the internal sovereignty of the state, which determines the limits without preventing religious communities from pursuing social activities.⁵⁹ Stres concluded that the separation of state and church does not require, in the spirit of European political culture, anything but that the authorities do not use religion for their own intentions and that religion does not attempt to abuse the state to achieve its own objectives.⁶⁰

In 2007, Slovenia's parliament passed the Religious Freedom Act⁶¹ with a majority of a single vote (46/90).⁶² The impact of the Religious Freedom Act on the Slovenian model of state-church relations was huge, as it marked a sharp turn in practice and legislation. To be specific, prior to its enactment, Slovenia was rightly portrayed as a country that mirrored France in its *laicite* model of state-church relations, which strongly insists on state neutrality. After the enactment of the Religious Freedom Act in 2007, Slovenia underwent a huge change as it embraced, in reality, another model of state-church relations—the cooperation model in which state neutrality does not have the same significance as it did in the earlier model. Moreover, according to the Religious Freedom Act, the state is obliged to enter into relations with various religious communities. However, the state entered into various relations with religious communities even prior to the enactment of the Religious Freedom Act (three agreements in the early 2000s), which would suggest that the model of state-church relations in Slovenia was never really one of *laicite*.

■ 5.2. Provisions of the Slovene Constitution linked with Christian values

Unlike the Croatian Constitution, the Slovene Constitution does not contain any provisions that are clearly linked with Christian values. There is no mention of past (Christian) times, and no definition of marriage like in the constitutions of Croatia, Malta, Hungary, and Poland. This is the consequence of a rather unique approach to state-church relations adopted by Slovenia in 1991. To be specific, the creators of the constitution opted for a rather strict separation model (which some compare with the French model of *laicite*). This is why it is not possible to expect any mention of Christian values in the Slovene Constitution. The only indirect mention of God is through the national anthem (*Zdravljica*),⁶³ in which God is mentioned.⁶⁴

However, like in the Croatian Constitution, there are numerous provisions that can be linked with Christian (universal) values and the social teachings of the Catholic

59 Ivanc, 2015, p. 47.

60 Stres, 2010, p. 492.

61 Uradni list, nos. 14/07, 46/10, 40/12, and 100/13.

62 Lesjak and Lekić wrote that the Act was brought using votes of Italian and Hungarian minorities. See in 2013, p. 158.

63 A poem by the famous Slovene poet Franc Prešeren. However, only one part of the poem has been used as the national anthem, and that part does not contain a mention of God.

64 Ivanc, 2015, p. 41.

Church (especially the ones in the Compendium).⁶⁵ Slovenia is defined as a state governed by the rule of law, and as a social state (Art. 2), the constitution guarantees equality before the law (Art. 14/1)⁶⁶ and safeguards human life (Art. 17)⁶⁷. One should also highlight the Compendium's prohibition of torture⁶⁸ and link it to the constitution ban⁶⁹ of torture (Art. 18). Like the Croatian and Hungarian Constitutions, the Slovene Constitution especially protects family, motherhood, fatherhood, children, and young people (Article 53)⁷⁰ and bans incitement to national, racial, religious, or other discrimination (Article 63).⁷¹

One provision should be especially highlighted as it clearly depicts a Christian value. This is Art. 46 (linked with Art. 123), which states: 'Conscientious objection shall be permissible in cases provided by law where this does not limit the rights and freedoms of others'. Unlike the Croatian Constitution, the Slovene Constitution protects the right to conscientious objection more broadly. This is somewhat surprising, considering the different constitutional setups of the two states. One would expect the opposite. It is obvious that this provision does not only include conscientious objection regarding military service, as this is prescribed by Art. 123. This means that the scope of Art. 46 is broader,⁷² and that it encompasses the right to abortion as well⁷³—meaning that the constitution allows for such an objection. This is a clear 'Christian value provision' because of which the Freedom of Religion Act of 2007 prescribes that the exercise of

65 Ivanc states that the interpretation and implementation of the right to freedom of conscience in Art. 41 are closely connected with the following constitutional rights and freedoms: the right to personal dignity and safety (Art. 34), the protection of the right to privacy and personality rights (Art. 35), the protection of personal data (Art. 38), the freedom of expression (Art. 39), the right of assembly and association (Art. 42), the right to conscientious objection (Arts. 46 and 123) and the rights and duties of parents (Art. 54). Ivanc, 2015, p. 42.

