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2022

STATE INSTRUMENTALIZATION OF RELIGION AND FREEDOM OF RELIGION

International Religious Liberty Association

12501 Old Columbia Pike

Silver Spring, Maryland 20904-6600, United States of America

Phone: +301.680.6686 Fax: +301.680.6695

E-mail: Info@IRLA.org Web site www.IRLA.org

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We believe that legislation and other governmental acts which unite church and state are contrary to the best interest of both institutions and are potentially prejudicial to human rights, and hold that religious liberty is best exercised where separation is maintained between church and state.

We believe that government is divinely ordained to support and protect citizens in their enjoyment of natural rights, and to rule in civil affairs; and that in so doing, government warrants respectful obedience and willing support.

We believe in the natural and inalienable right of freedom of conscience—to have or not have a religion; to adopt the religion or belief of one's choice; to change religious belief according to conscience; to manifest one's religion individually or in community with others in worship, observance, practice, promulgation, and teaching—subject only to respect for the equivalent rights of others.

We believe that religious liberty also includes the freedom to establish and operate appropriate charitable or educational institutions, to solicit or receive voluntary financial contributions, to observe days of rest and celebrate holidays in accordance with the precepts of one's religion, and to maintain communication with fellow believers at national and international levels.

We believe that religious liberty and the elimination of intolerance and discrimination based on religion or belief are essential to promote understanding, peace, and friendship among peoples. We believe that citizens should use lawful and honorable means to prevent the reduction of religious liberty.

We believe that the spirit of true religious liberty is epitomized in the Golden Rule: *Do unto others as you would have others do unto you.*

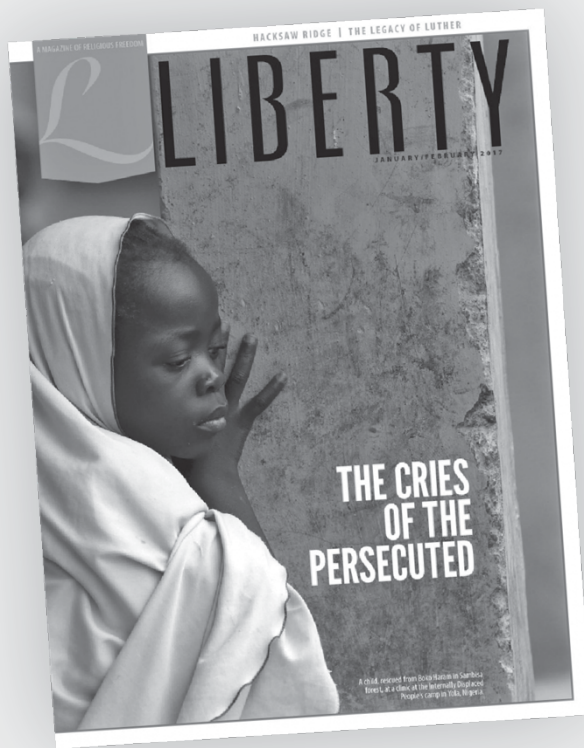
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1. Dissemination of the principles of religious liberty throughout the world;
2. Defense and safeguarding of the civil right for all people to worship, to adopt a religion or belief of their choice, to manifest their religious convictions in observance, promulgation, and teaching, subject only to the respect for the equivalent rights of others;
3. Support for religious organizations to operate freely in every country through the establishment of charitable or educational institutions;
4. Organization of local, national, and regional chapters, in addition to holding seminars, symposiums, conferences and congresses around the world.

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12501 Old Columbia Pike
Silver Spring, Maryland 20904-6600, USA
Phone: 301.680.6686 Fax: 301.680.6695
www.IRLA.org

Ganoune Diop, Publisher and Editor
Nelu Burcea, Managing Editor
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INTRODUCTION FROM THE SECRETARY GENERAL

GANOUNE DIOP

Freedom of religion or belief is on the daily news for various reasons. Religious liberty seems to be connected to major polarizing debates, disagreements, and even conflicts. Rights are today at the intersections of issues as diverse as self-defining identities, self-determination, equal rights, equal protections before the law, equal access to goods, and equal dignity. Human consciousness seems to have reached an age similar to that of the Renaissance, the Reformation, and the Age of Enlightenment, during which the human person was placed anew at the center human quest for meaning. The legitimacy of the social or ecclesiastical hierarchies began to be questioned, challenged, or simply abandoned. The age of freedom continued its pace slowly but surely. But pushbacks came in the form of conquests, continuous empire building, the partition of the continent of Africa at the Berlin Conference in 1884, and the devastating wars that have depopulated the world of millions of persons killed in combats or genocides. Violence is antithetical to freedom of conscience.

It is a given that the administration of retributive justice belongs to the state, not to individuals or private corporations. Nevertheless, religious freedom, by its very nature, provides a space for states to be accountable to the people they serve and protect. Separation of church and state or religion and state has provided a safeguard against the imposition of beliefs on people whose dictates of their conscience led them to different trajectories of faith or no faith in established religions. But when a personal and social good such as religious freedom is highjacked by states, instrumentalized, and at times used as a bargaining chip to promote or impose national interests, then a subversion of the intent of religious freedom occurs.

In the articles of this edition of *Fides et Libertas*, authors from various fields of expertise explore this pervasive practice of state instrumentalization of religious freedom. They show how this intrusion in curtailing people's rights in the name of other values such as security, or governance systems, is counterproductive and erodes the very foundations of human dignity, human rights, and human security. Without human dignity, people live beneath the destiny of freedom which is inseparable from the essence of our humanity.

We wish all states to be encouraged to protect this fragile freedom easily recuperated to other ends than its true purpose of participating in the restoration of human dignity.

We thank all the contributors for expanding our horizon of understanding the scope of this freedom which undergirds all the other freedoms.

In Gratitude,
Ganoune Diop, PhD
Secretary General, International Religious Liberty Association

FIDES ET LIBERTAS



STATE INSTRUMENTALIZATION OF RELIGION AND FREEDOM OF RELIGION



INSTRUMENTALIZATIONS OF RELIGION & FREEDOM OF RELIGION OR BELIEF: A TOOL FOR NATIONAL INTERESTS OR A UNIVERSAL VALUE?

GANOUNE DIOP¹

The core questions for our reflection are the following:

1. Can a universal human right, freedom of religion or belief, be part of the instruments states or governments use to advance their national interests and global agendas?
2. Should the global arena be ideologically framed to reflect one model of social arrangements such as democracy, capitalism, and liberalism?
3. Is religious freedom only viable in a liberal democratic social arrangement?

The active and global promotion of religious freedom is a relatively new phenomenon. During the age of empire building, conquests, colonialism, slavery, and legitimization of the racialization and divisions of people into superiors and inferiors, religious freedom was not considered a universal value. A step in the right direction while incomplete and filled with contradictions came with the adoption of the legal principle of “Cuius Regio, Eius Religio” (Whose realm, their religion).” In other words, those who rallied around or simply shared the religion of the ruler were allowed the freedom to live in that ruler’s region.

The center for valuation and decisions was not the human person per se but rather the central and exclusive authority and power of the ruler. Something external to human conscience was to dictate the religion (s) of those ruled.

At that point in time, the imperative of autonomous conscience was not part of the non-negotiable nomenclature of universal principles. The quests for and reality of domination, dominance, and dominion overrode rights, that is human rights. Force was not principally an instrument to mitigate and keep in check abusive impulses of turning human beings into conquerable domains. Instead, it was mostly used as an instrument of coercion, subjugation, subjection, submission, and appropriation of indigenous lands, resources, and persons. In

¹ Ganoune Diop, PhD, is Secretary General of the International Religious Liberty Association and Director of Public Affairs and Religious Liberty for the Seventh-day Adventist Church’s World Headquarters. He also serves as Secretary of the Conference of Secretaries of Christian World Communions.



those contexts, humans were considered domains to domesticate. That logic presided over the phenomena and devastating traumas of conquest, colonialism, and empire-building, forced labor, and slavery. It has continued in the current era of coloniality.

Another trajectory began to take shape while the logic of domination, oppression, and exploitation continued to prevail. Religious freedom became an incontrovertible part of the nomenclature of rights and particularly when it became fashionable to recognize it as part of the fundamental freedoms. Nonetheless, it too, saw its scope shrink. It became an instrument to advance national interests. Indeed, at a national level, the step to integrate the project of government promotion of freedom of religion or belief became part of the framework of foreign policy thinking. It became part of a program to turn nations into liberal democracies, this was, so goes the argument, the only way human rights would be respected. In other words, in part of Western political thought, it is widely believed that liberal democracies are the only framework for the flourishing of rights. This belief has been challenged in many ways, precisely because of the instrumentalization of freedom of religion or belief and its use as a tool for national interests and foreign policy.

The instrumentalization of religious freedom has been preceded by the instrumentalization of religion. There seems to be not one major world religious tradition that has escaped the impulse of yearning for world dominance. After all, empire building has been the right arm of world religions, including the stated infamous “mission civilisatrice.”

The instrumentalization of religion is one face of the same coin. The other is the instrumentalization of people. This instrumentalization of people was also accompanied and endorsed by the instrumentalization of religion. No religious tradition has been immune from this form of religious violence.

A little digression may be in order.

It is of interest to note that IRLA started as a resistance movement against the concept of a Christian nation and against the imposition of a mandatory day of worship. From its inception, Christianity claims to be a universal movement, not just a national one, whether Jewish or non- Jewish people.

In the American context, the four freedoms, the freedom of speech and expression, freedom of worship, freedom from want, and freedom from fear, were understood as universal values. (Reference is often made to President Franklin D. Roosevelt, who articulated the so-called Four Freedoms on Monday, January 6, 1941.)

The commitment to freedom has been fret with contradictions and inconsistencies. The key question undergirding the issue is the following:



“How can freedom be compatible with coercion or compulsion in matters of belief and faith? Obviously, international law has provisions for limitations of freedom of religion or belief. The distinction between forum Internum and forum Externum especially in the International Covenant on Civil and Political Rights (ICCPR) is well known.

During the COVID pandemic, Government prohibitions to gather in churches have triggered complaints according to which the government has no right to restrict peoples’ freedom of religion, especially freedom of assembly. This is misinformed. Suffice it to say that there are two aspects inherent to freedom of religion or belief according to international law: the *Forum Internum* and the *Forum Externum*.

The Forum Internum should never be violated. It is a person’s right to form, to hold and to change beliefs and convictions. This should have absolute protection. However, the *forum externum*, a person’s right to manifest or to outwardly display, one’s religion or belief can be legally subjected to limitations. This aspect of religious freedom is not absolute.

The International Covenant on Civil and Political Rights Article 18 (3), specifies:

“Restrictions on the freedom to manifest religion or belief only if limitations are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.”²

During pandemics, therefore, it is a matter of public health and safety to limit freedom of assembly.

