

Religion, Rights and Democracy in Europe

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Abstract

Europe is a constellation of liberal democracies characterized by the conviction that the public sphere should be strictly secular and should rule out religious arguments from the realm of public reason. We may call this attitude ‘the liberal confidence.’ In the last years, the liberal confidence has been put under considerable strain by a number of cases such as the scarf, the cross in the classroom or the Mohammad cartoon saga. It quickly appeared that the liberal confidence could not provide convincing arguments to decide those issues. The principal explanation for the lack of a convincing liberal position is reflected in the dogmatic character of the liberal confidence which assumes, instead of articulating a sound justification, that religion, religious symbols and religious opinions are best kept away from our sight. This artificial situation creates more tensions than it solves and it is time to review this fundamental weakness in the liberal strand of thought. This problem raises various philosophical issues. First, it points to a serious epistemological problem, namely what is the status of religious beliefs in the formulation of public policies? Second, it raises a political issue regarding the relationship between political and religious institutions in European polities. Third, it brings back to the public forum the fundamental ethical question –How should we live?- by asking how can we possibly share the same polity without engaging in these issues in comprehensive terms (that is, in a way that takes seriously everyone’s religious and other beliefs alongside with other types of beliefs).

Keywords: Europe; Human Rights; Democracy; Liberal Approach; Religious Opinions.

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Introduction

Europe is a constellation of liberal democracies characterised by the conviction that the public sphere should be strictly secular, and where religious arguments should be ruled out from the realm of public reason. We may call this attitude 'secular confidence'. In the last years, secular confidence has been put under considerable strain by a number of cases such as the scarf, the cross in the classroom, the Mohammad cartoon saga or, very recently, the Pope's speech in Regensburg. It quickly appeared that secular confidence could not provide convincing arguments to decide those issues. The principal explanation for the lack of a convincing secular position is reflected in the dogmatic character of the secular confidence which assumes, instead of articulating a sound justification, that religion, religious symbols and religious opinions are best kept away from our sight. This artificial situation creates more tensions than it solves and it is time to review this fundamental weakness in the secular strand of thought.¹

The main question at stake is the following: what place should European liberal democratic states make for religion in the public sphere? The short answer of many Europeans as things stand is: none. The long answer, however, is more complicated since the impression is that our secularist doctrines are not anymore able to justify why religion should be wholly privatized. Moreover, in Western countries, secularism is a social phenomenon proper to Europe, but not to America. From this perspective we can clearly distinguish two broad models: on the one hand we have a tolerant religious state (USA) and on the other we have a tolerant secular state (Europe).² At this point one could argue that Europe is not a state and, more importantly, it does not have a homogeneous position in relation to the place of religion in the public sphere. Recent sociological studies, however, have clearly demonstrated that Europe as a whole shows a powerful trend toward secularisation.³

The relation between politics/law and religion in Europe is based on the principle of separation. However, this very principle has various interpretations. An extreme example of this attitude is France, whose *laïque* conviction rules out any form of contact between religion and the society. But there are milder forms of separation, if not of confusion between political and religious

1. To be clear, I do not think there is anything wrong with secularism itself. Rather, I think that the problem lies with the consequences of such a doctrine in particular as far as secular confidence is concerned.

2. For this distinction, See: Dworkin, 2006: 55-57.

3. See: Michalski (ed.) (2006). See in particular within this collection: Casanova, 2004: 23-44. Also See: Hervieu-Leger, 2006: 45-63.

authority (England). Religion does not accept a too strict wall of separation and keeps fighting back for a place in the public sphere, be it in the name of Christian or Muslim values. More specifically, religion claims that our liberal democracies are unable to deliver a sound model of good life. Atomized individuals, religious leaders claim, are lost in our consumerist societies and are unable to work out for themselves a set of ideals that would make their lives meaningful. The response of the leaders of our liberal democracies is that religion is unable to offer a model of life together where religious and non-religious people can be treated equally by neutral institutions of the state.

