

Tribal vs. integrative pluralism

Religious freedom: levee or driver of new fundamentalisms?

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Abstract

If the paradigm of *secularization as replacement* was falsified by the permanent vitality of the religious dimension on the world horizon and in the public sphere, the universalization of the paradigm of *secularization as differentiation*, on the contrary, turns out to be an essential guarantee of the maintenance and promotion of the rule of law and human rights. From an alternative perspective to both secularism and fundamentalism, public theology today is therefore called upon to reconstruct and argumentatively justify the function of religious freedom as a basic principle of democratic society, within the framework of cognitive and normative disjunction between religion and citizenship which rules modernity. It is urgent to theologically demystify the regressive manipulation of this principle, as a vector of a democratically disruptive *tribal pluralism*, in contradiction with its nature as a catalyst for an *integrative pluralism* essential for social cohesion and the common good.

Key words: Religious liberty, laïcité, secularization, J.C. Murray, citizenship, religious fundamentalism.

Pluralismo tribal y pluralismo integrador.

Libertad religiosa: ¿presa o activador de los nuevos fundamentalismos?

Resumen

Si el paradigma de la secularización como sustitución fue falseado por la permanente vitalidad de la dimensión religiosa en el horizonte mundial y en la esfera pública, la universalización del paradigma de la secularización como diferenciación, por el contrario, resulta ser una garantía esencial del mantenimiento y promoción del Estado de Derecho y de los derechos humanos. Desde una perspectiva alternativa tanto al laicismo como al fundamentalismo, la teología pública está hoy llamada a reconstruir y justificar argumentativamente la función de la libertad religiosa como principio básico de la sociedad democrática, en el marco de la disyunción cognitiva y normativa entre religión y ciudadanía que rige la modernidad. Es urgente desmitificar teológicamente la manipulación regresiva de este principio, como vector de un pluralismo tribal democráticamente disruptivo, en contradicción con su naturaleza de catalizador de un pluralismo integrador esencial para la cohesión social y el bien común.

Palabras clave: Libertad religiosa, laicidad, secularización, J.C. Murray, ciudadanía, fundamentalismo religioso.

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Where are your monuments, your battles, martyrs?

Where is your tribal memory?

Derek Walcott, "The Sea Is History"

INTRODUCTION

We can assume as a shared insight, in the context of the contemporary *status quaestionis*, that religion and citizenship are two social spheres of association between individuals regulated by different normative codes: a ritual and belief device and a sociopolitical device.¹

The less peaceful thesis that I will discuss in this reflection, based on this premise, is that the terms religion and citizenship, within the framework of the secularized public rationality that is constitutive of modernity and institutionally, coercively, implemented, as rule of law, denote an irreconcilable contradiction, generated precisely by the fact that each one of these social spheres has a claim to universality in relation to the other, which, therefore, is downgraded to particularity in the respective normative framework. There is not religion, but religions, in the order of a secularized citizenship regime²: each religious community is vector of a particular belonging that must be subject to the superior (because more universal: sovereign, this is binding on all citizens, who are differently believers or non-believers)³ order established by law, equal for all within the government system that puts it into force, regardless of their differences in religion, ethnicity, gender.

Vice versa, even doctrinally non-universalist religions such as the Jewish, which elects a specific people among all peoples on earth, are self-understood as universal from the point of view of those who adhere to them: their normativity is superior to that of political citizenships, of the legal systems, in which its members are enrolled. Only insofar as human laws are compatible with religious law are they binding on the believer, who in cases of extreme friction, radical incompatibility, can

¹ That, in the distinction of notions, their historical-sociological and legal-normative definition is possible only based on their evolutionary interdependence, is a conviction that unites extremely different and even divergent perspectives, such as, for example, Schmitt (1922 and 1923) and Habermas (2005 and 2019).

² Theocratic regimes can only 'tolerate' religious pluralism, as a concession to citizens' right to personal freedom. By contrast, secularized confessional regimes (such as the Danish or British, where the monarch is the head of the Church of England, 'Supreme Governor') may positively welcome it, despite opting for a 'traditional' identification with a historical religion associated with national identity (see Laborde, 2017).

³ On the unconditional notion of sovereignty, in addition to the classic Schmitt (1922), see Böckenförde (1967).

and should resort to conscientious objection: the rejection of the claim to universality of the political community, the refusal to obey its law in the name of a higher normativity.

If we take, as we should, history as a phenomenological evidence of our systematic societal interpretations, we can decline this hypothesis in two implications: 1) the high turbulence of this relationship on a diachronic and synchronic plane suggests that the contradiction between the two universalism claims (one historical and juridical, the other meta-historically founded), is insoluble: it cannot be eliminated; 2) although not reconcilable, this tension is not necessarily tragic and not necessarily negative: on the contrary, it has to be recognized and welcomed as a valuable individual and collective resource, rational and spiritual, because in the course of history its recognition was a driver of mutual learning in the two spheres in question, promoting processes of correction and innovation, as well as more coherent and consistent self-understanding and self-implementation.

The first implication —that the historical turmoil in the relationship between citizenship and religion is not a contingent phenomenon, but an index of a structural rational collision— attributable to the fact that religion intends to introduce a limit to the human decision about human (and the non-human),⁴ a principled limit to individual and collective self-determination, which is configured as an insurmountable frontier of politics, which cannot decide everything. In turn, politics, recognized in modern times as an agreement space of collective self-determination, admits this limitation of human decision only as an ultimate, personal existential principle, established in an act of freedom of conscience, possibly a community pact, in the Covenant religions, but not binding for third parties: *God wants it* is an unconditional command for the believer, but it becomes violence if imposed on others. The only collectively unconditional limit that democratic politics configured in the framework of the rule of law admits to its own power of self-determination, is the normative set articulated by the principle of human dignity and human rights, which, as a source of sovereignty, underlie this right of decision and cannot be overturned by it.⁵

⁴ The absolute and unconditional non-availability of planet earth by man is the normative core of the elaboration of the ecological issue by the religious communities, in the growing harmony reached on this topic, in a proactive path of ecumenical and inter-religious understanding highlighted in Pope Francis' Encyclical Letter *Laudato si'* (2015), which evokes the seminal contribution of Orthodox Patriarch Bartholomew (nr.7-9).

⁵ It is the constitutional limitation on the legislative the power of the majority (Dworkin, 1977; Habermas, 1992; Rawls, 1971 and 1993).