66 'In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political, or other conviction, material standing, birth, education, social status, disability, or any other personal circumstance'.

67 'Human life is inviolable. There is no capital punishment in Slovenia'.

68 'In carrying out investigations, the regulation against the use of torture, even in the case of serious crimes, must be strictly observed: "Christ's disciple refuses every recourse to such methods, which nothing could justify and in which the dignity of man is as much debased in his torturer as in the torturer's victim." [830] International juridical instruments concerning human rights correctly indicate a prohibition against torture as a principle which cannot be contravened under any circumstances'.

69 'No one may be subjected to torture or to inhuman or degrading punishment or treatment. The conducting of medical or other scientific experiments on any person without his free consent is prohibited'.

70 The Compendium especially highlights the fact that the family is the sanctuary of life and that the family founded on marriage is truly the sanctuary of life, 'the place in which life — the gift of God — can be properly welcomed and protected against the many attacks to which it is exposed, and can develop in accordance with what constitutes authentic human growth'.

71 The fact that all people are equal in front of God has already been discussed as a part of the Compendium.

72 Ivanc sees several areas in which conscientious objection is possible: conscientious objection and military service, work on religious holiday, medical treatment, parental care, and ritual slaughter and other religious food requirements. Ivanc, 2015, pp. 58–60.

73 Kristan, 1998.

religious freedom includes the right to refuse the fulfilment of obligations set by law that are in grave conflict with the religious conviction of a person.⁷⁴ This right may be limited only by a statute, if it is needed for the protection of other constitutionally protected values and if such limitation is able to pass a strict test of proportionality.⁷⁵

6. Conclusion

As has been shown, Christian values embedded in constitutional texts are no rarity in the western world. Some constitutions use the technique of *invocatio dei*, while some use the creating of state churches, etc. However, the constitutions that clearly invoke Christian values are a minority. However, I feel that the set thesis that all constitutions have certain Christian values embedded in them is proved correct. Especially when comparing the social teachings of the Catholic Church and the constitutional provisions of different constitutions, one can clearly see that they align. This is, of course the result of the fact that many Christian values are universal. The Catholic Church promotes equality of men—this is depicted in constitutions as equality in front of the law. Additionally, the Church promotes the protection of an individual's human rights, prohibits torture, pleads for the protection of family, etc. All these aspects can be found in almost every constitution.

Croatia and Slovenia are two very similar, yet very different states. Both states were a part of the same state in the period from 1527 to 1991, were a part of the communist world, and emerged as independent states in 1991. However, in terms of the constitutional setup of state-church relations, they took very different paths. Croatia opted for very close relations with religious communities, especially the Catholic Church. Slovenia opted for a very strict state neutrality model that was often compared with the French model. However, the explicit mention of Christian values in the constitutions of both states is little, or almost absent. If we take the historical Preamble of the Croatian Constitution out of the equation, the only 'firm' provision that is clearly Christian in its origin is the definition of marriage, which was added into the constitution via referendum. On the other hand, Slovenia does not have any clear Christian-based provisions in its constitution, excluding the provision regarding the very broad protection of conscientious objectors. Of course, both constitutions contain numerous provisions that can be linked with Christian values, especially the social teachings of the Catholic Church. Therefore, the conclusion can be drawn that Croatia and Slovenia have very similar constitutions regarding the use of Christian values, although they follow very different constitutionally arranged models of state-church relations.

74 Ivanc, 2015, p. 57.

75 Ivanc, 2015, p. 61.

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