One would wish that, with this provision allowing governments to set limitations to freedom to express one’s beliefs in association and assembly with others, for example, that religious freedom is reasonably employed for the public or even universal good. However, there has been more to state relations with religious freedom as repeated government restrictions to religious freedom have shown.

The impulse or urge to dominate which has characterized the inhumanity of humans had made the relations between government and freedom of religion or belief a complex and complicated story. The legitimization of violence finds its roots in the fact that at times ends justify the means. Political expediency and disregard of the principle of separation of church and state or religion and state, have stifled the fundamental and moral imperative position of freedom of religion and belief.

Moreover, when the legitimization of violence is accepted as necessary for survival, and the interests and security of powerful conquerors are branded as

² ICCPR Art. 18 (3).



providential, the door is open for the appropriation of resources, the decimation of populations and displacement of vulnerable people groups not powerful enough to defend themselves and secure their survival. This deep injustice and the fear of being overcome in wars, led nations to arm themselves with the assumption according to the more powerful they become the less likely they will be vulnerable to invasions. Moreover, this logic of self-protection is what is behind the proliferation of nuclear weapons. Nations that have them feel a sense of immunity in not risking being attacked.

But the harm done to people, their land, and resources, is too well documented. How to live with such devastating abuses in every corner of the world, subsequent to the 14th-century *pestilentia* which according to accounts decimated one-third of the European population. The age of exploration at the dawn of the Renaissance changed the global landscape forever. The so-called age of discovery translated into an age of disasters for conquered populations. Moreover, the industrial era added devastating overexploitation of earth's ecosystems. The world today bears the brunt of the ushering of the Anthropocene.

The root causes of major current world crises and predicaments are inseparable from the injustices of instrumentalization and use and abuse of people and of nature for profit and greed to the detriment of dignity and decency. No field of human experiment has been out of the scope of being instrumentalized. Freedom of religion or belief is no exception to being instrumentalized.

Could it be that it was partly to soothe consciences guilty of inflicting so much pain, suffering, and death on indigenous people, people of African descent, and people of color (BIPOC) that the “mission civilisatrice” was invented?

To be fair, the genocides of indigenous people, the domestication, and subjugation of BIPOC after the “Pestilencia” according to several experts' historians decimated one-third of the European population³, had mainly economic reasons. Human rights were not part of a global agenda in any fashion or form.

Freedom of religion or belief is in fact a deterrent to the instrumentalization of human beings. It goes against violence against human beings because they choose to believe according to the dictates of their conscience. Human beings are to be respected. Renouncing violence against people is a moral imperative.

³ The so-called bubonic plague is mostly known in connection to the fourteen-century black death (1346-1353). It began in 1331 in China, but care should be taken not to incriminate Asians indiscriminately and unjustly. This is misinformed and evil. Along with the civil war of the time, the bubonic plague decimated half of the population of China². It was caused by a strain of bacteria. In Europe, one third of the European population is estimated to have died from the plague.



There is a needed circumspection before the mystery of every person. This is prompted by the sacredness of human conscience, the faculty without which our humanity remains incomplete.

The instrumentalization of freedom of religion or belief is similar, not identical but like the use and abuse of blasphemy laws. Blasphemy laws were introduced in central Asia during the British empire. They were subsequently Islamized in a few nations.

On the other spectrum of ideological choices for governance and social contracts, religious freedom is used by governments and reduced to being one of the tools to promote their national interests, agendas. In this perspective, the focus is not on the human person everywhere but on national ideologies, interests, and priorities.

Given the interrelatedness, the interdependency, and the indivisibility of human rights and of fundamental freedoms, the instrumentalization of freedom of religion of belief affects all the other freedoms. It affects the human person at his or her core being which is inseparable from the prerequisite of freedom for human life to flourish.

Governments are set to protect people and their rights. They are entitled to set boundaries within which citizens can assume their legal responsibilities. Separation of religion and state should exclude the infringement of the state in the conscience and beliefs of citizens. States should not legislate religion, except in the case of the external expression of religion in the public space to protect citizens from harm and danger. In times of pandemics, restrictions of the forum externum of religious freedom are entirely conceivable and legal according to international law.

Religious freedom is a guarantee and a reminder of the humanity of every human person. It is a deterrent against the instrumentalization of human beings. It is also an antidote against control, power, and domination of human beings. Human dignity and human rights are inextricably linked to this incontrovertible freedom of thought, conscience, religion, or belief.



THE POLISH NATIONAL CATHOLICISM IN THE EUROPEAN FRAMEWORK. USE AND MISUSE OF RELIGIOUS FREEDOM

ROSA MARIA MARTINEZ DE CODES¹

JAIME CONTRERAS CONTRERAS²

ABSTRACT: This text describes the history of a unique paradox and invites us to analyze the deep crisis into which Polish national Catholicism has plunged, understood both as a political structure and as a cultural bloc forming a precise conception of Polish identity. The Polish Catholic Church and the Law and Justice (PiS) government are the two major social forces of so-called national Catholicism. The paradox walks the path that stretches between a notorious alliance of the two entities in their early days and the increasing distancing of both since 2016. The text proposes two explanations of such remarkable swift. One is the nationalist stance of the Church in its alliance with PiS due to its anti-liberal refugee policy and attack on the judiciary, and the other is the transnational influence of Catholicism in Europe and especially the explicit intervention of Pope Francis, who supports the rights of refugees and calls on the most reluctant sectors of the bishops' conference to join Catholic orthodoxy. The result of such a paradox is the rift that has opened up between the liberal and nationalist factions within the Polish Church.

KEYWORDS: Polish Catholic Church, Religious Freedom, Nationalism, Europe

INTRODUCTION

Recent research on political Catholicism in Europe has sought to define the ways in which Catholic politics, including Catholic political parties and political ideals have survived in and navigated in a post secular political environment. Many of these studies have articulated the complex ways in which Catholicism has adjusted and transformed in late modernity, as both an institution and a living tradition, as the Polish case points out, in ways

¹ Rosa María Martínez de Codes, PhD, is Professor of American History at Complutense University, Madrid, a Vice President of the International Religious Liberty Association, and former Vice Director of Religious Affairs in Spain's Ministry of Justice.

² Jaime Contreras Contreras, PhD, is Professor Emeritus in Modern European History in Alcalá University, Spain. He was former director of the International Center for Sefardies and Adalusies Studies and Vice Chancellor of Postgraduate Students at Alcalá University.



which have opened unexpected avenues for its continuing influence on political practices and ideas, rather than disappearing from the political landscape altogether, as much previous research on religion and political experts had expected³.

It is commonplace to say that the Polish Catholic Church is not simply considered as a part of the Polish nation; it is the Polish nation. This is reflected in the current constitutional relationship of the Church and the State in the form of a Concordat and there is no doubt that this Concordat is part of a historical tradition that determined a form of reconstruction of the rule of law in 1993. Yet, despite a formally constitutionally warranted separation, the Church retains heavy weight in the legal and political debates to the purpose that currently, during a time of resurgence of populism across the world, variety of right-wing parties adopt positions supported those of the Church, establishing a dysfunctional nexus between religion and nationalism.

So it happens that the identity of the nation and sovereignty are determined by a culture, the Catholic, that characterizes them. Such agreement was especially pointed out by the highest authority of the Catholic Church when Pope John Paul II, on Poland's entry into the European Union in 2004, indicated that such adherence was justified in order to "restore Europe for Christianity," the main idea that was based on the premise that "majorities also have rights." Such shift implied new forms of religious nationalism for Poland that significantly affected the exercise of religious freedom by creating notorious dichotomies between "us" and "others."

During the communist period (1945-1989) the Polish governments never felt powerful enough to prohibit Catholic worship or to break down ecclesiastical structures or close religious orders, hence the end of communism in Poland, as also happened in Eastern Europe, produced an ideological vacuum and the severe economic conditions that accompanied the "return to Europe" demanded a new set of "beliefs". The connection of nationality with historically dominant religions soon acquired the character of reconstruction of the nation, which meant that the religious actors' protagonists of this process strengthened their social and political capacities.

At the outset of the post-communist period, notorious concerns were expressed, especially regarding the role that the Catholic Church could play in this transition process. An important sector of Polish intellectuals expressed their opposition to the growing hegemony of the church, which changed its strategy of "open Catholicism"⁴ understood as encouraging

³ Danchin (2002, 23).

⁴ Stala (2012, p. 180 et seq).



open channels into more democracy, emancipation, and freedom, to at least one of monopolistic authoritarianism. In such circumstances, religious revivalism was conceived as a crucial factor that hindered the development of pluralism in a society that was trying to move towards more secular forms. Now the role of the Catholic Church was complicated because it had to reconcile their transnational dimension with their national role and presence, the question today is how these actors currently position themselves vis-a-vis ethnicity and nationalism and therefore the implications of their choices on religious freedom.

The aim of this contribution is therefore to explore the method and implications of the growing alliance between conservative Catholicism and Polish nationalism taking into account the normative content given to religious freedom. It is noticeable despite the fragmented nature of religious beliefs at the individual level of believers, religious freedom has got the features of a relevant field of intervention in Poland, with clear consequences on morality and therefore the exercise of politics, also as religious rights, and freedoms of citizens. The Polish case makes it possible to advance discussion on issues with pan-European resonance, such as the rights of majorities, religion as a nation-building strategy, populism, and trends toward religious inequality and the broader instrumentalization of faith.

Our interest in the first place is to introduce the evolving features of religiosity and belief in Poland, in the last 30 years, to highlight how the Polish Catholic Church through its historical presence has been contributing towards the legitimation of one specific sort of faith to the potential exclusion of others. Secondly, our presentation aims to illustrate the tension between Polish nationalism and conservative Catholicism, through the legal framework that covers religious diversity in education. Finally, we wish to suggest that the maximalist positions of radical nationalism, of the party in power, Law and Justice, are causing a deep split in the Polish ecclesial institutions, polarizing the tensions within the Episcopal Conference and deepening rifts between liberal and nationalist factions of Polish Catholicism.

1. EVOLVING TRENDS IN RELIGIOSITY IN POLAND

Against the highly fragmented and ambiguous features of religiosity in Europe, Poland stands apart due to the specific dynamics of state, church, and nation that weakens the process of emergence of a secularized society. The historical process of the communist experience was decisive, for more than forty years, a time in which the church was attributed privileges and exceptional social influences that led to the firm anchoring of religion in the



public space. The terms of this evolution were developed on the following main axes: 1) the relation between the State and religious organizations, 2) the interaction between religion and politics, 3) the institutional influence of the "national" churches, and 4) the interreligious dialogue and relations⁵. If one takes a closer look at the characteristics of religiosity in a country like Poland, one finds that the development of religious belief patterns of religious beliefs is multi-layered and complex: instead of the 'faith without belonging' prevalent elsewhere in Europe, recent Polish data points to 'belonging with less and less faith', where one still finds an impressively high level of denominational belonging, but with a declining level of faith and/or participation.