The second implication is less analytical than normatively reconstructive, implying a positive interpretation of modernity that is not universally shared. Indeed, from a theocratic, or at least an integralist, point of view, the fact that the universal claim of the contents of religious belief must coexist with the historical particularity of its community incorporation within a pluralist society is considered a problem. Those nostalgic for Christendom see as a loss and a decline this asymmetry between the catholicity of the announcement, its being for everyone, and the principled limitations to its implementation as a political citizenship. But the Christian who recognizes in secularization, understood as differentiation and not as replacement, a religious opportunity and not a *vulnus*, theologically reads this historical 'discoincidence'⁶ as the proper expression of the temporal condition of the Church.

In this perspective, the relationship of contradiction between religion and citizenship exposes the most authentic essence of Christianity, recognized as a condition of individual and communitarian permanent mobility between different normative spaces, which do not overlap and do not exclude each other, whose borders are not of division, but crossing and displacement.

As with all travel, this permanent migration between different regulatory spheres can be dangerous. There are smoother paths, such as in the territories of democracies blessed by conditions of cultural, social, and religious homogeneity, which allow for *accommodation*⁷ formulas between the respective requirements of the two spheres, largely consensual and linear, because historically consolidated in old negotiation traditions. But there are bumpy and even tragic paths, in which contradiction breaks out into conflict, as in all religious wars - and there are many that devastate the world in this dark dawn of the third decade of the third millennium. In increasingly multicultural, multi-religious and globally integrated societies, the tension produced by this contradiction is, in fact, inevitably growing, to the point of becoming a critical factor for democracy, as we can witness throughout the Western world, consumed by religious terrorism, radicalism, sectarianism, the divisive polarization of political fronts based on axiological fracture lines often denoted or connoted religiously.

⁶ For a general definition of this notion, see Jullien (2008 and 2017). See also Jullien (2018) for a proposal to reconstruct this essential discontinuity of the Christian faith, which makes it impossible to claim the qualification of Christian for any particular historical identity.

⁷ This central notion in the Anglo-Saxon liberal tradition is discussed in Laborde (2017).

The convergence of religious universalism with ethical universalism based on the principle of human dignity and human rights is, for all Christian Churches today, the basis for adherence to democracy and the rule of law as the only political model compatible with the evangelical truth about man. It would be a mistake, however, to read this official and authentic reconciliation between religion and citizenship by the Christian Churches as the overcoming of the contradiction. There are not few problems that remain, and it is good that they remain, when they are born from the prophetic dimension of the Church in human history and not from an undue claim to power on the part of the religious community. The ‘*differend*’, as J.F. Lyotard⁸ called it, is inscribed in the concrete interpretation of the normative contents that identify human dignity and can place human rights in specific situations of mutual conflict. The “overlapping consensus” cherished by liberals like John Rawls (according to which what matters is not the reasons for adhering to the principles, but the fact of adhering to them)⁹ is the operative key to the functioning of democracy, but it leaves open, as I will try to show below, gray areas of dissent and even contention in relation to the application of the general principle in political decisions and in law systems. Which point of view should prevail in the “conflict of interpretations” is a question never decided once and for all in that endless negotiation process that is, as a matter of fact, democracy.

This complex, fallible and open mediation is the essential function of the principle of religious freedom, unanimously adopted by the Christian Churches of our time as the core of their relationship with civil powers, presenting itself as a not neutral, but normative regulator of pluralism (religious, ethical, cultural, systemic) inherent to society, a precondition for the non-coincidence of political citizenship with religious belonging.

Built on a strict balance between limiting and expansive criterium, this principle, however, is today subject, on the world stage, to massive fundamentalist manipulation by political and religious actors who, by unilaterally emphasizing its affirmative dynamics at the expense of its function of containment, *distort its role of ensuring an integrative pluralism of society and on the contrary promote a tribal pluralism that produces destructive polarization, division, and radicalization*. Fostering an adequate understanding and application of the principle of religious freedom (in contrast to all forms of fundamentalist, political or religious incompatibility with pluralism) is therefore a fundamental commitment to protect the

⁸ See the leading definition in Lyotard (1983).

⁹ See the discussion in Rawls (1993: 133-172)

functionality of the rule of law and a pacific integration of religious communities in democracy.

1. THE END OF CHRISTIAN SOCIETY: THE DIFFERENT PATHS OF SECULARIZATION

The programmatic adoption by Christian Churches of the principle of disjunction not only between Church and State, but more profoundly between citizenship and religious belonging is a reappropriation of the biblical and evangelical matrix, which is a historical result of secularization. Indeed, within western civilization, for more than a millennium, religion is equivalent to Christianity and this is equivalent to citizenship,¹⁰ in the identification or massive overlapping of religious and political order established through the incorporation of Christianity as the official religion of the Roman Empire and of their political heirs.¹¹ It is the *respublica christiana*, whose progressive end is produced by the superposition of a double, opposite, but not contradictory, movement: the centrifugal dynamics of the discoveries (the political and religious decentralization of Europe into a drive of world expansion)¹² and the centripetal dynamic, of internal religious fragmentation of Christianity beginning with the Reformation. It is in the convergence of these two vectors that the process of secularization takes place, a phenomenon in which we are still, contradictory but fully, immersed.

All the nostalgia for the condition of social fusion represented by Christian society as a golden age of Christian religion is misleading. In this civilizational regime, the Christian faith was not in good health: the principled superiority of Christianity, as a normative *authority* of political

¹⁰ Not only citizenship, but also religion is given a strictly confessional sense: from this point of view, Jews and (eventually) Muslims can only be 'tolerated' (when not burned, expelled, or fought in the Crusades), but their belonging, of faith cannot be qualified as a religion (only the 'true' having a title to it).

¹¹ For the reconstruction of this order, see Schmitt, (1950: 25-36).

¹² J. Casanova and Ch. Taylor explicitly identify in this opening to a positive religious pluralism (induced by the experience of external pluralism activated by the Discoveries from the 16th century onwards, in addition to the dissolution of the Catholic monopoly of western Christianity associated with the Reformation) an essential character of modernity as a process of secularization that does not consist in the decline and privatization of religion, but in its social differentiation (Casanova, 1994 and 2006); (Taylor, 2007). For an analogous assessment of the impact of the geostrategic redefinition of the world associated with the Discoveries, see Schmitt (1950). For a historical-critical reconstruction of the multiple notions of secularisation, see Joas (2017) and Costa (2019) and for its possible (or impossible?) reversibility as "desecularization" process, see the groundbreaking Berger (1999).

power, assumed in this order, in fact results in the assimilation of Christianity by the social structure supporting the citizenship, including its device of patriarchy, violence, inequality, slavery, coercive limitation of individual freedom. Jewish and evangelical egalitarianism transits, ecclesialogically and canonically, in the sacramental body of the faithful and in the clerical infrastructure of the Church but is excluded from the social and political apparatus of the *civitas christiana*. The end of this model restores Christianity to the radicality of its normativity in the ethical and social field. Recognized as a process of differentiation rather than as replacement (of religion by citizenship), secularization imposes itself universally¹³ as the convergence of two crucial and normatively (if not historically) irreversible dynamics:

- The *disenchantment* of the world operated by science and technology, which removes from the truth of belief the relevance of theoretical knowledge about the state of things, of knowing the object;¹⁴

- The collapse of equivalence between religion and citizenship, not only on the public and collective level (in the religious foundation of the normativity of human law, guaranteed by the symbiotic relationship of Christianity with political power), but also on the individual and private level, when establishing a space of intangible autonomy of the individual, who is recognized with an unconditional freedom of conscience that makes him free from religion, although never free from citizenship.¹⁵

¹³ When speaking of multiple secularizations (Burchardt, Wohrab-Sahr & Middell, 2015), as previously of multiple modernizations (Eisenstadt, 2000), it is observed that the erosion of religious belief and belonging proper to the western world is a regional phenomenon, and the notions and political forms of the relationship between civil and religious power are very different in today's world, and in many cases (from Islamist regimes in Africa and Asia, through Hindu India to a European Union country like Poland) they are a regressive reaffirmation of their overlap rather than of democratic implementation of their disjunction.

¹⁴ This process coincides with the movement towards the autonomy of theoretical reason in relation to the myth inaugurated by Greek philosophy, which finds in the experimental science of the 17th century its definitive epistemological institutionalization. For the classic definition of disenchantment, see Weber (1919). This notion, however, is ambiguous and indeterminate enough to be seductively deceptive ('enchanted'), as pertinently reconstructed by Joas 2017: the Weberian term, used as a synonym for secularization, does not distinguish very different phenomena such as demagization, detranscendentalization, desacralization, de-Christianization ('*Entmagisierung, Detranszendentalisierung, Entsakralisierung, Dekristianisierung*'), which cannot be univocally called upon as synonymic qualifications.

¹⁵ The rights, as pointed out by Böckenförde (1967), become the person's, they are no longer attributed to the truth as such.

Modernity as secularization, differentiation of spheres of normativity, is not, then, secularism, substitution-annulment, of religious knowledge and normativity, but rather its relocation in its own sphere of existential and social pertinence. The universal acceptance by the Christian Churches of this reconfiguration is, however, far from being implemented linearly and effectively, requiring a rigorous analytical and normative scrutiny: what kind of presence of religion in society and of relationship to citizenship, we currently observe within secularized democracies, and what kind of presence and relationship do we consider appropriate? Answering these two questions is one of the greatest challenges currently facing a public theology, called to identify and argumentatively justify modalities, rules and principles of the lives of Christians as individuals and as communities in contemporary societies, in the light of the cognitive and normative disjunction in which modernity is ruled.

The first step on this path is twofold. On the one hand, it is necessary to remove the misunderstandings associated with the stereotype and inconsistent use of key categories such as secularism and religious freedom, often evoked as *pas-se-partout* formulas through which everything and its opposite are conveyed. On the other hand, it is necessary to demystify and theologically invalidate its regressive manipulation, contrasting and correcting the distortions and pathologies that the notion of religious freedom is increasingly object of at the level of public opinion, including the religious communities. Implemented within western opinions as a vector of a democratically disruptive *tribal pluralism*, in contradiction with its nature as a catalyst for an *integrative pluralism* essential for social cohesion and the common good, religious freedom today risks becoming a platform for the new fundamentalisms rather than its main antidote.

2. SECULARISM AND LAICISM

Indeed, the most radical form of secularism, laicism, which presents itself as an adequate result of modernity but cannot in any way claim to be its exclusive outcome,¹⁶ asserts itself as a requirement of mutual exclusion of spheres of normativity: where there is politics, citizenship, there can be no religion. Christian and citizen are two separate and radically alien categories: the identification of an effective contradiction between the two normative dimensions is converted into a prescription

¹⁶ For an energetic challenge to this exclusivist ambition of the “laïcité”, see Diotallevi (2010). See also the critical considerations raised by Terra (2018).

for mutual expulsion. From this point of view, a good Christian can be a good citizen only insofar as these two aspects are mutually irreducible: citizenship is public, while religion is private. This is the republican model of Jacobin tradition (Poulat, 2003; Balibar, 2010) that finds its most coherent democratic incarnation in France: religious symbols are notoriously banned from the public space, there are no crucifixes in the classroom, there are no veils in the bench of public administration, there is no political legitimacy of religious discourse, which can be the motivational source of individual choices, but does not provide any normative authority to public choices.

Public reason can only be completely secular. Religious discourse is marked by the particular and exclusive nature of reasons founded on the ultimate irrationality of faith and on the contextual contingency of historical tradition. Therefore, to be accepted in the *agora* of democratic political decision, the reasons of religious discourse must be translated into the neutral universality of “public reason” (“reasonability”), of the only acceptable coercion in the public sphere, that of arguments.¹⁷ All historical, particular, value-conditioned motivations not logically universalizable in neutral argumentative reasons must be set aside as not publicly legitimized, acceptable only on the private plane. The Platonic program of expelling myths, art and religion from the polis finds its full republican appropriation here (revealing, after all, less ‘modern’ than intended).

The subordination of the principle of citizenship to religious normativity (from *potestas* to *auctoritas*), established for centuries on European soil (in a tortuous but continuous line, from *Respublica Christiana* to the confessional state), undergoes an inversion, in the epochal rupture of the French Revolution, leading to the radical subordination of religion: to neutralize the explosive friction of the universalist claim of religion, perceived as incompatible with the universalist claim of the political community, the secularist Jacobin republican model dismisses its universal claim as particularist from the public point of view because rationally unfounded, not qualified to participate in the public deliberation that shapes the political rules of coexistence. Religion is ‘tolerated’ by the government as an individual

¹⁷ This category of “public reason” as an epistemic condition of democracy is formulated by Rawls (1993: Lecture VI, 212-254; and further in Rawls, 2009) and accepted and developed by Habermas (2005: 119-154; 2012: 308-327; Habermas 2005a). Rorty (2009) excludes, in principle, the translatability of religious reasons, whose peculiarity would focus exclusively on the “source” from which they derive legitimacy, and therefore qualifies religion as a “conversation-stopper” acceptable only in the private sphere, not assimilable in the domain of public discourse.

and associative requirement whose respect is ensured by the individual right to freedom of belief and worship, but it is not recognized as a resource of the public ethos and coexistence. A society without religion, in this perspective, is neither poorer nor less functional. Citizenship is an entirely self-sufficient dimension.