This icy relationship could have continued rather blandly were it not for the tragic events that shook the western world in the last five years. Since 2001, Bush, Blair, Barroso and Berlusconi raised their voices in the name of objectively good western values that they want to spread all over the globe. Thus, before invading Afghanistan or Iraq they sought the benediction of the Pope. The Vatican suffered a major blow as well. John Paul II, possibly his most charismatic leader in centuries, expired in 2005 after a long illness. His successor, Joseph Ratzinger, is an intellectual with strong views on the role of Christian roots in Europe, but a very poor record as a leader and communicator.¹ Both Religion and secularism are doing very poorly; as a result, in the last few years a copious literature on the relationship between faith and reason, State and Church, Christianity and Europe attempted to show that the two are mutually supportive and they should not be regarded as mutually exclusive.²

The first real battleground to test the place of Christian values in the European polity was the draft proposal of the European Constitution, which now sits still awaiting happier days. John Paul II had repeatedly asked for the inclusion of Christian values in the preamble of the Constitution. Joseph Weiler, probably the most influential European legal academic, wrote a short essay in Italian – *Un'Europa Cristiana*-- hammering the same point.³ A Catholic alliance of European States including Italy, Poland, Spain and part of Germany (Bavaria) were created to support the reference of Christian values in

1. The most recent accident happened in September 2006, when Ratzinger delivered a speech that outraged Islamic communities all over the world.

2. This is particularly true in certain European States such as Germany, Poland, Italy and Spain as far as I am aware. Intellectuals, politicians and religious leaders such as Habermas, Giuliano Amato, Joseph Ratzinger and so on, have been engaged in exchanges concerning the relationship between Faith and Reason, *Fede e Ragione*, *Glauben und Wissen*.

3. See: Weiler, 2003. For a critical review, See: Cvijic and Zucca, 2004: 739-748.

the text. The alliance failed to achieve this task. But not very long after the whole Constitution failed to pass the democratic test of referendum in France and Holland, two of the founding states that take themselves to be very secularist and liberal.

The second battleground concerns Islamic values in the public sphere. In Britain, for example, the debate concerning the veil is raging stronger than ever. British Muslim women have recently argued that wearing the veil is an entirely private choice; as a result public institution should not intervene in this issue. They also argued that the liberation of Muslim women start from their ability to choose how they want to lead their life starting with the issue of the veil. Feminism, so they say, should support this kind of position. These kind of arguments are puzzling. The reason why they are so is that they use the notions of public and private sphere interchangeably, just in relation to the strategic effect they want to produce. Is wearing the scarf in public a mere private choice? I really wonder. Unfortunately, there is no clear framework to decide these issues, which transform every argument into an issue of perspective including the question of the public/private divide.

Why did we get to this point? My point is that liberal democracies by insisting on the *importance of the private sphere and individual rights* have voided the public sphere of any meaningful content. More precisely, and in philosophical terms, the transition from comprehensive views to more moderate forms of liberalism emptied the public sphere of its content of values. We have no yardstick to decide what is permissible and what is not in the public sphere. We simply know what the public institutions should refrain from doing in the private sphere. This has been a welcome improvement, but the price to pay in terms of the impoverishment of the public sphere is problematic.

Religion is trying to re-conquer the public sphere by intervening on issues of public domain such as bioethics, same-sex unions, and many other issues at the edges of life. But what kind of argument can we accept as far as religion is concerned after all its claim to truth has been swiped away long ago. What kind of function can religion play if it cannot ground its position on an alleged objectivity of values? Some authors claim that Europe should develop a Christian civic religion.¹ By that they mean that some basic Christian values could be used as a starting point from which we can start the discussion concerning ethical issues that are daunting our polities. Some other Christian authors, including notably the Pope, argue that Christian doctrine can

1. Like Marcello Pera.

perform another important task in detecting and rejecting a widespread relativism at the level of the understanding of our values. To this extent, Ratzinger is making a reformed claim to objective truth of Christian dogma. We must think twice before accepting his claim that we should go back to our roots. What does this mean? If this means to revert to a regime of *Res Publica Christiana*, the answer is not. If it means: let's think about a future Europe that is open to various inputs and examine them critically, then perhaps.

A dialogue, however, cannot begin if we do not agree on the basics, which is not the case at the moment. We do not agree on the meaning of Democracy, Rights, and we do not really know what to make of religion. I will review this three issues, while the leitmotiv will be the possibility of dialogue.

Even if we are somehow 'terrorised' at the moment, this is not a good reason to engage in endless dialogue with no content. Let's pause for a second and think more deeply about what kind of a dialogue is possible and what are the objectives to be achieved. Only then, we could start listening one another. Perhaps with some results.

1. The Gap between Us: Democracy

Habermas and Ratzinger put up a good show few years ago. They both turned their cheek to the slapping adversary and concluded cheerfully: we need to embark in an on-going conversation between liberal-secularist and religious representatives. This sounds very promising, and many have concurred with the basic conclusion. But the truth is that the dialogue has not yet begun, and it will not begin until few basic points are tackled directly.