Thus, the Catholic Christian shares of the Polish population have been relatively stable. According to the Pew Research Center (2018) findings⁶ on the significance of religion in Central and Eastern Europe, 96% of Poles were raised as Christian and 92% still identify as such. However, 70% of Poles consider that religion should be kept separate from government politics, with 25% supporting the view that government should be involved in supporting religious values and beliefs. On the other hand, 64% of Poles find Catholicism to be a key component of their national identity although only 28% of respondents within the same survey have stated that the government should provide financial support to the country's preferred Catholic Church.

At the same time, Polish society seems to be in flux in terms of its religiosity. Fractured Catholicism currently dictates a certain disagreement with the rules of the Church, for example, in relation to sexual behavior, with 41 % in a Pew survey between 2015-2017 refusing to follow the Church's rules on abortion⁷. Yet 29% of Poles still consider religion very important in their lives, 61 % attend religious services at least monthly and 27% pray daily⁸. What means that the proportion of Catholics who do not worship is on the rise?

As a matter of fact, it is worth questioning whether Polish society still identifies with the values conveyed by the Catholic Church. The erosion of high religiosity, or in other words, the fragmentation of being Catholic in Poland today, is still taking place under quasi-monopolistic conditions in the religious market. Regardless of that, the Polish Catholic Church still

⁵ Merdjanova (2001, p. 265).

⁶ Pew Research Center. 2018. Eastern and Western Europeans Differ on Importance of Religion, Views of Minorities and Key Social Issues.

⁷ Pew Research Center (2018).

⁸ Heinen and Portet (2009).



maintains and assumes its mediating role for social and political issues as manifested in the position it assumed in the 2015 elections. At that time, the Catholic Church did not institutionally involve itself in the 2015 electoral campaign, however by supporting one candidate over others, the projection of the Catholic media, perceived as the "expression" of the Polish Episcopal Conference, was viewed as politically involved with the Law and Justice (PiS) candidate Andrzej Duda⁹. Earlier on, Catholic political parties have also echoed the Church's voice to the point that in 2003 the Church agreed to support Poland's accession to the EU provided that abortion laws would not be affected¹⁰.

In parallel, religious pluralism has grown in the country during post-communist period. From religious communities from India and the Far East to Protestants and evangelicals from Europe or the USA, Poland is once again becoming a "religious market". This process has led to new forms of religious nationalism, with majority religion being transformed into a politicized "resistance" strategy. This process has triggered renewed forms of religious nationalism, with the majority religion being transformed into a politicized "resistance" strategy¹¹. This sociocultural context has been partly determined by the social and economic effects derived from the fall of the communist system, which was aggravated by the worsening of an economic crisis that has generated a serious social division between broad impoverished social layers and a small, enriched minority. In this climate it is not surprising that Polish Catholicism is affected by the context of crisis. Thus, for example, there were many priests who had difficulties developing their pastoral mission and ended up adopting more conservative positions.

The role and position of the Polish Catholic Church can be analyzed in the context of (and in contrast to) the Roman Catholic Church, with which it maintained close relations during the period when John Paul II was Pope. After 1989, the Pope developed an explicit discourse on the role his homeland should play in a united Europe: the right and responsibility to become a member of Europe, but based on its own values, without uncritically adopting Western customs: "Not everything the West offers in terms of theoretical visions and practical lifestyles corresponds to the values of the Gospel¹²." Perceived Western values such as secularism, consumerism, materialism, and even atheism, were enemies of a Christian Europe.

⁹ Lesniczak (2016, pp. 272-73, 277).

¹⁰ Heinen and Portet (2009, p. 3).

¹¹ Topidi (2019).

¹² Byrnes (2002, p. 459).



2. RELIGIOUS FREEDOM AND EDUCATION IN POLAND

In contrast to communist policies that restricted religion to the private sphere, Article 35 of the Constitution adopted by the National Assembly on 2 April 1997, recognizes the right of national or ethnic minorities to preserve and develop their culture, including the right to establish and maintain institutions to protect their religious identity (paragraph 2)¹³. Given that religious diversity is currently limited in Poland, as numerically few religious minorities have established presence on Polish territory, the impact of the presence and influence of the dominant Catholic Church affected an extended array of issues, covering also some previously belonging to the private sphere, such as abortion. It is also difficult to see the power struggle between majority and minority religious actors under the conditions of a religious "quasi-monopoly."

The inherent danger at present seems to be that the dominant church pushes for social paradigms that bypass religious diversity. Can there really be a pluralized religious market in Poland? In an era where "majorities" have been advancing the argument that they have rights too; we question if the content of Article 53 of the Polish Constitution¹⁴ providing for freedom of religion to everyone is functional and operative.

In legal terms, the European Court of Human Rights has developed religious freedom compliance oversight and it has stated that Poland similarly to other European countries has enjoyed relative autonomy on religious matters. Actually, although the model of separation of state and Church applies constitutionally speaking (Article 25(3) of the 1997 Constitution), it remains informative to observe how the state unfolds its preference for the traditional Church¹⁵. The introduction of religious education, endorsing the majority religion, suggests the reticence to de facto separate the state from the Polish Roman Catholic Church.

Speaking in terms of religious diversity in Poland, it happens that the situation of marginality of minority confessions is hardly perceived by public opinion; and when these confessions are referenced in the media, immediately most of the media fall on their anti-Polish nature. As a matter

¹³ Article 35(1) and (2) of the 1997 Polish Constitution, <https://www.sejm.gov.pl/prawo/konst/angienski/konl.htm>.

¹⁴ Article 53 of the 1997 Constitution of the Republic of Poland stipulates that the freedom "shall include the freedom to profess or to accept a religion by personal choice as well as to manifest such religion, either individually or collectively, publicly or privately, by worshipping, praying, participating in ceremonies, performing rites or teaching. Freedom of religion shall also include possession of sanctuaries and other places of worship for the satisfaction of the needs of believers as well as the right of individuals, wherever they may be, to benefit from religious services."

¹⁵ Merdjanova (2001, p. 277}.



of fact, attempts of the Muslim League to establish a Muslim Community Centre in Warsaw in the early 2010s triggered anti-Muslim rhetoric, which approached the project as an unwelcomed expression of radical Islam linked to terrorism¹⁶. An irrational expression of fear that was justified by the imminent "danger¹¹ of the inevitable Islamization of the nation and of Europe as a whole.

In Poland there are two types of schools (Education System Act, 1991): public (state) schools and non-public schools. The latter, insofar as they are denominational, are autonomous in the sense that they can have their own curriculum, which must be approved by the Minister of Education. Since the law does not require religious neutrality to become a public school, these schools may be granted public school status at a later stage. In this case, the school is eligible for public funding. Public schools that do not have public school status may receive financial support from local governments. One of the most symbolic, but also significant, changes after the fall of the Berlin Wall in Poland concerned the introduction of religious education in schools. Before the end of communism, religious education was excluded from the curriculum; religious schools were closed or under strict state control.

One of the most symbolic, but also significant changes after the fall of the Berlin Wall in Poland concerned the introduction of religious courses in schools. Before the end of communism, religious education was excluded from the curriculum; religious schools were closed or under strict state control. The post-1989 reinforcement of the power of the Church made a lasting impact on the public education system insofar as it institutionalized its presence in all levels of education. Accordingly, Article 12 of the Concordat between the Holy See and Poland¹⁷ is explicit:

1. Recognizing parental rights regarding the religious education of their children, as well as the principles of tolerance, the State shall guarantee that public primary and secondary schools and kindergartens administered by civil administrative organizations or independent bodies shall provide religious education within an appropriate school or pre-school curriculum in accordance with the wishes of the persons concerned.

2. The curriculum for teaching the Catholic religion, as well as the textbooks used, shall be determined by ecclesiastical authority, and shall be made known to the relevant civil authorities.

¹⁶ *Mosque building brings Islam fears to Poland* by Gabriela Bachynski. Available at: <https://www.reuters.com/article/us-poland-mosque-idUSTRE6302VN20100401>.

¹⁷ Concordat between the Holy See and the Republic of Poland, signed on 28 July 1993 and ratified on 23 February 1998.



3. Teachers of religion must have the approval of their diocesan bishop. Withdrawal of this permission means loss of the right to teach religion.

It is obvious that these Concordat provisions are protected by the constitutional norms of 1997, which include the important role of religion in public education, with the guarantee of the ideological impartiality of the state and the prohibition of discrimination. Such principles apply in the same way to other religious organizations, recognizing them the same rights. This is what the Constitution says (article 25): (2) Public authorities in the Republic of Poland shall be impartial in matters of personal conviction, whether religious or philosophical, or concerning views of life, and shall ensure their free expression in public life; (3) relations between the State and the Churches and other religious organizations shall be based on the principle of respect for their autonomy and mutual independence in their respective spheres, and on the principle of cooperation for the benefit of individuals and the general public. Internal autonomy under Article 25(3) here means the right to make their internal laws, while the state authorities cannot interfere or determine the direction of their internal functioning. It also means that the state and religion should be financially independent of each other. Nevertheless, religious minorities with little public presence are considered discriminated against because they are unable to carry out their programs, especially if they have difficulties in obtaining official subsidies.

In general terms, there is a consensus on the introduction of religious education into the Polish curriculum. Based on the assumption that the Church should exercise relevant power, there has been little debate and limited preparation in terms of the resources needed to support the decision, both in terms of material and human infrastructure (e.g., curriculum content, teacher training, etc.). In a social context where findings on the religiosity of Polish Catholics show a selective acceptance of religious dogma, especially among the younger generation, it is worth asking whether young people are increasingly questioning the privileged position of the Church in the social and political system. One obvious consequence of this process is the decoupling of religiosity and morality.

3. THE CATHOLIC CHURCH AT THE CROSSROADS: AGREEMENTS AND DISAGREEMENTS WITH THE GOVERNMENT

Poland is the most obvious case in Europe of an alliance between the government and a politically powerful church, where both the liberal and nationalist camps have strong traditions. Moreover, the PiS coalition



government's disregard for basic human rights (refugees) and the institutions of liberal democracy has challenged the Polish Church to react. The Polish case is thus broadly relevant to understand the response of the Catholic Church to the nationalists' borrowing of Christian values and symbols¹⁸.

This reflection requires some prior considerations. The teaching of the Vatican Council II (1962-1965) on human rights and liberal democracy is a central aspect of the Church's political theology and has been further developed and applied in the decades following the Council. As far as democracy is concerned, the doctrine of the fundamental compatibility between Church teaching and liberal democracy was formulated in the Declaration on Religious Liberty (1965), *Dignitatis Humanae*, and in *Gaudium et Spes*, the Pastoral Constitution on the Church in the Modern World (1965).