It is evident that this model of secularization as replacement, in which secularity asserts itself as a separatism subordinating religion to citizenship, with the consequent privatization of its claim to universality (legitimate only in the individual forum and an associative relationship *intra muros*), leaves the religious community objectively penalized and unknown in its most basic social function. That modernity means the denial of all social normativity of religion is a counterintuitive point of view that produces robust antibodies eventually escalating into an autoimmune disease: France's consistent current problems with terrorism, the inability to deal with religious multiculturalism, the non-integration of the Islamic community,¹⁸ are an eloquent indicator of a more general problem of adapting to an evolution designated by the 'repentant secularist' Jürgen Habermas as the emergence of post-secular societies.¹⁹ The return of the religious issue as a factor uncontrollable by politics, either because it is manipulated as an unconditional factor of an identity nature,²⁰ or because it is recognized as a patrimony of symbolic, argumentative, and motivational resources necessary for the construction of the public ethos and solidarity among citizens, is an evidence at world level, highlighting the inconsistency of the secularist hypothesis that saw secularization as the path to the disappearance of religion rather than the reconfiguration of its social status.

The idea that citizenship cannot dispense with religion, despite the objective friction between the two, and the suspicion - for some, for

¹⁸ The problem of the non-integration of the Muslim community in France has escalated in the last decade into a series of bloody attacks. The controversy triggered by these tragic events is one of the most virulent topics in the current French political and cultural debate, leading to the questioning of the republican *laïcité* model (see Valadier, 2004; *Études*, 2021).

¹⁹ For a definition of the notion of post-secular, see Habermas (2012: 7-18; 96-119) and 2019 (Postskriptum: 767-867).

²⁰ This is the case with all forms of nationalist Christianity, Islam or Hinduism that are spreading throughout the world today. On the phenomena of populist and fundamentalist degeneration within contemporary religious communities, including the Catholic, see Lesch (2017); Soper & Fetzer (2018); Raison Du Cleuziou (2020). For a general analytical and critical framework of the convergence between neo-nationalism and religious fundamentalism on the European scene, see Höhne & Meireis (2020), in which the Introduction by the editors (pp. 9-26) and the historical reconstruction by Casanova (2020) are particularly helpful.

others certainty - that the crisis of democracy may have something to do with the expulsion of religion from public space, or with its decline, finds a growing echo, at least as a widely shared interrogation, to which the German jurist Böckenförde gave a memorable affirmative formulation in his famous dilemma, according to which “*The liberal (“freiheitlich”) secularized state lives on conditions that it cannot guarantee itself*”:²¹ to function, democratic institutions need a cultural background, made both by epistemic and axiological codes (which discriminate both what is true and what is false²² and what is fair and unfair, good and bad) and motivational and solidarity devices, widely shared but not coercively implementable. There is no democracy without a common public ethos sustained not by state law but by civil society freedom.

If Böckenförde is right, if secularism *à la française*, in the systematic subordination of religious universalism as particularistic from the point of view of citizenship and its public silencing, is illegitimately penalizing religion, and politically inadequate, as highlighted by its inability to guarantee virtuous dynamics of integration in increasingly multi-religious societies, what then is the solution?

3. RELIGIOUS FREEDOM AS AN ARCHITECTURE OF DEMOCRACY

In the American Constitution, promulgated in 1787 and integrated between 1789 and 1791 by twelve amendments, the mutual alienation between religion and citizenship, decreed by Jacobin secularism, is formally discarded. In North America, as the admired Alexis de Tocqueville discovered on his study tour of what was then the New World, religion and citizenship are solidary facets. The First Amendment of the Constitution, with the two clauses of *no establishment* and *free*

²¹ “*The liberal (“freiheitlich”) secularized state lives on conditions that it cannot guarantee itself*. That is the great risk he took for the sake of freedom. On the one hand, it can only exist as a free state if the freedom it grants its citizens is regulated from within, based on the moral substance of the individual and the homogeneity of society. On the other hand, he cannot try to guarantee these inner regulatory forces on his own, that is, by means of legal coercion and authoritative command, without giving up his freedom (“*Freiheitlichkeit*”) and —on a secularized level— falling back into the claim to totality from which he has led out in the denominational civil wars.” (Böckenförde, 1967: 112-113, m.tr.)

²² The fundamental role of a solid cultural implantation of the truth/lie dichotomy for the health of democracy is highlighted by Arendt (1964 |1971). The dysfunctionality of ‘lying’ is today tragically radicalized in the inability to distinguish between true and false in societies swept by the out-of-control proliferation of fake news, of “alternative facts”, of *fantasy* complotism like Qanon adepts. The public rationalization of post-truth as a legitimate political weapon becomes mass practice.

exercise,²³ is celebrated by the Jesuit theologian John Courtney Murray, fundamental inspirer and directly responsible for the final writing of *Dignitatis Humanae*²⁴ as the first juridical implementation of the right to religious freedom in the modern age.

The basic assumption that underlies the legal system of the United States of America²⁵ is, in other words, that between religion and citizenship there is separation, but not exclusion: the collapse of equivalence between the two, secularization, does not imply the expulsion of the faith of the public space, its privatization as an individual or associative phenomenon without civil legitimacy. In the American context, religion continues to have a legitimate public and collective relevance despite not being allowed to establish itself as a political order, precisely because the pluralism of religions prohibits the confessionalization of the law. In this liberal perspective, which inscribes the protection of the person's freedom in the protection of civil society's freedom, religious pluralism is accepted as a guarantor of the public legitimacy of religion: it is because there are many that beliefs have the right to assert themselves as a component of space public, as a contribution to the formation of political will, because its variety precludes the establishment of monistic, centralist and coercive control of society by a belief, by a Church, by a substantialist notion of the good life, by a "comprehensive doctrine"²⁶ assimilated as a governmental power, which, in the name of its claim to universality, may intend to make the truth the coercive power of law, ultimately eliminating the citizen's right to self-determination, his freedom of and from religion.

Religious freedom thus establishes an individual right, a right of conscience (immunity from coercion in what is believed), as a community architecture of society. The human dignity of the individual requires that he be recognized not only the personal freedom to profess his belief and to practice worship as a private exercise in association (*intra muros*), but also the civil right to live his own belief as a social dynamic, assuming a as a relevant community ethical criterion in

²³ "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances" (U.S. Constitution).

²⁴ For a reconstruction of Murray's role in drafting the conciliar declaration, see Acerbi (1991: 251-281); Scatena (2003); Hollenbach (2012); Ceccanti (2021).

²⁵ For a general exposition of the "American proposition", see Murray (1960).