Democracy is the first obvious obstacle to a genuine dialogue. Why? The reason is that many liberal-secularist, who agree with Rawls or Habermas, think that democracy is a market place in which we can enter only if we do a number of things. The *suq* of democracy requires you to accept that within the parameters of democracy various liberties are protected, but in order to get in, you have to accept that democracy itself cannot be put into question.

So, for instance, you cannot put into question the ethical foundations of democracy, as democracy is internally justified, and its legitimacy comes from the legalisation of the processes that make up democracy. In turn, those legal processes will be legitimised by the existence of a democratic framework. Thus, Law (human rights in particular) and Democracy are mutually supportive and fully sufficient to their own mutual justification.

In other words, there is no possible external justification to democracy. It is completely useless to engage in a conversation on this issue, as this issue is by definition off limits. This basic point on the justification of democracy creates an asymmetrical relationship between different representatives willing to enter the debate. So, the liberal-secularist can boast a certain confidence and graciously grant the right to discuss to the excluded religious person. In exchange, the religious person will accept the invitation au voyage with a grin. Obviously, this is not the best position to be in, but at the end of the day religion can only improve its status within the European society where the slippery slope led them to a near to complete disappearance.

However, if you scratch the surface just a little you'll find out, for example, that the Catholic Church understands democracy in the following way: 'Whilst the autonomy proper to the life of a political community must be respected, it should also be borne in mind that a political community cannot be seen as *independent of ethical principles*.¹ This is what John Paul II said few years ago, when he was still battling for a Catholic European soul. His message is clear: democracy should give to itself substantive guidelines that must be acknowledged as objective, absolute, and inviolable. Better if these principles are of Christian inspiration. This is the gist of Ratzinger's thought too. In fact, Ratzinger was the brain behind this assertive position, and he continues to carry on this agenda tirelessly. There is continuity between John Paul II and Benedict XVI.

Now, the **problem** is that either the Church accepts the democratic rules and gives up its pretension to introduce its own version of objectively entrenched Christian principles, or it sticks to that but then forgets any type of genuine dialogue. For, if the dialogue is meant to be about the scope of democracy, but one understands democracy as excluding ethical principles and the other understands democracy as including ethical principles, then the dialogue is not likely to go very far. We can fool ourselves and pretend that we can agree to disagree on that point and yet we should carry on conversation. Under these conditions, conversation can continue forever without producing the slightest result.

This issue is a real dilemma. Rawls, who is as usual extremely honest intellectually put it in the best possible way: "How is it possible –or is it – for those of faith, as well as the nonreligious

1. John Paul II as cited in Wojciech Sadurski,

(secular), to endorse a constitutional regime even when their comprehensive doctrines may not prosper under it, and indeed may decline?" (Rawls, 2010: 149)

American experience shows that religious people are not willing to endorse a constitutional regime when their comprehensive doctrines have declined.¹ This is the story of the American society in the last 30 years, more precisely since *Roe v Wade*. That famous decision of the Supreme Court of the US declared abortion to be permissible in the first two trimesters. This was perceived as a huge victory for the liberal non-religious side of the society. It was the greatest blow ever for the religious part. Since then, a portion of the religious society attempted to invert the course of this story by engaging in politics to the support of the conservative side which declares itself prepared to stir the state in a different direction from which the supreme court of Roe wanted to take it.

Today, some of the greatest supporters of Rawls believes that his strategy was flawed. So Ronald Dworkin, possibly the head priest of Rawlsian philosophy as applied to law,² holds: "the schism over religion in America shows the limitations of Rawls's project of political liberalism, his strategy of insulating political convictions from deeper moral, ethical, and religious conviction." (Dworkin, 2008: 65) The strategy of liberal secularist in the US must therefore be modified, they claim. Deepest convictions should not be excluded from the debate anymore; to the contrary, a genuine debate about those convictions should take place within society.³ Everything must be up for grabs.