Since the Council, however, there have been increasing tensions between the positions of the Church on moral issues and many seculars and even some Catholic liberals who claim that these are key human rights issues. As liberal democracies face pressure to adopt new values and forms in more and more areas of cultural and social life, the more conservative populations of Central and Eastern Europe face further tensions between their moral views and the perceived cultural colonization by the liberal West. In Poland, these tensions are particularly acute. Conflicts over moral policy are central political and social arenas in the struggle for political power, and the debates over migration.

In the reconciliation between the Church's resistance to moral liberalization and *aggiornamento* with liberal democracy. In Poland, the pontificate of John Paul II was a decisive factor in the national Church's rapprochement with liberal democracy and the deepening of moral conservatism in the country¹⁹. In line with his universalist convictions, the Pope was also a constraining force for the national Catholic faction of the Church, with great influence not only on the appointment of bishops but also on political issues, such as the country's accession to European integration or support for national Catholic parties²⁰.

From 2010, the Law and Justice party (PiS) and the national Catholic clergy formed a tacit alliance, which helped the PiS to reach victory in the 2015 parliamentary and presidential elections. In mid-2016, however, the episcopate began to distance itself from the government and criticized PiS's refugee policy. Why did the liberal and mainstream bishops shift to a

¹⁸ Modrzejewski (2017, p. 23).

¹⁹ Weigel (2010).

²⁰ John Paul II (1999).



distanced and even critical stance towards the government from mid-2016? We assume that there are two explanatory approaches.

The first way of explaining the distancing is the internal dynamics of the Polish Church, namely the polarization of the Church and the erosion of the benefits of its alliance with the government²¹. The second path argues that the Vatican intervention, often to reinstate doctrinal orthodoxy, had a strong impact on the national Episcopate's decisions. The pro-democracy theology of the Church is both pushed by the Vatican and implemented by the highest authorities of the national episcopate. The analysts of the Polish case shows that the relationship between the pontiff and the national hierarchies is a two-way affair in which the pope's authority is often diminished or challenged by tensions between the two levels²².

3.1. The First PiS Government

The Law and Justice Party (PiS), founded and chaired by the Kaczynski brothers, is the most obvious political expression of Polish national Catholicism, emerging from the breeding ground provided by the Solidarnosc trade union from the late 1970s. It was in the early 1980s, while the famous union was still clandestine, that the two brothers joined its ranks, immediately taking up positions of responsibility close to President Lech Walesa. Following his strategy, the Kaczynski twins supported the government of Tadeusz Mazowiecki, the first non-communist government in the country supported by Solidarnosc, although it was severely weakened by the various internal factions that made it up. Jaroslaw Kaczynsky contributed to this fragmentation by creating a Christian Democratic formation fed by the most anti-communist sectors of the Union, whose aim was blatantly the political elimination of the communist factions. The fall of the Mazowiecki government, concocted by President Walesa and also supported by him, was the occasion for the break of the two brothers with their mentor, who, already much weakened by the multiple tendencies undermining the Union, resigned from the presidency in 1993²³.

The political alternative that replaced the old Solidarnosc was an electoral platform of more than thirty-five political formations and groupings that rallied around a common point: Polish identity, crystallized based on Catholic values, historically considered and in the structure of

²¹ Grzymala-Busse (2015).

²² Meyer Resende M, Hennig A. Polish Catholic Bishops, Nationalism and Liberal Democracy. *Religions*. 2021; 12(2):94. <https://doi.org/10.3390/rel12020094>

²³ Orella Martinez Jose Luis, *The National Catholic Son of Solidarity, Space, Time and Form*, Series V *Contemporary History* 29, (2017, pp 204-224).



which the most important human values are contained: Life, Liberty, and Property. But this platform could not withstand the internal fractures and after the fleeting electoral triumph of 1997 it began to disintegrate irreversibly. This gave rise to two political formations which were the two most expressive political structures of the Polish right: Civic Platform, which represents a liberal conservatism, opts for a market economy, and seeks to join the European Union, and the Law and Justice Platform (PiS), which focuses on the defense of traditional Catholic morality, is critical of gender movements, is explicitly homophobic and has an interventionist economic program. PiS claims to be more comfortable in rural areas of Poland than in urban areas and repeatedly expresses its desire to represent the interests of unemployed youth.

In the 2005 presidential and parliamentary elections, the Kaczynski won the presidency of parliament and the presidency of the republic. The coincidence of the death of Pope John Paul II with the first electoral victory of the PiS led to an increased influence of the national Catholic faction. His legacy was claimed by both liberals and national Catholics. Nevertheless, and despite his conservatism in moral policy, Pope John Paul was critical of nationalism and rejected anti-Semitism.

The victory of the PiS in the above mentioned general and presidential elections facilitated the Church's access to political power beyond the already established structures for church-state cooperation. The PiS government opened up the possibility for the most radical voices within the Church to express their stance and granted them access to the political arena. In turn, the PiS used Catholic identity as a legitimization for its illiberal and anti-democratic policies²⁴. The government portrayed the refugees as an "invasion" threatening Poland and feeding terrorist networks operating in Europe, and made extensive use of the crisis as a narrative strategy. The nationalist wing of the Catholic Church joined the government's anti-refugee stance.

3.2. The Second PiS Government

In 2015 and 2016, the church hierarchy allowed the celebration of official Independence Day masses - and these were held in Warsaw's most prominent churches²⁵. In 2017, the combination of a nationalist agenda with a Christian identity was evident in the rally slogan: "We want God!" National Catholicism again marched through the main streets of Warsaw,

²⁴ Narkowicz (2018, p. 365).

²⁵ Catholic World Report 2015.



completing the process of merging Catholic symbols in support of a radical form of nationalism sanctioned by the government.

During the second PiS government, the national Catholic faction of the Church radicalized its position and gained influence through increased support for the government. The PiS ideological orientation towards national Catholicism was used to legitimize the government's positions during the refugee and democracy crisis. Established conservatives saw the deepening schism and diminishing reputation of the Church and distanced themselves from the government as it moved too far away from Catholic political theology. Although we have focused here on the church level, the polarization of these ideological divisions ran through all levels of the church, from the ecclesiastical elite to Catholic organizations and priests in local communities.

The distancing between the Polish Church and the government of the nation is explained by the internal polarization of the Church itself. Since the transition to democracy, however, the Church has responded in different ways to the secularization of society, leading to a deepening of ideological antagonism between the three main factions of the Church. In the three decades after 1989, the internal cohesion of the Church diminished and a process of ideological differentiation began both among the clergy and the faithful, moving along an axis of nationalist-conservative versus more liberal/secular Catholicism²⁶.

The first group of clergies in the Polish Church consists of a minority of liberal priests and bishops who follow the pro-democratic orthodoxy of the Vatican Council II and advocate that the Church focus on its religious role (emphasis on faith) and distance itself from the political arena. This liberal faction is in the tradition of the liberal intellectual Catholics who rejected communism. This led to a strong commitment to liberal democracy and criticism of the blurring of the lines between church and state. Liberal Catholics are rooted in respect for human rights, especially religious freedom and liberal democracy. Their political role - promoted by Pope John Paul II - during the Solidarity Crisis (1980-1981) and later during the transition to democracy (1988-1990) gave these prelates a strong public profile in the 1980s. They were also instrumental in negotiating the 1997 Polish Constitution, counterbalancing the demands of the national Catholic bishops for the Catholic Church to be enshrined in the new constitution²⁷.

The second faction comprises the majority of centrist conservative and national conservative bishops in the Polish Bishops' Conference.

²⁶ Narkowicz (2018, p. 375).

²⁷ Meyer Resende (2018).



These bishops advocate moral conservatism but maintain their defense of democratic principles and human rights. The mainstream bishops did not immediately condemn the PiS alliance with the Church.

The third group, which includes the national Catholic bishops and priests, responded to secularization after 1989 by elevating Catholicism to the status of state religion and attempting to institutionalize the creed of the fusion of Catholicism and the Polish nation. The national Catholics are heirs to the cultural currents of XIX, when Catholicism was an integral part of 19th century nationalism as the basis of Polish identity. During communist rule (1947-1989), the Church, which suffered alongside the nation, regained the status of a national institution, resisting foreign and totalitarian rule from Moscow²⁸. After Stalinism (1947-1956), Cardinal Wyszyński, who headed the country's only legal civil society organization, organized the mobilization of resistance to communism, with national Catholicism as the underlying rhetoric of legitimacy. The tradition of national Catholicism has a long history in Poland, but it has never been more in line with a post-war government II than during the second PiS government. According to studies on the ideological attitudes of the clergy, the new generation of priests is also more nationalistic than the previous one. More than 80% of the younger priests profess national Catholic ideas.

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²⁸ Meyer Resende (2014).

²⁹ Pedziwiatr (2018, p. 471).



This polarization of the Polish Church has worried the Vatican and prompted Pope Francis to launch a campaign to discipline Catholic anti-immigration positions. Poland's Catholic Church - in league with a government that refused to grant Muslim migrants the status of asylum seekers³⁰ - was a glaring case in point. The Vatican approached the Polish bishops and requested a report on the Church's policy towards refugees. Later, the Pope visited Poland (July 2016) at a moment of great public and political polarization over the arrival of some two million migrants, mainly from the Middle East.

Pope Francis' direct intervention during the asylum crisis explains the timing of the episcopate's turnaround³¹. After the Pope's visit to Poland in July 2016, the episcopate expressed its displeasure with the government's refugee policy for the first time. Prior to this, the growing tensions between the Catholic view of liberal democracy and an increasingly accepted trend in Western democracies to recognize issues such as abortion and gay rights as human rights were factors that facilitated the complicity between the episcopate and the PiS in the run-up to the 2015 elections.

As a broader contribution, the article shows how challenging the connection with nationalism is for the Church's ecclesiastical and ideological structures, especially in the current crisis of liberal democracy. In the European context, the Polish case is the clearest expression of the damaging relationship between nationalism and Catholicism, a manifestation of the anti-democratic populism that is sweeping Europe.

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³⁰ Kucharczyk and Meseznikov (2019).

³¹ Pedziwiatr (2018, p. 471).