²⁶ This is the term used by John Rawls to designate all non-procedural axiological perspectives (not just the religious ones) for the definition of individual and collective, public, private and common good (see Rawls, 1993).

determining the public ethics of the society in which he lives.²⁷ However, precisely because of its unconditional dimension, which identifies conscience as the original domain of this personal and social freedom, religion can only appeal to the power of conviction (*auctoritas*) and not of coercion (*potestas*): the social exercise of religious belief cannot require the coercive power of political government, such a conversion implying not only the exclusion or individual and social subordination of alternative beliefs, but a contradiction with its very substance.²⁸

4. BEYOND THE DICHOTOMY BETWEEN PUBLIC AND PRIVATE: THE COMMON

The social architecture designed by the principle of religious freedom does not, therefore, articulate a dry dichotomy between private and public, between what belongs to the individual and what belongs to everyone (*res publica*) in its claim to be valid for everyone, in a legality that claims universal legitimacy within the framework of the legal system in which it is established.²⁹ What happens with religious freedom is the recognition of the intersection between public and private in the sphere of the common, which is intrinsically plural, and the need to institutionally safeguard this intersectional dimension. The (lexical) paradox is that the common, each common, belongs to some, to groups within society, but not to all:³⁰ it is not private, because it has interpersonal and eventually associative expression, and claims public relevance, the right to model normatively the rules of coexistence, without having the coerciveness of the public as a legal order.

²⁷ The principle of religious freedom, being not only an affirmation of an individual, but a community right (a point often not sufficiently valued: religious freedom is not freedom of belief and association, but freedom of the associative body established by this association between individuals) and establishing itself, therefore, as the foundation of a liberal order of democracy (founded on the freedom of individuals and communities, and on the constitutive societal pluralism that descends from this freedom) circumscribes dynamics of social interaction that can overlap, intersect, but obey different normative sets.

²⁸ In *Dignitatis Humanae* the irreversible break with the traditional Catholic doctrine of the confessional state is consummated, see Murray (1960); Acerbi (1991); Scatena (2003).

²⁹ The principle *cuius regio, eius religio*, which marked, in the peace of Augsburg (1555), the constitution of a legal platform of national states (cf. Schmitt, 1950), but begins to be called into question already with the Edict of Nantes (1598) (see Böckenförde, 1967; Filoramo & Menozzi, 1997) is virtually and practically liquidated in the constitutional body of the federal republic of the United States of America.

³⁰ On the tension between the common and the universal, and the political and social importance of the common, see Jullien (2008); Manent (2010: 197- 265).

The separation between religion and politics designed by religious freedom therefore recognizes the sphere of civil society as the bearer of normativity as a space for expression and action of the plurality of what citizens have in common (the symbolic ‘commons’ shared by citizens) and which differs from the universal political, of what everyone has in common by juridical determination (the law, belonging to the political community with its coercive power, the sharing of sovereignty as a power of self-determination in its legislative, executive and judicial declination).

In other words, two intersectional fields are drawn here, in a dual domain of citizenship:

- civil citizenship: the field of the plural common (of the symbolic commons);

- political and legal citizenship: the field - more restricted, limited - of the unitary, socially general, that is, conditionally universal within the framework of a national (or transnational as in the UE) jurisdiction, but which, from the perspective of contemporary rule of law, explicitly claims the universal legitimacy of the fundamental normative core of the constitutions themselves (the principle of human dignity and human rights).

These two fields are not articulated dichotomically, as mutually exclusive or juxtaposed spheres, but rather, as already highlighted, intersectionally. Recognition of the pluralism of the common (which has no political but civil normativity; which is socially but not universally accepted, which is not legally binding) as a good to protect against the monist drive of the political (which has the function of implementing binding decisions for everyone, in a democracy making the majority decision prevail) is the intrinsically liberal³¹ nature of the principle of religious freedom set out by the American Constitution and adopted by *Dignitatis Humanae*.

It is a principle that rigorously determines the social limits, both of religion and of politics (of the sovereign decision), by reversing all public monopolies: that of religion, from jurisdictional order is fully separated, as well as that of political power, which cannot claim any binding definition of truth and the common good and must, on the contrary, strive not to harm, in its own antagonistic-decisional logic, the

³¹ Liberal in the sense of an architecture of democracy founded on citizens’ rights and the division of powers, and not in the sense of a radical epistemological and moral individualism that becomes a counterintuitive juridical and political device.

deliberative and dialogically collaborative dynamics of the reflexive construction and sharing of these notions. From the perspective of religious freedom, the juridical universalism of the political, the reduction of the pluralism of the common to the coercive unity of the legal, is, like universalism, a meta-juridical fiction (indeed, no historical citizenship can assume itself as universal: not the being such neither diachronically nor synchronically). This ‘universalistic fiction’ is acceptable and necessary as a guarantee of public order (of the functioning of society as a community of political citizenship), but which must be limited as much as possible, precisely because circumscribed in relation to the comprehensive scope of the pluralism of the ‘civic commons’ and the ‘superior’ universalism of the religious as a guarantor of personal and interpersonal freedom of conscience, an expression of the non-coerciveness of the adherence to a concrete, historically determined notion of truth and good. Paradoxically, the Hobbesian motto is recovered here: *auctoritas non veritas facit legem*.

The law is a coercive exercise of force authorized by all (in the constitution of political sovereignty) in relation to each one, which is distinguished from the freedom proper to the individual and community recognition of the truth and the good as conviction. The law cannot do without the critical and normative confrontation with the truth (it is in this process of normative scrutiny that the ultimate legitimacy of legality is based), but in principle it cannot identify itself with it.

The legitimate public exercise of religion (not only the profession of faith and worship, but the practical and reflective, cultural and organizational implementation and promotion of visions of good and coexistence that descend from it) is exercised in this framework at the level of civil citizenship, the configuration of the public sphere,³² cultural and communicative activity, the formation and conviction of consciences and the subsidiary governance of society, in which religion can express itself in the unconditional power of its axiological status, without be limited by the instance of negotiation of commitments necessary for the

³² For the introduction and definition of the concept, see Habermas (1962) and Goffmann (1963). The public sphere can be characterised as that section of public space where meanings are informally negotiated, and codes and interpretative patterns of reality are constructed through the definition of themes relevant for collective attention. The birth of the internet and social networks has radically and tumultuously altered the extent, modalities and subjects of the public sphere, radically relativizing the primacy of the traditional press and television, as well as the representativeness of institutional opinion-making subjects (the elites) on the one hand, and, on the other, deterritorializing informal interactions (displaced from traditional “third places”, cf. Oldenburg, 1989) in a disintegrating massification that is both a factor of democratization and of populist regression. For a discussion of the role of religion in the public sphere, cf. the various contributions in Stagi (2017).

majority recomposition of the plurality of interests, values and religious points of view (including their agnostic or atheist rejection) present in civil society (see DH 4 e 6-7).