In Europe, the situation is symmetrically opposite. Liberal secularists are in a position of clear superiority and confidence, as religious is breathing its last breath. Europe is a deeply secular state, so it is religion that is claiming to be heard. Its strategy is the same as liberals in the US. Democracy, they say, must be supplemented by ethical and religious values or it becomes an empty shell for the tyranny of the majority. Secular-liberals in Europe are not impressed with this argument. Habermas, to repeat, insists that Democracy does not need an external justification such as religion or other ethical convictions. In a discursive constitutional regime, democracy's legitimacy is fed by legality and law's legitimacy is in turn fed by democracy. In other words, law and democracy are mutually supportive within our constitutional regime and need no external source to be justified. Having solved the basic issue this way,

1. See: Wills, 2006.

2. See: Dworkin, 2006.

3. See: Dworkin, 2008: 65.

Habermas goes on arguing that we should give up an imperialist understanding of secularism and engage in an on-going and open conversation with religion. Perhaps, however, the very imperialist character of secularism is due to the unwillingness to engage in a genuine dialogue on the basics that is on the (ethical) foundations of our democratic institutions.

In Europe, it is the Catholic Church that claims incessantly an unfavourable treatment. They desperately want to play the role of XXI century martyr. Already, some right wing parties are trying to enrol the Vatican on their side, as they see that the Church is being listened. On October 20, Cardinal Camillo Ruini, president of the Italian bishops, bemoaned that catholic politicians are not united around Christian values. He surely would love to see the rebirth of a Christian Democratic party.¹ The situation, however, is more complicated than in the US. Europe is de facto a tolerant secular state. The Church plays a minority game in this context. Where polarisation is more evident in Europe is between liberal-secularist and Islam. This is a much more heated contest that Europe does not master that well.

For the same reason, Europeans are not able to deal with Islam and with the daily worries it raises. The *shar'ia* is in open contradiction with democratic values.² Those who want to uphold it can *only* engage in a game where the enjeu is constantly raised. Today is the veil, tomorrow it will be something else. But those are not symbolic issues as we would like to think. Those are just instrumental issues to keep the pressure on democratic institutions and eventually claim that the choice is not between veil or no veil within a democratic framework. The choice is between democracy *a la occidentale* and other institutional framework that entrench some basic values.

The response to that cannot be: "shut up, you. We are providing a good framework where you can be happy and free." Europeans are not able to deal with Islam because they are unable to fully articulate why and how we are secularist. They are unable to give good reasons in favour of that and they retrench themselves behind the *statu quo*, namely the fact that all institutions in Europe have a secular faith, which is at the moment very solid.

This is further reason why the dialogue should happen and should be as open as possible. Liberal-secular must confront any type of arguments and come up with good convincing reasons why they stand on the right side. This exercise can only prove to be refreshing

1. http://www.corriere.it/Primo_Piano/Cronache/2006/10_Ottobre/22/ruini.shtml.

2. Alessandro Ferrari.

and there is little to lose when we finally acknowledge that we have arrived here after bloody experiences and through a work of hard refinement of our institutions. We don't want to go back to a *Res Publica Christiana*, and we do not want to move to a *Shar'ia* led *Islamic republic*. Between these two, there is something. There are our own democratic institutions which are worth years of experience and fight. It is not about maintaining a *statu quo*. It is about bringing these institutions and our own history and philosophy to a next level. To do so, we have to start from Democracy as we know it and open up to a **genuine** dialogue on what are the most important feature of this institution as well as what we want to modify.

2. Rights: (what makes liberals so confident?) Law, Liberalism and Polarisation.

Rights are the central notion that contributed to the success of secular liberalism. From the 60's Supreme Courts around the world have implemented a liberal manifesto based on the idea of individual autonomy and protected by the right to decisional privacy. From a liberal viewpoint, this development could not be more welcome. Conventional sexual morality has been swept away; in its place, supreme courts have entrenched individual liberty. In the USA this started with *Griswold*, which invalidated statutes prohibiting the use of contraceptives. Moving on from that we encountered the famous *Roe v Wade*, which set out a new legal framework for abortion. This was probably the apex of the liberal manifesto, but success was followed by deep opposition from the religious camp who gathered together against the 1973 decision of the Supreme Court.

The point that I want to stress here is the highjacking of ethics by law. In the last 40 years, representative institutions around the world denied responsibility for dealing with pressing ethical issues. Most of the time, as a result, supreme courts had to take up that responsibility in high profile cases that shaped the face of ethics in western countries. By deciding on issues such as abortion, euthanasia, stem cell research, assisted procreation and others, supreme courts begun to police the boundaries of life and death; in other words, they started intervening on the definition of the meaning of life and its quality. This was such an impressive movement that some prominent scholars gave Supreme Courts the appellation of 'Forum of Principle.'¹ By this they clearly meant that Supreme Courts were the place where morality in action was taking place. In the judicial forum, more than anywhere else, important deliberations and decisions on crucial ethical issues were taking place.