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FROM *LAÏCITÉ* TO *NATIONALISME LAÏCISTE*

ALEXIS ARTAUD DE LA FERRIÈRE¹

ABSTRACT: In recent decades, various state actors have sought to mobilize the nominal notions of “religion” and “religious freedom” to justify policies that have little to do with the principle of protecting the liberty of conscience or the free manifestation of religious belief, nor with the underlying values of particular religious traditions. Such actions signify a worrying international trend toward the instrumentalization of religious freedom for the purposes of repressing political dissent, promoting exclusionary forms of religious nationalism, and discriminating against minorities. French domestic politics are not exempt from this overarching trend, although the manner in which it is manifest in France is colored by that country’s specific demographic profile and its particular history of Church-State relations. At the heart of this French specificity (but certainly not a French exception) is the notion of *laïcité*, premised in art. 10 of the 1789 Declaration of the Rights of Man and of the Citizen, formalized in the 1905 law on the separation of the Churches and the State, and consecrated as a constitutional principle in article 1 of the 1946 Constitution and again in article 1 of the current 1958 Constitution.

KEYWORDS: *laïcité*, religious liberty, French law

Yves Gaudemet describes *laïcité* as “the French form of religious liberty”. That is to say that the regime of separation and non-recognition, introduced through art. 2 of the 1905 Law on the Churches and the States, is the means by which the Republic ensures liberty of conscience and the free exercise of worship (as stipulated in art. 1, under the sole restrictions enumerated within the subsequent articles of the law in the interest of public order). As the State Council noted in 2004, in a historical review of its own jurisprudence, the substantive principle of *laïcité* contains three key dimensions: 1) the neutrality of the state and of public servants with regards to all opinions and beliefs; 2) religious liberty, which cannot be reduced to State neutrality or toleration, but which implies equality between religious groups and the requirement to reconcile religious freedom with the respect

¹ Alexis Artaud de La Ferrière is Lecturer in Sociology at Royal Holloway College, University of London and Associate Researcher at the Groupe Sociétés Religions Laïcités (EPHE/CNRS) in Paris



for public order; 3) religious pluralism, such that all religions have the right to expression and that none may monopolize the State or undermine the fundamental principle on which rests the State.

Without strictly defining *laïcité*, this gloss provides a framework for understanding the pragmatic and liberal interpretation which had characterized the State Council's administrative rulings until 2004. This interpretation in keeping with the legislator's original intentions, as expressed by Aristide Briand, one of the key architects of the 1905 settlement: "Whenever the public interest cannot be legitimately invoked in the silence of the texts or in the doubt of their exact application, it is the liberal solution that will be most in conformity with legislative thought".

However, as Jean Bauberot and Micheline Milot have written, the political history of *laïcité* in France has always been torn between two competing tendencies. On the one hand, there exists a liberal tendency favoring state neutrality, freedom of conscience, and religious group autonomy as a necessary dimension of individual liberty; this position is largely inspired by the Lockean Anglo-American tradition. On the other hand, there also exists a Jacobin/Bonapartist tendency that favors state regulation of religion and limitations on the autonomy of religious groups with regards to their internal organization and public activities. Although anti-clerical in spirit and associated with the irreligious *libre pensée* movement, by virtue of the dominant position that this Jacobin/Bonapartist tendency prescribes for the State over religious groups, its heritage is also to be found in the Gallican tradition of the *Ancien Régime* that existed until 1789 and which allowed for significant intervention of the Crown within the affairs of the Catholic Church in France.

Until the adoption of the 2004 law on religious symbols in schools, this latter Jacobin/Bonapartist tendency was principally restricted to what Alessandro Ferrarri has called the sphere of "narrative *laïcité*". Although the Jacobin/Bonapartist tendency increasingly dominated the public discourse from the late 1980's, it found little expression in the legal regime of *laïcité*. Indeed, to the chagrin of more ardent secularists, the legislator passed numerous laws favorable to religious accommodations for religious expression, compromising in some respects the formal regime of separation; and these laws were consistently supported and liberally interpreted by the State Council. These included the law of 1907 which allows religious groups the free use of publicly owned religious buildings, the allocation of public funds in 1920 for the construction of the Paris Grand Mosque, a 1961 finance law that allows public authorities to guarantee loans granted to religious associations, and a 1987 law that allows



donors to deduct from their taxes a portion of the money given to churches (originally 40%, subsequently raised to 66%). Arguably, such accommodations have at times compromised a strict interpretation of separation of church and state. However, they found their justification in that they represented a liberal advance in favor of the free exercise of religion within the historical conditions of XXth century France.

However, since 2004, the Jacobin/Bonapartist tendency has steadily made headway in the legal realm. As stated above, this trend was ushered in by a ban on ostentatious religious symbols in public schools, but it was extended in 2010 with the passage of a law banning full-face coverings in public and in 2016 with the El Khomri labor law, which granted employers the right to restrict employees' manifestation of beliefs at work. This legislative trend has in turn constrained the ability of the Conseil d'Etat to deliver more liberal rulings in terms of religious liberty (as had historically been its orientation), because the council is bound by the express provisions of the law. Certain authors have described this recent trend as "*nouvelle laïcité*" or neo-*laïcité*. As Stéphanie Hennette-Vauchez and Vincent Valentin argue in *L'affaire Baby Loup ou la Nouvelle Laïcité*, a core position of this tendency is to oppose "the freedom to manifest one's religious beliefs in a public place or in certain private structures" on the basis that such manifestations are a violation of the principle of *laïcité*. However, as these authors point out, such a position runs counter to (indeed, it undermines) the legal principle of *laïcité* as it was forged, interpreted, and affirmed throughout the 20th century.

Thus, from a principle guaranteeing freedom of conscience and the free exercise of worship, proponents of neo-*laïcité* have derived the basis for new-found restrictions on religious freedom. Here we find the reflection of the inversion of meaning which others have identified in the political instrumentalization of the language of religious liberty, in the United States and elsewhere. Capitalizing on the discursive legitimacy of *laïcité*, and reviving a restrictive secularist interpretation of that notion (echoing the past positions of anti-clerical Socialists such as Maurice Allard and Edouard Vaillant) which was firmly rejected by the legislator in 1905 and in subsequent legislation, proponents of neo-*laïcité* mobilize this language to undermine the very principles of state neutrality, religious liberty, and religious pluralism, which the regime of separation was designed to uphold.

Indeed, as neo-*laïcité* has consolidated itself over the past two decades, it has taken on an increasingly normative and legalistic profile, such that we may now characterize it as a substantive doctrine which we might call "*nationalisme laïciste*" (a term sometimes applied to the Turkish Kemalist



regime) because of the formal characteristics that it shares with doctrines of religious nationalism observable in other contexts. What are these characteristics? First amongst these is the affirmation of the moral legitimacy of the nation and the political authority of the state in affirming and regulating that moral legitimacy. This idea is of course not restricted to religious nationalism: it broadly describes the notion of sovereignty as it is instantiated by all nation-states. However, the particularity of religious nationalism is that it uses this notion of sovereignty as a vehicle to promote its substantive normative agenda and to co-opt the coercive power of the state in restricting the groups freedoms of minorities which are perceived as subservice to the ideal of national unity. The second characteristic is a rejection (or at least a qualification) of the liberal political order, which is seen as being in crisis in at least three respects: 1) because it cannot maintain a cohesive sense of social meaning across autonomous self-defining individuals and fragmented cultural sub-groups; 2) because, in the absence of a cohesive sense of social meaning, it cannot sustain a unified popular commitment to the common good; 3) by extension, because it cannot maintain popular adhesion to the political legitimacy of the state. The third characteristic is the promotion of a normative system of ideas and ways of being as the substantive foundation for the nation's moral legitimacy and as a necessary reference of national unity to counter social fragmentation: civic belonging is predicated, according to this view, on cultural belonging. The fourth characteristic is the deployment of a strategy to promote a normative agenda in the political public sphere through the fielding of candidates for public office and the passage of laws: working through the institutions of State to gain influence over the direction of the course of the nation rather than receding from those institutions in an communitarian or quietest manner.

Nationalisme laïciste as we have described it shares these core characteristics with expressions of religious nationalism observable in other parts of the world. Though not religious in the sense of constituting a worldview based on a specific set of metaphysical beliefs, *nationalisme laïciste* does promote a substantive normative belief that citizens should not only fulfill certain civic obligations to the nation, but that they should believe in the moral goodness of the French Republican regime and publicly manifest their loyalty to that regime. Overt expressions of religious commitment or exogenous cultural affiliation are discouraged because they are perceived to undermine national cohesion and to qualify citizens' commitment to the nation. In practice, these efforts are primarily directed against popular expressions of Islam (and to a lesser extent Evangelical Christianity and



New Religious Movements), whilst more tolerance is accorded to Catholicism. However, it is important to note that insofar as *nationalisme laïciste* exempts Catholics from the brunt of its discursive attacks, this is because Catholicism is seen by this movement as being deeply rooted within the nation's history and traditions. Accommodations for Catholicism, on this view, are justified only to the extent that they serve and promote a culturally and morally substantive project of national unity; what is valued is the cultural heritage of Catholicism, not its doctrinal commitments or exterior manifestations of belief. Practicing Catholics, meanwhile, are legally subject to the same legal restrictions on religious liberty that since 2004 have increasingly constrained other religious denominations.

Undoubtedly, the most significant and wide-reaching incursion of *nationalisme laïciste* into French law to date has been the adoption of the 2021 Law reinforcing the respect of the principles of the Republic, which expresses many of the aforementioned formal features of religious nationalism. In its exposition of the motives underlying this law submitted to the National Assembly, the government under the Presidency of Emmanuel Macron explicitly identified the need to counter "the insidious and powerful communitarianism that is slowly eroding the foundations of French society" and to reinforce Republican principles in the face of those who "disrupt national cohesion and fraternity". In order to counter this supposed threat, the bill restricts freedoms of association and religion through a wide-ranging array of new surveillance measures, sanctions, and bureaucratic obligations. First, the bill furthers the displacement of the obligation of neutrality from the state and public servants to the individual citizen within public spaces and certain private spaces such as the workplace, notably by requiring new standards of neutrality for private contractors who fulfill public tenders (art. 1). Second, the bill makes it more difficult and costly to create religious associations and it restricts the internal autonomy of religious associations (art. 69, 74). Third, it increases legal penalties for crimes committed by ministers of religion or within a religious association or by individual members of a religious association (Art. 80-87). Fourth, the bill increases the regulatory obligations imposed on private schools, most of which are faith-based, and expedites the conditions of their administrative closure (art. 55). Fifth, it restricts parents' right to choose their children's education by banning home education, except subject to derogation which can only be accorded on the basis of one of four narrow criteria: the child's state of health or disability; the child's pursuit of intensive sports or artistic activities; itinerancy of the family; or a vague condition pertaining to the child's specific situation that



motivates the parents' educational project (art. 49). Finally, it aims to co-opt civil society and sporting associations in the active promotion of what the state identifies as Republican values, notably by obliging such associations to sign a "contract of republican commitment" (art. 12). For proponents of *nationalisme laïciste*, such new restrictions are justified in order to combat social fragmentation within the nation and to rally citizens around a normatively substantive ideal of the Republic that is not sufficiently well guarded by a liberal *laissez-faire* attitude with regards to religious groups.