4. STRUCTURAL CHALLENGES OF DEMOCRACY AND FALSE ANSWERS. THE CRISIS OF RELIGIOUS FREEDOM AS A CRISIS OF DEMOCRACY

The current problem with this model, adopted by the conciliar Church and the successive Catholic magisterium³³ as the most balanced solution for mediating the fundamental and irreconcilable contradiction between the universalist pretensions of religion and citizenship, is that it is today the object of a double regression. This is true not only in non-western geopolitical contexts, where intolerance and even religious persecution continue to grow to a tragically frightening extent,³⁴ but also within public opinion, political forces, and even religious communities in democratic societies, where this model is institutionally installed as a normative heritage of the rule of law. Even within the United States of America, cradle of its original implementation in the modern era as a constitutional device, the principle of religious freedom is in crisis, in its role as a social peacemaker, being the object of alternative interpretations, strongly divisive from a political point of view and social.³⁵

The right to religious freedom, which is fundamental, as we have seen, not only for the tutelage of religious communities but for the functionality of democracies, has been increasingly manipulated as a weapon of political struggle. Sectarian, fundamentalist and illiberal

³³ For a very recent magisterial enunciation of the principle, cf. the International Theological Commission document, *Religious Freedom for the Good of All. Theological Approaches and Contemporary Challenges* (CTI, 2019). The text counterposes to the expulsive secularism, univocally privatizing religious experience, denounced as penalizing the legitimate claims of religion, a notion of positive secularism reconstructed from the principles enunciated by *Dignitatis Humanae*, but without making explicit its historical genealogy in the framework of the American constitutional model of religious freedom.

³⁴ See the data on the escalation of violations of religious freedom, oppression, and persecution of confessional minorities in the Pew Research Center 2021 annual report. Specifically on the religious persecution of Christians in the world, cf. the biennial report of the Association Aid to the Church in Need 2021 (CAN, 2021). On the definition of religious minority in international law, together with a proposal for a constructive approach in the implementation of its legal protection, which combines intersectional and synergic point of view, see Angeletti (2021).

³⁵ On the growing drift of fundamentalism, intolerance and division in the US, cf. Hollenbach (2020).

appropriations of this principle weaken, when they do not radically call into question a) its role in enforcing the autonomy of civil society, the common, in relation to the political, to the universal of legal and governmental coerciveness (2nd clause: *free exercise*) and b) its integrative and mediating function, of recomposing pluralism in the unitary framework of a public order based on social peace, justice and equality (1st clause, *no establishment*). In this framework, instead of serving as a device to protect social pluralism, the principle is distorted and transformed into an instrument of coercive homogenization; from a peacemaker he becomes antagonistic, a source of political and cultural division; the integrative pluralism it was supposed to promote degrades into tribal pluralism.

This regressive destabilization of religious freedom in the western societies is evidently due to both structural reasons and the reactive strategies upheld by the problematic convergence of populist and conservative political forces with broad sectors of the Christian Churches.

The structural factors contributing to this democratic crisis in the role of religious freedom are manifold. One of the main causes is that, to reach a sufficient level of social cohesion, a basic presupposition for the functioning of democracy, the pluralism of the social common and the monism of the political universal cannot be divergent, they cannot be in the process of estrangement. The intersection between private and public must also be articulated as the intersection of civil and political citizenship.

The problem is that in contemporary globalized societies, highly tertiarized and media-shaped, the traditional overlapping of the social common and the res-publican political universal is progressively and rapidly shrinking; in our increasingly pluralist societies, the internal proliferation of languages, beliefs, ethical standards, cultural traditions, channels of production and transmission of information and opinion multiply the internal borders of what is common within national borders. The invocation of a *Leitkultur* as the lowest common denominator required by political citizenship is in this sense a requirement as inevitable as it is difficult to carry out in a vertical and descending, top-down process of political decision, which authoritatively ‘establishes’ what belongs to this common cultural nucleus beyond the public ethos embodied by the fundamental principles of the rule of law. In countries where democracy is dramatically deteriorating, towards regressive forms of illiberal, authoritarian democracy, such as Turkey, Poland and Hungary, the political decision of what is the *Leitkultur* of the nation, binding for the political universal of citizenship, becomes a dangerous

instrument of repression of pluralism: when the overlap between social common and political universal is established as the result of political decision (object of law) instead of its source and condition, democracy is threatened.

However, even where this fragmentation does not translate into an authoritarian attempt to circumvent it, political institutions and cultures are often unprepared to deal with it. The paradox, difficult to govern, is that the reduction in the overlap between the social common and the political universal brought about by globalization and economic and technological progress (vector of a growing individualism, not only chosen but widely suffered) causes at the same time a growing homogenization of the world (we are unified by technology and economic and financial laws) and a seemingly inevitable erosion of the common. The flows of migrations, goods, services and information, and the disintegration of social classes as blocks of opinion and interests susceptible to a unitary representation, with the consequent weakening of the traditional channels of mediation between civil and political society (parties, unions, news media, replaced by social platforms) make syntheses ever more difficult. The great political and civilizational challenge that we are faced with is that what today unifies the world at the same time pulverizes it. The technical, bureaucratic, and practical standardization of individuals (associated with anthropological habits such as the division between working time and free time, between virtual and face-to-face relationships, use of multiple services) translates into the disintegration of civil societies. Mobile phones, PCs and social platforms are within reach of a large portion of the world's population,³⁶ but what we do with them is far from translating into greater social cohesion and may even convert into a divisive radicalization factor between tribes: particularities, symbolic and axiological identities incapable of dialogue and peaceful coexistence. The fracture lines run along identity codes that are self-referential because they are built on a logic of cumulative individualism (users of media tribes are masses and not communities), which, when confronted with alterity, shock rather than deal with it.

Still unable to elaborate this mutation, civil and cultural institutions, religious and collective political actors, easily give in to the temptation of taking refuge in alternatively defensive or offensive strategies of

³⁶ See the data recorded in *Digital 2022*, the 2022 report by Hootsuite and We Are Social, an agency that monitors the global digital landscape: out of a world population of 7.91 billion people, there are 5.31 billion mobile phone users; 4.95 billion internet users; 4.623 billion social networks users. Facebook has 2.91 billion users; Youtube and Whatsapp, respectively, 2.56 and 2.00 billion; Telegram 550 and Instagram 1.48 billion; TikTok 884.9 million and Twitter 436 million.

renouncing their own integrative role, abdicating their own mediation function, and promoting a civil and political, deliberative and symbolic, legislative and governmental convergence of this atomistic pluralism.