1. See: Dworkin, 1986.

There is something to be said in favour of this development. The society shook off entrenched conventional belief on how to live and how to live together. While the rights revolution was taking place, many were the people supporting it. It was by any means a popular revolution and met with great enthusiasm in the more progressive part of the society. I am certainly not the one who is going to disapprove of such a progressive development. But I have to acknowledge nonetheless that this liberation of the society came with a price which is becoming to appear only now. The **legalisation of ethics entailed the polarisation of the society**. The two poles are roughly the religious and the liberal poles. The liberal pole favours a progressive dismantling of conventional ethical standards. In their place they favour an increase of freedom of choice and pluralism. The religious pole favours the respect for some ethical guidelines which have characterised the society for a long time.

Law polarises ethical issues for a simple reason. It deals with every issue in a binary logic. On one side, one argument. On the other, the counterargument. They exchange their views and then a winner is declared. Most of the times, in the last, 40 years the winner in the forum of principle was the liberal progressive. The loser was the conservative religious. This could not happen without a response. Thus conservative organised themselves to serve the religious community, in particular those religious people that felt a huge blow from the liberal court. The political world decried the tyranny of liberal progressive values and the manifesto was always an anti Roe v Wade manifesto. Presidential elections took place on very few issues and abortion often played the role of the deciding point. Many voters, generally inclined to vote for democrats, would vote for republicans to deliver on the promise of an anti-abortion law. Politics in turn became increasingly obsessed with judicial power and one of the critical domestic issues nowadays concerns the nomination of justices at the Supreme Court. Bush managed to nominate two of them. Alito and Roberts, two justices that promise to carry further the conservative anti-revolution.

In Europe the rights revolution was more subtle. Deliberative institutions, much as in the USA gave up their responsibility as to the decision of pressing ethical issues (they were much too concerned with economic issues). The progressive revolution took place at times through judicial intervention and at times through alternative means. For example, in Italy, liberal-progressive reforms took place through Referendum. Italy is one of the few countries in the world to have a normative referendum that is a popular consultation that has the power to abrogate valid statutes. Thus, abortion law, divorce law,

and many other issues have been decided through Referenda and the parliament simply had to bow to the popular will and enact new laws with this new orientation. In some other countries, constitutional courts played a corrective role. In France for example, the *conseil constitutionnel* empowered itself in 1971 to control the constitutionality of statutes against the background of a range of different bills of rights from the past. This way, the *conseil constitutionnel* assisted the parliament in carrying out the necessary reforms in a progressive and liberal direction. In Germany, the *BVG* played a robust role in enforcing the rights revolution; so much so, that the German constitutional court also required the institution of the European Community to do the same.¹

But the characteristic trait of Europe is probably the intervention of another supranational institution, the ECHR which sits in Strasbourg. European states gave up part of their sovereignty as far as their ethical reforms were concerned. At their place that is instead of national parliaments and national courts a supranational court was to intervene on very sensitive issues. The ECHR thus had a number of landmark cases on freedom of expression, right to privacy, protection against torture and inhuman treatments, right to life and many others. Nowadays, it increasingly intervenes on matters of religious liberty. In particular, it has to deal with difficult issues concerning Muslim scarves in Turkey, and other similar problems. European ethical standards are ultimately decided in this forum. This is convenient from various viewpoints. National states do not have to bear responsibility for these difficult issues. Individuals are pleased since they have yet another judicial appeal after having exhausted national remedies.

Europe, which is sociologically a secular society, does not face as in the USA a polarisation between the liberal and the religious society. Instead, the polarisation which becomes increasingly important is between the secular Europeans and the religious others, in particular Muslim people. There seem to be an increasing inability to engage with the religious minorities; in turn, religious minorities feel increasingly misrepresented by the neutral liberal and progressive European States and Institutions.

On top of this gap, there's a growing dissatisfaction on the part of both national states and the ECHR. The latter continuously laments the impossible workload under which its institutional apparatus is crumbling. National states, in particular Britain, want to bring rights back home as they become dissatisfied by the supranational