Although the philosophical and political advocates of *laïcité* in France have always included currents of thought hostile to religious doctrines and to religious group autonomy, the legislative and jurisprudential approach to the application of the principle of *laïcité* since 1905 had historically provided an effective framework for the protection of freedom of religion. This situation has gradually shifted over the past twenty years as successive governments have succeeded in passing legislation limiting laws limiting individual religious liberties and the group autonomy of religious organizations, and increasingly displacing the burden of neutrality from the State to individuals. This legislative trend accompanies (and is sustained by) an increasingly dominant discursive trend within the public sphere that mobilizes the language of *laïcité* as an instrument hostile to individual religious conscience and public manifestations of religion. The political instrumentalization of *laïcité* as a new form of nationalism (fueled by anxieties related to social fragmentation, political disaffectation, terrorism, and clerical sexual abuse) is gaining a new intensity, threatening to disrupt the liberal balance which has held for over one hundred years.



RELIGION AND NATIONALISM IN EUROPE

JAIME ROSSELL¹

ABSTRACT: At the beginning of the 21st century, nationalism is still on the rise in Europe, exalting elements such as language, ethnicity, religion or the awareness of belonging to a political entity, creating exclusionary communities. Religion, which for centuries has operated as an element of identity, is being used in some countries to either encourage or restrict the presence of religion in the public sphere. The author analyses the dangers of the political use of religion in Europe as well as the use of political ideologies as a substitute for religion.

KEYWORDS: religious freedom, nationalism, laicism, Europe, politic religions, identity, human rights

The 21st century is beginning and nationalism is still on the rise in Europe and the rest of the world. Recent events in a large number of EU territories such as Scotland, Ireland, Spain, Belgium, Italy, Austria, Germany, France, Hungary, Slovenia, Sweden and Poland are a clear example. In all these cases, there is a mix of more or less intense secessionist demands, the rise of Eurosceptic and xenophobic parties demanding a greater presence in migration policy or appealing to sub-national identitarian sentiments, among which religion stands out.

Nationalism is a mechanism that builds the idea of nationhood with the exaltation of elements such as language, ethnicity, religion or the awareness of belonging to a lasting political entity. These are criteria that serve to distinguish between "us" and "them", and thus establish a form of identification for the in-group and the out-group. Nationalism is an excluding ideology that leads to the construction of an "imagined community" by the people who are part of that group (Rodríguez García 2007). And in this process there is an idealisation of the nation that leads to the emergence of a feeling of national superiority, the consideration of the

¹ Jaime Rossell, PhD, is Professor of Ecclesiastical Law at the University of Extremadura. He is a member of the Commission Adviser of Religious Freedom of the Ministry of Justice and is a member of the Board of Experts of the International Religious Liberty Association and the International Association for the Defense of Religious Liberty (IADRL) based in Bern, Switzerland.



nation as a homogeneous group and an uncritical acceptance of the national state and national authorities.

But there have been different nationalisms throughout history, which unfortunately are re-emerging again. There is a political nationalism, the most obvious example of which is the French Revolution, in which the identity of the individual or group is not defined by cultural but political attributes: citizenship. There is also a cultural nationalism which, in the opposite direction, trends towards the difference and the rupture of universalities. Where the popular and idiosyncratic are exalted. Where collective unity is based on ethnic, cultural and religious values and where there is a romantic interpretation of history (Cruz Prados 1995). A nationalism that had its moment of splendour at the end of the 19th and beginning of the 20th century.

Today, in the globalised world in which we live, the nationalist phenomenon takes, in most cases, the form of cultural nationalism. And for this reason, by claiming that the political coincides with the cultural community, nationalism redefines that community and asks individuals to feel that they belong to it over and beyond the other communities to which they belong. Belonging to that community - defined in terms of whatever attribute it is, in this case the religious one - is what makes him an immediate member of the political organization (Cruz Prados 1995).

The fact is that every human being needs to belong to a basic identity group that provides the basis for his or her collective personality. A national group that is united by a series of links that distinguish them from other national groups: historical memory, territory with its borders, the use of the same language or belonging to the same religion (Petschen 1995).

History has proved to us that religion is a factor that can operate, and indeed has operated and continues to operate, as a group identity base. Europe has been an example of this for centuries. On the other hand, we cannot forget that the characteristics of nationalism and religion, in relation to the subject of my speech, have similarities. The sentimental and irrational aspects, the weight of tradition, the holistic reference to its object or the idealism of those who profess allegiance, are elements common to religion and nationalism. It is therefore not difficult to argue that nationalism is the new civil religion of our world (Petschen 1995).

In this sense, it is important to remember that some of the characteristics of political nationalism are not exclusive to this system and may be comparable in other systems, as is the case with religion. The big difference lies in the fact that its discourse is not focused on the



consolidation of a national state, but on the uniformity of large masses of the population in the face of the same idea of transcendence.

It is these common characteristics that make the nation and religion resources for shaping personal and collective identity. The example is that throughout history there has been a political use of religion to legitimise political authority and to obtain support for a regime and, at the same time, religious leaders, the ecclesiastical hierarchy, have used the support of political authorities to prosecute their own ideal and their own moral and material interests.

It is true that religion has not been, on its own, a nation-building element, it has always gone hand by hand with other elements, but it has usually worked as an actor of national reinforcement. Religion has always paid attention to the national sentiments of peoples, in order to become more closely linked to them. In this way, religion has been linked to the nation in its political, military, cultural, etc. vicissitudes.

For example, the Spanish monarchy relied on the Catholic religion for its conquests and defences. In western Ukraine, the Greek Orthodox Church has been the identifying element in establishing distance from Russian Orthodox and Polish Catholics. In Croatia, nationalism ascended linked to Catholicism, while in Serbia, historically dominated by the Turks, the only institution that identified its nationals was the Orthodox religion. It is in this historical context that we must analyse the rise of these new nationalisms in Europe (Petschen 1995).

New nationalisms or populisms which, as Linz pointed out, could mean the return of political religions, a phenomenon that was thought to have been overcome with the defeat of Nazism, fascism and communism (totalitarianism), or the politicisation of religions.

The political religions, to which we have referred, tried to compete with existing religions by trying to occupy their position. There are examples in Nazi Germany or communist Russia (Elorza 1996). And historically they have been successful in societies that have undergone a process of secularisation and have ended up adopting a hostile position towards the presence of religion, which is the enemy, in the public sphere.

This hostile model of separation between the State and the Church, currently supported in Europe by left-wing parties, is based on the rejection of cultural and religious pluralism. This model, which I dare to call laicistic, is based on the idea that true political community requires a system of shared values, beliefs and even patriotic and civil rituals to replace religious manifestations in our secularised society in a way that displaces religion, which is seen as a source of division in society (Linz 2006). Secularism as a



political religion is starting to become a reality in the political strategy of some governments in Europe.

As I have pointed out before, there are situations that continue to facilitate the fusion of religion and politics in today's world. On the one hand, there are authoritarian regimes that reject individualism and the values of liberal society, and on the other, certain manifestations of cultural nationalism, supported by religion, that support the process of nation-building or the affirmation of national identity (Linz 2006). And in all cases, there are either governments that support it or political parties that incorporate it into their programmes.

In this sense, we should not forget that the politicisation of religion in the service of nationalism or nationalism in the service of religion have been central themes in the 19th and 20th centuries, leading to a phenomenon that has sometimes looked like political religion.

But nationalism and religion, although they may have points in common, are two different things, so that throughout the history of the last century there has also been a distancing between them. In the case of the Catholic Church, the ethical problem of "nationalism" as a defining element of the pre-political essence of the State and of its social, cultural and juridical aims and objectives was raised with the communist, fascist and German National Socialist totalitarianisms, examples of political religions. Even then, Pius XI, in 1935, in the encyclical "Mit brennender Sorge" pointed out the conflict between these political systems and the fundamental postulates of the Christian faith and the most elementary ethical principles of human reason.

But the doctrine of the Catholic Church on the national question (nation and nationalism) has not been frequent, except at the beginning of the pontificate of Pius XI in 1922 and in the years immediately preceding the Second World War in 1938 and 1939. Subsequently, it was John Paul II in 1980 in his speech to UNESCO, in the context of the end of the Cold War, and in 1995 who spoke out critically by understanding the Nation as a cultural reality and not as a political reality.

The doctrine of the Catholic Church does not legitimise or support nationalist pretensions and has always been critical of the phenomenon of nationalism. Maritain, in his work "Man and the State", took a critical approach to nationalism in the 1950s, denouncing the confusion between nation and state, the myth of the national state and the so-called principle of nationalities whereby each national group should become a separate state.



According to Maritain, through these political processes the nation is divinised and perverted by nationalism. He understands that in this process the nation is assaulted by nationalism, because it is an illusion, contrary to natural law since, according to Maritain, political communities must be shaped by what they are and must not be shaped by what they are ideologically forced to be. This nationalism that is beginning to flourish in Europe is destroying civilisation and the nation as a political body.

This nationalism, according to Maritain, ends up in the blind cult of the homeland, a national cult, sometimes racist, which takes on the superior function of morality or religion (Maritain 1951). In more contemporary terms, we can say that nationalism becomes a religion of substitution.

For this reason, the doctrine of the Catholic Church has never considered so-called "exaggerated nationalism" as an acceptable proposition. In fact, while recognising the central role of the nation as a historical subject, it has never legitimised the positions of cultural nationalisms, based on religion, ethnicity or language, which claim for the nation a political configuration as an independent and sovereign state. He supports the value of patriotism, the love of the homeland, but warns of the danger of this becoming an immoderate nationalism that undermines this value and absolutises the nation as an autonomous political subject, independent of its configuration as a place where different languages, ethnicities, religions or cultures coexist (Margenat 2018).

The fusion of religion and nationalism, as Linz points out, in many cases involves the politicisation of religion in order to achieve traditional nation-building goals and in many societies has been a temptation for religious leaders. Moreover, it is not always easy to know whether intellectuals, in elaborating a politicised religion, do so as a result of their religious sentiments or as a result of their commitment to nation-building (Linz 2006). My impression is that in many cases, as for example with some ideologues of National-Catholicism in Spain, they started from a sincere religious conviction, although there are examples where religion was instrumentalised for a different political agenda (Muñoz 2020).

This reference to national Catholicism is essential if we want to understand part of what is happening in Spain today. I am of the opinion that national-Catholicism is a political model that began during the kingdom of Alfonso XIII, at the beginning of the 20th century, and that Franco took advantage of it to consolidate and justify his regime, although the position and attitude of the Catholic Church towards Franco was not the same throughout the entire period of the dictatorship. In the first period, from the end of the civil war until the end of the 1950s, the bishops' documents



made an apology for the regime, but after the Second Vatican Council these documents took a critical attitude towards General Franco's regime.