On the one hand, public actors defensively embrace a reductionist approach to politics as a simple administrative management of the economic compatibilities of the governance in the wake of market imperatives (it is the neoliberal path, followed by a significant part of European political forces and institutions of the European Union in the last two decades). The liberal limit of the government non-coercive intervention in civil society implodes in systematic weakening of the fundamental deliberative and legal role of politics, as a level of elaboration of binding mediations shared by all between different ethical values and conflicting interests, reduced to the accounting exercise of numerical values imposed by the market.

On the other hand, public actors embrace an offensive strategy of a political identitarian radicalization, in which the different parties are encouraged to capture a section of society that guarantees, through voting and control, a robust slice of public opinion, a share of power - power to invest in a perspective more focused on the partisan interests and values of specific groups. This fracturing retreat to the 'particular', with the renunciation of formulating a proposal for a governmental synthesis oriented, at least regulatorily, to the effective common good (as a mediation that is as inclusive as possible of the interests and points of view of all and not as an imposition of the definition of the good of a part of society), takes place in both the progressive³⁷ and the conservative camps, and society is politically polarized more than ever between fronts incapable of recognizing a common basis for dialogue. When in contexts of cultural and social fragmentation, the common of a part of civil society (a particular axiological identity or a specific aggregate of interests) is claimed as the common substance, as the political (as the universal of the *res publica*, the coercive universal of legality), pluralism slides into division, conflict, disorder, adversaries become enemies, social peace tragically collapses as we've seen it happen lately in the US. Tribal pluralism takes hold of society, precipitating it into a state of spiritual if not material civil war (the attack on Capitol Hill on January 6, 2021, however, sets up a frightening, evenemential crystallization of the violence inherent in these *culture wars*).

Structural factors such as globalization and technological progress, with their unifying dynamics at the individual and general level, but divisive at the community and local level (as has been observed: the near

³⁷ See Lilla's (2017) analysis of the identitarian regression of American Democrats.

become distant, the distant become close), need of being counterbalanced by cultural and political strategies aimed at rebuilding social cohesion, the shared foundations of democratic consensus. In this general strategy, the specific role of religious communities is to promote a correct interpretation and practice of the right to religious freedom, not as freedom to impose confessional policies (by trying to implement at the legislative and governmental level their own ethical options, particular from the point of view of that coercive universalization that is the law, in rupture with a peaceful and smooth majority social consensus), but as the freedom to build cultures and social practices based on their religious values. The civic impact pursued is then not direct political influence but the creation in public opinion of the conditions for acceptance and sharing necessary for these values, however idiosyncratic, to become common civil patrimony: a platform for the creation of universally accepted legislative and governmental solutions capable of recomposing axiological pluralism in mediations oriented to the maintenance and promotion of the common good (social peace, freedom, justice).

Unfortunately, a part of the Christian Churches, including the Catholic, namely in countries like the United States of America and Poland, have reacted in an 'offensive' way to the stress of the challenges posed by globalization and by technological and media evolution, embracing hegemonic and antagonistic models of religious freedom, in which the limiting and negative element, the containment driver, of this principle, enunciated by the American Constitution in the clause of *no establishment* (of the separation of religion and government, of religious belonging and political citizenship) and eloquently highlighted in *Dignitatis Humanae* (7), is denied or at least severely mortified in a unilateral and unconditional interpretation of the second, expansive and affirmative element (formulated in the *free exercise* clause).

The consequences of this unbalanced and distorted interpretation of the principle of religious freedom and its corresponding abusive application are devastating for both religious and political communities, for religions and for democracies, merging religious differences with political differences along lines fractures that divide the religious like the political communities.

On the one hand, religion (namely Christianity in western democratic societies), instead of strengthening democracy, becomes a factor of division, radicalization and erosion of democracy, a threat to the common good of social peace, motor of identity tribalism which undermines the proper functioning of institutions and the maintenance of a shared public ethos. On the other hand, the agonistic logic proper to

the political (which, as an exercise of power, must convert dissent into decision, into the coercive force of the law, and therefore has the obligation to interrupt the discussion with a vote, move from the qualitative evaluation of the arguments to the quantitative measurement of power relations), associated with the public driver of these internal divisions in the religious community, takes control of them, making it disruptive: dissent degenerates into conflict, differences become incurable alternatives. To the political schism corresponds the threat of the ecclesial schism. The religious common becomes a threat, both to society as a whole and to the particular community to which it belongs, when it claims to assert itself in its own unconditional status as the political universal, losing the notion of the need for its pluralist integration into a political universal (guarantee of public order) that despite being conditioned, provisional, fallible and inadequate it is the effective condition of peaceful coexistence.

In recent decades, in the US, there has been a polarization between the *pro-choice* and *pro-life* option³⁸ and in relation to the LGBT issue, which is religious and political at the same time, by linearly and deductively translating a religious principle (*pro-life*) in a political principle (*no-choice*). The result is that the political criterion is in turn reconverted by a part of the Pastors into a religious criterion: in this perspective, the Catholics *pro-life* in private life and civil citizenship of the public witness of their values, commit a sin, transgress an ethical-religious commandment adopting the *pro-choice* political solution (as inductive and fallible, non-linear mediation of the complexity of ethical points of view, factual data, interests, the legal framework, and the prudential identification of the lesser evil). The refusal of the administration of the Eucharist to *pro-choice*

³⁸ A conflict that found a dramatic escalation with the Supreme Court's decision on 24 June 2022 to abolish the *Roe v. Wade* ruling, which had been in force for half a century (since 1973) and which recognised a woman's freedom to choose to have an abortion as constitutionally entrenched (on the basis of the Due Process Clause of the Fourteenth Amendment to the United States Constitution. The new ruling eliminates the federal provision guaranteeing the right to abortion and refers regulation of the matter to the individual states. The majority decision, written by Justice Samuel Alito, is based on the Court's view that "the right to abortion is not deeply rooted in the Nation's history and tradition" and that the opposing view has always been "controversial" (Opinion 2022: 2) The problem of the ruling is precisely that it neutralises the highly controversial nature of the issue (and the consequent weakness of the claim of legitimacy of *both* the two opposing positions), maximising the legal enforcement of one side (which is a majority on the Court but not in US public opinion), and discarding the compromise proposal made by conservative Justice Clarence Thomas, who suggested not to overturn *Roe* in its entirety, and to suspend (as untimely) any decision on the constitutionality of the right to abortion.

democratic Catholics, the public declaration that they are in mortal sin,³⁹ crystallizes in a module of personal punishment inflicted in a *latae sententiae* regime, the pastoral sanction of a political choice, a pastoral sanction in its turn strongly conditioned by prudential considerations that are far from being consensual even among the Pastors.