1. Internationale Handelsgesellschaft. Solange I and II.

decisions. It is within this context that the European Court of Human Rights seem to be prepared to increase the national margin of appreciation and acknowledge the role of representative institutions when they actually intervene on certain ethical issues. A good example is the case *Evans v UK*, decided by the fourth section of the ECHR.¹ This case concerned an issue of in vitro fertilisation. A woman, unable to conceive naturally, sought medical advice to start that procedure. Before implantation of the embryo, however, Mrs Evans is diagnosed ovarian cancer. Doctors advice her to undergo cancerous treatment before proceeding with the fertilisation. She agrees to that, which means that the embryos formed with her eggs and her husband sperm are the last opportunity to bear a child. Mrs Evans worries about her future but her husband insists that he will always be with her. Two years go by and Mrs Evans, who has had her ovaries removed, is now ready for the embryo implant. Her husband, however, has changed his mind and does not want anymore to give his consent to that process. Law is on his side as it is clearly stated that each donor is allowed to change his mind up to the moment of implantation. Mrs Evans argues that her husband has created a legitimate expectation and as a consequence he cannot withdraw his promise. In this case, the ECHR acknowledges the existence of a dilemma and a human tragedy on the part of Mrs Evans. In a highly unusual move, however, the ECHR refuses to engage in the balancing of the competing interests at stake. Instead, the European Court sticks to the 'bright line' drawn by the UK parliament.

It is probably early to draw conclusion from this decision. But it does seem to point to a situation in which the European Court feels unprepared to set once more European ethical standards for everyone. On the 23rd of November 2006, the ECHR will gather in its more important formation, the Assembly, to review this decision. It is possible that the ECHR will insist on its leading role as the ethical setter. This would not be surprising. To the contrary, it would probably point to the present European ethical crisis. Given these circumstances, Europe may prefer to maintain the status quo, but how long is this possible? What kind of event is Europe waiting before rethinking its ethical foundations?

Law, in particular rights adjudication, polarises a society if it takes too many responsibility in relation to ethical dilemmas. Instead of making dialogue possible it excludes it when stretched beyond a limit. Representative institutions must be more responsible; if they avoid deciding those issues, they must explain why and how we should deal with them more adequately.

1. The tragedy of Mrs Evans and the European Discourse of Rights, *European Constitutional Law Review*, forthcoming November 2006.

3. Religion and the civil society: Truth and Good life

The Catholic Church is trying to tackle those issues in order to provide a more attractive model of a Christian way of living. After WW2, Europe became increasingly disengaged with the model of life offered by the Church. The truth unveiled by the Church appealed fewer and fewer people. European societies showed a decreasing strength in their beliefs, and this corresponded to an increased belief in one's own capacity to frame a good life for oneself.

Ratzinger has embarked on a crusade against relativism. He claims that the origin of the secular philosophy goes back to the French Revolution. From that moment on, Europe engaged in a project that involved the increasing role of technology and science in public life, and relegated God in the private sphere.¹ The separation is that between the *laïque* and the Catholic society. The former had a formidable success represented by technological and scientific progress. But that success came with a heavy price. The system of values on which the European polity has collapsed. Ratzinger feels that Europe as it is does not have a future nor does it constitute a model for other polities. His harsher criticism comes at this point: "Europe's soul comes from the material world; morality entirely depends on circumstances and must be adapted to the ends of the society." (Ratzinger, 2005: 65) This is the most dangerous aspect of European relativism and this crisis needs to be tackled somehow.

Ratzinger understands it well the problem. Catholicism has lost appeal as it does not constitute a solid standpoint when the tempest is raging outside. Unfortunately, the answer cannot be re-affirming old orthodox position more firmly than ever. Ratzinger in fact oscillates. At times he is very aggressive. At times he is very self-limited. Toward the conclusion of his second essay in *Senza Radici* (without roots) he claims that religion should simply work as a counterbalance to the liberal state in issues of bioethics.² He sees that the ethical grounds is so full of contradictions that practically it would be impossible to stick to a Christian ethics all the way down. After all, Benedict XVI acknowledges, the art of compromise belongs to Cesar, that is to politics. He repeats incessantly that the Catholic Church does not do politics and it is not concerned with policy making which requires compromise. But then, we are back to square one that is to the problem of democracy and religion. How can a dialogue be possible if it does not happen at the level of articulation of principles?

1. *Senza Radici*.

2. See: Ratzinger, 2005: 121-122.

Ratzinger's conclusion, however, is of magisterial political strategy. He points to the fact that if Europe embraced a Christian civil religion, as he wholeheartedly recommends, then there would be a decreasing need for difficult compromises. I really wonder how. Ultimately what the Pope is trying to get at is the fact that European ethics should be reconstrued along the lines of a broad Christian understanding which would inform the life of all the individuals and all the institutions. In other words, Ratzinger would like Europe to move toward a model that resembles America: a tolerant religious state instead of a tolerant secular state. He is probably underestimating the problems related to the American model. In any case, it is hard to imagine how a tolerant religious state would emerge out of the ashes of European secularism. The Catholic *magisterium* is not appealing as it is. It is much too dogmatic and offers few olive branches to the opponents in general.