In this way, Spanish totalitarianism, attenuated in the mid-1960s, came into conflict with Catholic doctrine basically as a consequence of the Declaration *Dignitatis Humanae* and the need for the recognition of fundamental rights, the most obvious example being the promulgation of the 1967 Law on Religious Freedom.

But the nation's position on religion has recently taken different approaches in different European countries.

There was defensive nationalism such as in Lithuania, Poland and Ukraine during the time of communism. In these countries, the most appropriate place to fight communism was the Catholic Church, which gave the struggle a greater depth and vigour. With the fall of communism, the political link to the Catholic Church was no longer so necessary, and secularising elements appeared, even if the sectors that practise religious life are characterised by their firm convictions.

There is also a nationalism that has reclaimed religion as a necessity and used it to its benefit. The most obvious case is that of Bosnian Muslims, who were accustomed to secularisation and living in a secular state. The young population was not very practising but the war has pushed Bosnians to use Koranic slogans and symbols. They have even entertained the idea of founding a Muslim state. In very similar religious terms, the Serbs have also responded by building Orthodox churches.

Finally, there are more radical nationalisms in which religious elements are transferred to the nationalist imaginary. This was the case in the Basque Country, where being a good *Abertzale* meant practising unlimited Catholic loyalty and fervour. Sabino Arana, father of the Basque homeland, would have liked Spain to have had a religion other than Catholicism. Since this was not the case, he stressed the different way the Basques and Spaniards practised their religion, which meant that they were two different categories of peoples (Anchústegui 2020).

Currently, the independentist parties in Catalonia, in their relations with the Catholic Church in Spain, support those Bishops who defend that the Catholic Church in Catalonia should have its own Episcopal Conference. This has not happened as it has not been approved by the Holy See. The nationalists seek a Catalan Catholic Church, which relies on nationalist religious symbols such as the Abbey of Montserrat, which differs from the Catholic Church in Spain. Religion is once again becoming the identity element of a community.



In these cases, it is not easy to separate the fundamentally political characteristic and the initiative to use religious identities, symbols and the support of religious leaders by nationalist movements from the religious roots of this identification.

I think it is a mistake to think that the motivation of deeply religious nationalist leaders and religious leaders who engage in nationalist movements is not a religious motivation and that they do not try to put nationalism at the service of religion. And it is remarkable that on many occasions these movements enjoy the support of religious citizens even when they encounter hostility and condemnation from the religious hierarchy.

Nationalist religious leaders, especially in minority nationalities within a state, often identify the achievement of religious salvation with the liberation of the nation: only a free nation can ensure the pursuit of religious salvation. Nationalist politics is for them a service to religion.

But these religious leaders must recognise that the benefits of a politicisation of religion are sometimes more apparent than real. For fundamentalist nationalism carries within it the seeds of conflict with the Church. Nationalism sometimes rejects the transnational identity of the Churches, their vocation of universality, and thus their questioning of nationalism as a supreme value. The fact that this leads to a confrontation between religion and politicised religion in the service of the state or the nation may be concealed for some time, but sooner or later it leads to a crisis within the religious institution itself (Rossell 2017).

But those who are part of the religious institution, religious leaders and believers, who are also citizens, must understand this. And politicians need to understand that in order to avoid such a dalliance between nationalism and religion, leading to political religions or politicised religions, it is necessary to opt for a liberal model of separation between Church and State in which there is a cooperative model for the management of religious diversity.

This model of relations, referred to in Spain by our Constitutional Court as "positive secularism", reduces the interference of the religious authorities in the political sphere, but also reduces the interference of the State in the religious sphere (Rossell 2017). This ensures a certain balance insofar as it is based on a formula of cooperation that guarantees respect for religion; and, in the case of a multi-religious society, respect for religious pluralism without imposing a secularised model of society that reserves to the State the definition of moral meanings, objectives and ultimate values and creates a political religion.



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REJECTION (OR INTENDED REJECTION) OF THE COUNCIL OF EUROPE'S ISTANBUL CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE IN 2019-2020, IN THE NAME OF CHRISTIAN AND ISLAMIC VALUES

BLANDINE CHELINI-PONT¹

ABSTRACT: The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) is an international treaty of the Council of Europe, committing the signatory states to the elimination of all forms of violence against women, including domestic violence. It was signed by the Ministers of Justice of the Member States at the beginning of 2011 in Istanbul. Yet, in the last few years, this Convention has been the object of an intense political debate in several European countries, and often in countries which are not completely open to religious freedom. The object of this debate was that national parliaments accept or refuse ratification of this Convention, signed by all the member states of the Council of Europe since 2011, except Russia (without much surprise) and Azerbaijan. At the end of this year, ten years later, 4 parliaments refused to ratify it, the Czech Republic, Slovakia, Hungary, and Bulgaria, while the last two countries have not yet ratified it, the United Kingdom and Ukraine, but have announced that they will do it soon. And one state, Turkey, among the first to have signed, ratified and implemented it, has withdrawn in March 2021. We will briefly present the history of this Convention and its provisions. Then we will explain why ten years later there are still some states that have not ratified the Convention, like Hungary, why some states ratified it after a long inner battle, like Croatia, or are threatening to leave it now, like Poland, or have left it like Turkey. The reason was similar: these countries are ruled by powerful parties or political majorities that call themselves Christian or Islamic, which say that this Convention was destroying traditional (Christian-Islamic) families and promoting gender theory and homosexuality instead.

KEYWORDS: Istanbul Convention, domestic violence, Christian and Islamic values

¹ Blandine Chelini Pont, PhD, is Professor in History, Law and Religion at Aix-Marseille Université and an associate member of GSRL-École Pratique des Hautes Études in Paris.



1. WHAT IS THE ISTANBUL CONVENTION?

It is the first legally binding instrument at the pan-European level, providing a comprehensive legal framework for the prevention of violence, the protection of victims and an end to impunity for perpetrators of violence. The Council of Europe has undertaken a series of initiatives to promote the protection of women against violence since the 1990s. In particular, these initiatives have resulted in the adoption, in 2002, of the Council of Europe Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence,² and the running of a Europe-wide campaign, from 2006 to 2008, to combat violence against women, including domestic violence³. The Parliamentary Assembly of the Council of Europe has also taken a firm political stance against all forms of violence against women. It has adopted several resolutions and recommendations calling for legally binding standards on preventing, protecting against and prosecuting the most severe and widespread forms of gender-based violence.

The Council of Europe decided it was necessary to set comprehensive standards to prevent and combat violence against women and domestic violence. In December 2008, the Committee of Ministers set up an expert group mandated to prepare a draft convention in this field. Over the course of just over two years, this group, called the CAHVIO (Ad Hoc Committee for preventing and combating violence against women and domestic violence),⁴ developed a draft text. During the later stage of drafting of the convention, Russia and the Holy See proposed one amendment (among several others for Russia) to limit the requirements provided by the convention in the article 4 on fundamental rights, equality and non-discrimination. *The Russian Federation and the Holy See have proposed excluding violence against lesbian, bisexual and transgender women from the scope of this treaty, as it seeks to delete the reference to sexual orientation and gender identity as impermissible grounds of discrimination against women in Article 4(3)*. But the final draft of the convention was produced in December 2010 without modifying this article.

² Recommendation No. R (2002) 5 of the Committee of Ministers to member states on the protection of women against violence. Adopted by the Committee of Ministers on 30 April 2002, at the 794th meeting of the Ministers' Deputies.

³ Council of Europe. 2006-2008. "Campaign to Combat Violence against Women, including domestic violence (2006-2008)." Brussels: Council of Europe.

⁴ Council of Europe. 2009. "Ad Hoc Committee on preventing and combating violence against women and domestic violence (CAHVIO)." Brussels: Council of Europe.



2. WHAT ARE THE MAIN PROVISIONS OF THIS CONVENTION?

The Convention characterizes violence against women as a violation of human rights and a form of discrimination (Art.3(a)). Countries should exercise due diligence when preventing violence, protecting victims and prosecuting perpetrators (Art. 5). Moreover, the treaty establishes a series of offences characterized as violence against women. States which ratify the Convention must criminalize offences, including: psychological violence (Art.33); stalking (Art.34); physical violence (Art.35); sexual violence, including rape, explicitly covering all engagement in non-consensual acts of a sexual nature with a person (Art.36), female genital mutilation (Art.38), forced abortion and forced sterilisation (Art.39). The Convention states that sexual harassment must be subject to "criminal or other legal sanction" (Art. 40). Some other provisions of this Convention revealed to be "problematic" if we follow the logic of its opponents, as for example the Convention asked to criminalize forced marriage (Art.37), Article 3 on Definitions and article 12 on the State General obligations focused the most criticism:

"This preamble recognizes that violence against women is a manifestation of historically unequal power relations between men and women that have led to the domination and discrimination of women by men, that the structural nature of violence against women is gender-based, and that violence against women is one of the mechanisms by which women are maintained in a position of subordination to men".

Article 3 on Definitions, defines key terms among them

domestic violence: all acts of physical, sexual, psychological or economic violence that occur with the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim

That supposed the State shall modify its own articles by recognizing husband or partner as a potential perpetrator, exercising physical violence, sexual violence including rape -

article 3 defines *gender-violence* too: The convention contains a definition of gender as "the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men".

This article has been interpreted as endorsing the "gender theory", used by sociologists and activists to free people's sexual identity from social and cultural assignment. But the article doesn't go so far. It characterizes violence against women on the basis of their gender, i.e. "simply because they are women" and female gender is full of stereotypes, we know that all,



and some of them are unbearable for women. The article does not introduce the possibility of a "third" or fourth, or fifth gender...

Then article 12 on the State General obligations, Sections 1 and 4 are about the fight against prejudices, customs, traditions which are based on the idea of inferiority of the women or on stereotyped roles for women and men, to the purpose explained in the section 5: **Parties shall ensure that culture, custom, religion, tradition or so-called "honour" shall not be considered as justification for any acts of violence covered by the scope of this Convention.**

Political-religious opponents to the Convention will see that religious values are seen as prejudices and stereotypes and that the Convention wants to turn upside down the divine order of family and the divine order for women, when the Convention asks to free religious values from protecting or legitimating violence towards women.

3. FINAL RATIFICATIONS

As it is known, Russia never signed this Convention, what was not surprising as this State, considering any improvement of human protection as an American Trojan Horse while it is killing its journalists and prohibiting Human Rights and Religious organisations as foreign spies, this kind of State would not sign a Convention protecting women from men violence. Russia is now excluded from the Council of Europe and has been excluded from the Council of Europe from 2014 to 2019 because of the Crimean annexation. There is a report, published in 2018 by Human Rights Watch⁵, about the complete Russian lack of legal provision and prevention concerning women safety, and women domestic safety. The report is titled "*I could kill you but and no one would stop me: Weak State Response to Domestic Violence in Russia*".