When a political difference becomes a sin, the definition of what is a sin becomes political and not religious: the religious community loses precisely that normative autonomy it claims to defend in the name of religious freedom.

6. UNIVERSALISM VS PARTICULARISM: INDIVIDUALISM VS COMMUNITARIANISM?

Translating into a critical-interpretive criterion of discernment and concrete social practice the principle of religious freedom as the key to the relationship between religion and citizenship, more precisely in the two citizenships articulated by it, civil and political citizenship, is, after all, not easy, automatic, obvious. The prudential dimension inherent in any application of the general criterion to the particular case (highlighted by St. Thomas in the path of Aristotle) appears fraught with further uncertainty and fallibility due to the contradiction between the two spheres of normativity concerned, with their respective claims for absolute universalism and unconditioned (in the case of religion) and of conditioned, contingent-historical, but legally binding universalism (in the case of politics).

The tension that arises from this contradiction, and the added difficulty of applying the criterion of religious freedom in its two aspects, expansive and limiting, affirmative and negative, becomes even more evident when the claim of historically conditioned universalism of citizenship becomes radicalized as unconditional, through the constitutional inscription of human rights as an intangible source of law. The political sphere, in its legislative, executive and judicial aspects, is then called to protect this fundamental normative body in its entirety, confronting, among others, the problematic of the hierarchy of rights. The legitimacy of subordinating the right to religious freedom to other specific rights, within the comprehensive framework of a notion of justice articulated by the protection of human dignity, creates gray areas of normative indeterminacy that generate situations of strong legal,

³⁹ “Can. 915 —Those who have been excommunicated or interdicted after the imposition or declaration of the penalty and others obstinately persevering in manifest grave sin are not to be admitted to holy communion” (CIC/1983).

political, and social conflict. Although this zone of discretionary indeterminacy (contextually re-composed by culturally and axiologically particular, evolutionarily variable, pre-understandings of the good) is inevitable, it can however be radically reduced by recognizing the normative convergence of religious universalism with the metapolitical universalism of human rights. This convergence takes shape not on based on the specific contents of the different religions (which can be radically incompatible with the universalist vision of human dignity, as in the case of religious norms such as division into castes, discrimination against women, etc.), but based on their relational dimension, recognized as a founding factor of associative ties, generators of communities.

It is possible, at least this is my conviction (as outlined in Bartolomei, 2018; 2018a), to reconstruct the obligation that binds religious communities to a test of universalization of their own doctrinal and ritual rules in the light of their own claim to establish them as the belonging criteria to a community. If religious belief and ritual, as well as the ethical obligations associated with them, are not adopted as a purely individual criterion, but as a communitarian one, they must be compatible with the social function proper to the associative bond: inclusion in a community belonging. Only the rules of belonging of members of a religious community⁴⁰ that are not in contradiction with this social function, with inclusion, are validable as non-associatively dysfunctional, therefore universally acceptable. The freedom and equality of all members of the community, as well as, by direct implication (Bartolomei, 2018: 31-42), of non-members, are the criteria that pragmatically discriminate whether the associative bond founded by the device of belonging is adequate to, compatible with, inclusion (the social function establishing associative belonging). A significant part of those who are interpreted in a uniquely individualistic legal tradition as rights of the individual can be reformulated in this perspective as rights of community members and, what is essential, also of non-community members (the social functionality of a community is tested on the basis of its relationship with other communities and with individuals outside it (Bartolomei, 2018: 42-50). The positive, doctrinal and practical criteria that underlie belonging must pass the universalist test of their compatibility with the social function of inclusion they claim when founding a community bond. Only positive criteria that do not fail this

⁴⁰ This principle of inclusiveness (as a normatively universalizing device of the social function of inclusion exercised by community belonging) is valid for all communities. However, in the context of this reflection only its relevance for religious communities is made explicit.

test of universal freedom and equality that configures the inclusive functionality of community belonging can be accepted as founding criteria of an associative bond. Intangible dignity, with the rights it implies, is something that must be recognized to human beings not only because of their individual subsistence as subjects, but also because of their insertion in intersubjective dynamics of an associative nature.

CONCLUSIONS

The contradiction between religion and politics, between religious belonging and citizenship, directly affects the polarization between particular and universal: every religious community presents itself as a social reality, in the particularity and contingency of its historical factuality, but it is self-understood as a bearer of a universal truth, and a core of ultimate ends and values (an ethics) endowed with unconditional status. What a religion adds to human experience is to circumscribe a sphere of the sacred, of transcendence, that is not subject to negotiation, which is not available to human decision. If politics is the sphere of collective decision that establishes the binding force of the law (as claimed by Carl Schmitt),⁴¹ religion is the sphere of human non-decision (if not as obedience, as choice to kneel before the sacred, eventually accepted as the saint, through the deactivation of the sacrificial violence still inherent in some forms of religious experience; see Girard, 1972; Agamben, 1995).

Normativity descends from the turbulent confluence between these two poles (the intangibility of human dignity, which is articulated in fundamental rights, being the dimension of sacral obedience, of decisional non-availability, which limits the entire decisional power of politics, and runs the constant risk of manipulation, if left alone to its care), in a process that is unstable, incalculable, tragically fallible. The contradiction and the necessary complementarity of the two sources are structural: politics and religion are in this constitutively alternative, but interdependent and inseparable in the construction of a coexistence that respects and shapes the ultimately indeterminable complexity of the human being. All forms of sacralization of politics, which present human decision as being non-human, therefore infallible, unconditioned, absolute, or of politicization of religion, which subject the non-decision, obedience to the sacred, in its acceptance as the saint, to the human

⁴¹ For this author, the legal norm is instituted by the constituent decision and not vice-versa. In his view, the origin of the legal order is essentially political, see Schmitt (1922: 23-40).

decision, are therefore a corruption of normativity in the manipulation of their sources. Normativity then degenerates into unfounded power, the rules of coexistence implode into discretion, decision into violence. Justice, equality, freedom and fraternity, fundamental components of that common good that is implemented as social peace, are then no longer protected, they are transgressed by the legal system. The healthy dialectic of correction, criticism and mutual integration between religion and citizenship is replaced by a unilateral and violent assimilation, which suffocates individuals and society. We are still far from implementing in public culture and social practice the basic intuition, formulated on the principle of religious freedom, that differences are the engine of common life and not its hindrance.⁴²

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⁴² A first and shorter version of this paper was presented in the Panel “Religion and citizenship: between universalism and particularism” of the VII Luso-Brazilian Symposium on Religious Studies, “Religion, Mobility and Citizenship” | 27-29 January 2021 – UCP Braga – Campus Camões.

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