What does religion offer instead then? Interestingly, the 'new' foundation proposed by Ratzinger has a very old name: dignity. (Ratzinger, 2005: 67) This is a name for a foundation of morality that must take precedence over any other political principles. Dignity is inviolable because it comes from God and as such it cannot be discussed or endangered by human actions. Dignity translates in three notable spheres for Ratzinger: Respect for life, which corresponds to a Catholic doctrine of bioethics. Second, respect for the family and its founding institution –Marriage. Third, respect for the sacred, which constitutes also a limit to freedom of opinion.

Unfortunately Ratzinger forgets to mention the poor record of the Catholic Church as far as respect for women and respect for other minorities are concerned. I have in mind some basic examples of the evils produced by its very institutions. In particular, the Catholic Church is unable to offer a model of good life that inspires because it is so out of touch with some basic issues. Think of the AIDS pandemic made easier by the lack of use of contraceptives, as demanded by the Vatican. The same Church, moreover, did very little to reconsider the place of women within the society (and within the Church). Its sexual morality in general is unfit to give positive messages to a society where sexual morality has evolved hugely.

We end up in a paradoxical position where both religion and liberalism claim to go back to the same ethical foundation –dignity—without really agreeing on the very definition of that foundation. From the religious viewpoint, dignity means a static interest of every individual being granted by god and as such inalienable and inviolable. In the liberal strand of thinking, dignity means something more

dynamic –autonomy (which translates as freedom of choice)—although some authors identify a more static element to it which lies at the core of the definition of human being. The dynamic element is Liberty, and the static element is Equality.¹

Needless to say, there is little room to agree on these basic premises. They are themselves open to disagreement and they would trigger further disagreement at various different levels. Religion and liberalism must acknowledge their present state of crisis and think about it more seriously than they are doing at the moment. It is not enough to re-affirm an orthodox Kantian position which has characterised our ethical landscape in the past two centuries. It is absolutely necessary to think those ethical grounds afresh, and few suggestions on this will be given in the final section.

A WINDOW FOR THE FUTURE: Cosmopolitan Ethics: Beyond the Ethics of citizenship and the Ethics of life. Religion, Rights and Democracy in a Future Europe

The seeds of cosmopolitanism are present in both the liberal and the Christian Ethics. But they both fall short. The universal pretension of Catholicism, for example, stumbles against the practice of enlargement of the European Union. When faced with the prospect of integrating Turkey, the Vatican and other conservative Christians in Europe responded with the metaphor of Christian roots and the necessity to maintain an homogenous society. They want to establish a Christian club, to which we can only enter if blessed by our Christian traditions. It is in essence a race based theory of belonging. Were the EU to accept this perspective, it would prove once again extremely un-European, which is what explains its present stagnation.² The EU presently lacks a vision and therefore also lacks high (cosmopolitan) standards by which it should judge its politics.

Potentially, the ethics of citizenship as put forward by Rawls/Habermas would have a very cosmopolitan pedigree... the fact of pluralism is central to Rawls. This is what makes him shift from a theory of justice to political liberalism. But political liberalism, even if it is explicitly dealing with the issue of what to do under conditions of unrelenting pluralism, does not give a satisfactory answer as we saw. Bracketing comprehensive views, and relying on a consensus which proves to be much too thin, cannot secure a firm ground for the progressive development of society. A truly genuine cosmopolitan vision can only happen if we let it emerge from the fact of pluralism.

1. See: Ratzinger, 2005: 67.

2. See: Beck, 2006: 166.

We should not be afraid of that. It in fact constitutes an invaluable yardstick with which we can assess the failure of the national communities to develop at the pace of their plural population. It can only in the long term sanction the end of community rooted ethics of citizenship and give way to a truly cosmopolitan ethics, which is an ethics of citizens of the world.¹

Unfortunately, the way liberal democracies work at the present moment reveals a very serious deficit as far as the *universalisation* of certain rights standards are concerned. There seems to be a bipolar attitude toward fundamental rights. As long as they are domestic rights they need to be protected, but then as soon as they go beyond the national boundaries there is a troubling hesitation.