Which States signed and ratified it in the following years? 17 before 2015- among them Albania, Austria, Bosnia, Denmark, Finland, France, Italy, Malta, Montenegro, Netherlands, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, and Turkey in 2012!

Turkey was one of the first signatories of the Istanbul Convention on Violence against Women in 2012, having the name of its most glorious city. And Turkey has put in place ambitious national action plans. A

⁵ Human Rights Watch. 2018. "I Could Kill You and No One Would Stop Me": Weak State Response to Domestic Violence in Russia." October 25, 2018, <https://www.hrw.org/report/2018/10/25/i-could-kill-you-and-no-one-would-stop-me/weak-state-response-domestic-violence>.



programmatic law known as the Family Protection Law has been passed, which was primarily a prevention law against domestic violence. The Turkish government's report to the Istanbul Convention's monitoring committee on its action between 2012 and 2017 reveals three plans, the third running from 2016 to 2020.

Between 2015 and 2019, many other States signed and ratified the Convention, Croatia, Estonia, Greece, Ireland, Luxemburg, Macedonia, Norway, Switzerland, but some with difficulties and strong debates like Croatia.

The European Union has signed it in June 2017 (that means The Council of the Chiefs of State under its competence given by the Treaty) and the European Parliament adopted a resolution in November 2019 to enjoin the national parliaments of the Union which are late to ratify it.

In 2021, later comer countries ratified the Convention, immediately after Turkey decided to withdraw: there were Latvia and Lithuania: Ukraine and United Kingdom announced they will ratify it soon too, in reaction of Turkish withdraw.

4. REASONS TO REFUSE, POSTPONE OR DELETE

Now, let see why 4 European States, members of the European Union (Slovakia, Czech Republic, Hungary and Bulgaria), why historical members of the Council of Europe like Turkey (since 1950) or why recent members of the Council of Europe, like Russia (since 1996) have expressed their opposition by not signing, not ratifying or by leaving the Convention?

The reason has been and is still the same: This Convention was destroying traditional (Christian-Islamic) families, was promoting gender theory and homosexuality. Let me give you some examples with Croatia, Poland and Hungary. Croatia ratified in 2018 after an intense political campaign to refuse the ratification/ Poland had announced its intent to oust in 2020, Hungarian Parliament refused to ratify in May 2020, as the Slovakian one in March 2019 and the Bulgarian one in August 2018.

CROATIA:

Croatia, secessionist State from the communist Yugoslav Federation has proclaimed in its 1990 Constitution its secular regime, the rights and freedoms of its citizens, including gender equality (Articles 3 and 14) and it proclaimed freedom of conscience and religion, freedom to manifest one's religion (Article 40), plus the protection of national minorities (Article 15).

But its liberal impetus soon ran out of steam, under the domination of a conservative nationalist-Catholic party. In the nineties, Croatia signed



a concordat with the Catholic Church, defined legal impediments for religious minorities and declared itself favourable to a pro-birth policy. But this did not mean new legal provisions for helping mothers at work, through careful monitoring of their maternal health, through incentive family allowances, through special care to very young children; This meant insisting on motherhood as a univocal vocation of women in the 1994 *Family Law*. Similarly, while the number of women victims of war was considerable two years after the end of the war with the Yugoslav Federation following the declaration of independence, and while domestic violence - undoubtedly also due to the trauma of that war - was at a dramatic peak, no legislation was put in place to protect Croatian women.

The immediate aftermath of the war was marked by a major economic crisis that ultimately increased the number of relegated or disadvantaged women. At the turn of the 2000s, Croatia passed laws on women's equality in politics and in the workplace. These changes were mainly because they were conditional on Croatia's entry into the European Union, which finally took place in 2013. The Croatian Parliament now has 22% female members. Local women's associations, aided by international groups and European aid, have been given a free hand to provide support to women victims of war, battered women and discrimination at work. However, the Croatian atmosphere remains unfavourable to women. The issue of repealing abortion, which has been legal since 1976, is a recurring one. The conservative party has never put it on the agenda, although it has been used as an electoral argument.

The Istanbul Convention in this context? Its ratification has been the subject of a real political and national struggle. Supported by the Catholic Church and the right wing of the ruling HDZ party, Croatian traditionalists opposed the ratification, because I quote "it introduced gender theory and undermined traditional values, family and Christianity" ... For their part, women's rights organizations accused conservative groups and the Croatian church of inventing a gender theory to protect a repressive and macho system in families.

POLAND:

At the end of July 2020, the Polish government said it would withdraw from the Istanbul Convention, according to the Minister of Justice, Zbigniew Ziobro, who belongs to the nationalist and ultra-conservative Law and Justice party (PiS).

According to him, the text would imply "a construction of the so-called socio-cultural gender in opposition to biological sex". Already, when



it was signed in 2012 by the then liberal government, Zbigniew Ziobro said it was "an invention, a feminist creation that aims to justify gay ideology".

This announcement by the Polish government occurred in a particular political context, just after the re-election of President Andrzej Duda on July 12 2021. And the presidential campaign led to a confrontation, for months, between two very opposed camps, notably on the representation of the family and women. Duda began his political career as a liberal, but he joined the Kaczynsky's government in 2006 and became gradually head of the Law and Justice party. He was elected President twice, the second time against the liberal Mayor of Warsaw. Duda based much of his campaign on his vision of the Catholic Polish family.

HUNGARY:

Hungary's parliament in May 2020 rejected ratification, as Viktor Orban's government declared it as promoting "destructive gender ideology" and "illegal migration." I quote: "Its "ideological approach is contrary to Hungarian law and the government's convictions and all the guarantees for women's safety are already provided by the legislator at the national level". The refusal of the Convention was supported into the Hungarian Parliament by deputy Lorinc Nacsa, from the ranks of the Christian Democrats, the minority coalition partners of Viktor Orban's sovereignist and Catholic Fidesz Party.

The party and the government also feared that ratifying the Convention, which Hungary signed in 2014, would require to grant asylum to female refugees persecuted in their home countries because of their gender or sexual orientation. After returning to power a decade ago, Viktor Orban had marriage enshrined in the basic law as the exclusive union of "one man and one woman." In 2018, he had removed gender studies from the list of accredited degrees in Hungary. A legislative amendment under discussion aims to define gender by "biological sex, on the basis of birth and genome."

TURKEY:

In March 2021, A Presidential Order nullified the Turkish involvement to the Convention. The issue had been debated for several months, after an official of the ruling Islamo-Conservative AKP party openly suggested last year that the treaty should be abandoned. The reason was that the Convention would damage family unity, encourage divorce and its references to equality would favour the LGBT community, which the authorities have decided to eliminate. The government argued that it did not need such a treaty to ensure women respect. Some see in these decisions a dual desire on the part of Erdogan to strengthen his religious conservative



base, while giving pledges to his ultranationalist allies in the run-up to the 2023 presidential election. A balancing act that is both risky and dangerous for the future of the country that Europe - which had just begun a thaw with Erdogan - is watching with concern. "Turkey's decision (...) is devastating news (...) that compromises the protection of women," the Council of Europe said in a statement.

5. CONCLUSION

In conclusion, alongside Islamist activists and parties who have always contested human rights liberal logic in the name of sharia, a position that President Erdogan endorses when it can help to strength his political power, there is now a strong 'Christianist' movement, which has emerged in the last decade, which contests human rights liberal logic when it is applied to women (and LGBTQ), and whose arguments are taken up by national-Catholic or national-orthodox or Christian populist parties in Europe.

I have followed some Christian networks, new networks, connected to and financed by American Christian conservative lobbies, developing in Europe, which have contributed to a simultaneous campaign against women and homosexual rights, intending to stop or withdraw legislation on "gender equality". But they don't hesitate to achieve this goal to enter in the political arena by officially create or support parties, which non only declare war to 'gay lobby' but accuse this supposed lobby to plot against Christians and to organize Christian discrimination, as it is for exemple the case in Spain with the new party *Vox*, created in December 2013. With the goal of repealing same-sex marriage, it was supported by the American organizations *Howard Center for Family and Religion and Society*. *Vox* relates to the Spanish association *Hatze Oir*, which fights against "the gay inquisition" and was founded by a man working in the past for the *American Phoenix Institute*.

Another example, the transatlantic Catholic- Christian network *Agenda for Europe*, founded in 2013 in London, has set out to thwart any legalization on abortion and sexual and reproductive rights in the name of restoring the natural order. The legislative - or judicial - effectiveness of *Agenda for Europe's* national affiliates since 2014, has been both significant and underappreciated. Its work has led to numerous restrictions, and even blockages, on the legalization of abortion and same-sex marriage in Poland, Croatia, Slovenia, Slovakia, but also Romania and Bulgaria⁶. In Poland, this

⁶ "Croatians vote to ban gay marriage." *The Guardian*, December 1, 2013. "Slovenia says No to gay marriage." *Politico*, 20 December 2015. "Over 3 million sign petition to reinforce Romania's marriage law."



network includes the Polish legal association called *Ordo Juris* which is directly counselling the Polish government and its Party PIZ.

Agenda for Europe includes also namely the Croatian deputy Zejlka Markic, founder of the new nationalist party *Hrast* acting against the Istanbul Convention. It includes too and namely American Brian Brown, who is President of *American National Organization for Marriage* and the President of the very rich and powerful *World Congress of Family*. World Congress of Family organised a Summit in Verona, Italy, in March 2019 during the European Elections campaign. At this Summit, *The World Congress of Families* has enough ties with populist and nationalist politicians and movements from several European countries, to invite them. Matteo Salvini, then Italian Deputy Prime Minister and Secretary General of the League, received a standing ovation when he congratulated the World Congress of Families for being a showcase for "the Europe we love," a Europe without the European Union, seen as ideological machinery of liberal deviancy.

Human concern about this Christianist movement is the following. We can understand when people are denouncing the political correctness of gender respect and strongly disagree with the new correctness ideology, but not at the point to condemn the human rights system and to deny it is the best way today to protect people, to protect women, children, civilians, any people who is vulnerable to physical and social violence. Opposing human rights to Christian values and Christianity, as Islamists do with Islam and Islamic norms- by thinking they are now on the verge to discriminate Christians and to destroy Christian civilisation, it is dangerous and self-destructive.

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Ganoune Diop, Editor
Fides et Libertas
International Religious Liberty Association
12501 Old Columbia Pike
Silver Spring MD 20904-6600 USA
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Ganoune Diop, Editor
Fides et Libertas
International Religious Liberty Association
12501 Old Columbia Pike
Silver Spring MD 20904-6600 USA