A good illustration is the right to free expression as applied to the Mohammed. Imagine that internet was not available. The Mohammed cartoons would have been the object of a domestic controversy. In this case, it is easy to imagine that freedom of expression for the journalist would have been protected. Probably, many people would have wanted to protest against the poor quality of those cartoons, but the saga would have ended there. Now, in our real world those poorly conceived cartoons were easily available to nearly everyone in a short amount of time. Does this mean that freedom of expression should be curtailed? Many people thought so. I disagree. The right to satire is a fundamental aspect of freedom of expression and we cannot exclude it simply because it is likely to upset some people.

The gap from a liberal position and a Christian one on ethical issues may not be as big as we often portray it.² More importantly, both religion and liberalism must rethink their basic ethical standpoints. The world we live is not adapted to their position as we saw. And their wishful thinking as to what can be realised together is now much too thin to represent a serious guideline for an agenda on how to improve our liberal democratic states that are on the brink of collapse.

A new, cosmopolitan, ethics of responsibility is required for both the Church and the State. The articulation of this ethics of responsibility starts from the theoretical premises and ends with the institutional reforms required to make a conversation between State and Church possible, if not fruitful.

To build a European ethics of responsibility without a clear European political identity may seem to be a very difficult task to

1. Martha Nussbaum, *Frontiers of Justice*.

2. See: Antiseri, 2006. In Italy, and in Europe more generally, there is a strong tradition of liberal thinkers who are Catholics. Von Mises, Hayek.

many. Indeed, it is not a simple task; but the problems which we are facing are so huge that we can only hope that if we start now we could somehow direct Europe in the right direction for the future. It is an Herculean task. In this endeavour, it may be to the point to start with the very issue of political identity. Many people nowadays are desperate to pin down identity to a single form of allegiance, be it religious, national-political or merely geographical. Many would like to depict identity around the world in Manichean terms, in a way that miniaturize people and make them easily fit the ideological boxes.¹ In particular it is fashionable to divide the world in great spheres of politico-religious identity. The west is Christian, the middle-east is Muslim, Asia is Buddhist, etc. The fact of the matter is that it is increasingly difficult to box individuals in such a simplistic way.² This does mean that the alternative to simplification is already there and it is easy to grasp. Another modern fashion in the literature is to point to the emergence of a cosmopolitan ethics where people are defined by plural, and competing, allegiances that must be fully acknowledged. Appiah, Nussbaum, Sen and others have tried to offer a taste of what a cosmopolitan ethics may be all about. But for the moment, it boils down to biographical eccentricity. Appiah, for example, is Ghanaian, British, Gay...etc.³ Even if these attempts are merely embryonic, they all start from an important assumption: we all are cosmopolitan citizens as a matter of fact. We are not living anymore in Kant's world, where the cosmopolitan ideal was a beautiful, although fully speculative, ideal or utopia to which aspire.⁴ Nowadays, cosmopolitan lives are our lives. This is not only the case of jet setting businessmen or naïf academics, as many would want to say in order to ridicule the latest cosmopolitan manifesto. Many people moving from third world countries in search of a job or a better life are much more cosmopolitan than the majority of our European middle classes. Economic migration throughout the world has made the cosmopolitan perspective sound less empty.

Conclusion

Starting from the acknowledgment of this trend, it is possible to construe an ethics of responsibility that goes beyond narrow identities tied to one nation or one religion. A cosmopolitan outlook provides the context within which a new ethics of responsibility can blossom. The first point is negative: religious and political premises that have shaped the definition of our political identities cannot claim

1. See: Sen, 2006.

2. See: Sen, 2006.

3. See: Appiah, 2006.

4. See: Beck, 2006.

exclusivity in the shaping of our identities, although they play important roles.

If we accept the fact of our plural identities, we will be able more easily to understand that someone can be catholic, and at the same time liberal-progressive; perhaps she will also be gay and have a penchant for Buddhism in certain aspects of her life. It is not about construing an ideal mix of every possible identity. The real point is that the ethics of responsibility must acknowledge the possibility of deep tensions among the various allegiances, which we all subscribe to. Pluralism should be regarded as a creative force of life as opposed to a damning factor that exacerbates politics in our polities. How should we decide what to do in particularly difficult circumstances then?

The majority, I am confident on this, can only wish a state where democracy, liberty and equality thrive. We should not be afraid of saying that Democracy is the best possible world, even if it has limits. We should not be afraid of why this is the case. Liberal-Democracies are now grounded on sand. They are there and we are living in them. But we should make sure that their foundations be constantly monitored and reinforced with the strongest substantive arguments we can provide. If we want a future together, we have to build our democratic houses on stone.

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