

From the Edict of Milan to the religious freedom of the Enlightenment

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It has been argued that every movement or struggles for freedom in religious beliefs not only precede all moments in history, where there is a struggle for human rights and fundamental freedoms, but they are also the precondition for the protection of these fundamental rights and freedoms with a view to creating a civil society. Indeed, as the Parliamentary Assembly of the European Union accepts, the Council of Europe defends values derived from the religious teachings of respect for the human person and its rights¹.

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1. I am referred to Recommendation 1720/2005. In the same recommendation the respect for the doctrines of the three monotheistic religions is mentioned as well as that: "the three monotheistic religions of the Book have common origins (Abraham) and share many values with other religions, and that the values upheld by the Council of Europe stem from these values". For more details see, K. Kotsiopoulos, *Άνεξιθρησκεία. Κοινωνική θεώρηση τών Ανθρωπίνων Δικαιωμάτων στόν Εύρωπαϊκό και Νεοελληνικό Διαφωτισμό. Τò παράδειγμα τών John Locke και Εύγένιου Βούλγαρη*, Thessaloniki: Pournaras 2008, p. 374. On the interconnection between religious and political freedom see, for example, I. Cotler, "Religion, intolerance, and citizenship: towards a global culture of human rights", in *Intolérance: Forum international sur l'intolérance*, Unesco, 27 mars 1997, la Sorbonne, 28 mars 1997, Paris 1998, p. 64.

The essential principles of the relationship between the Christian faith and human rights lead to the existence of a global culture of human rights, which must be in coexistence with duties and obligations. It is important to emphasize that the valorization of the human person by Christianity, in combination with the reality of the Community, laid the foundation for the civilized and modern principles of democracy, conciliation, peace, tolerance and religious freedom.

The offer of Constantine the Great to humanity with the Edict of Milan (313 AD) is the placing of Christianity at the centre of social life in a direction that is by definition theocentric and not theocratic. From that moment onwards the system of equal cooperation between Church and State was established –with all its problems and difficulties– which later in the Eastern Roman Empire developed as a system of synergy and complementarity with distinct roles for the State and the Church.

Constantine the Great founded a Christian empire: "During his days the godly will flourish, peace will prevail" (*Ps.* 72:7), which, according to St. Chrysostom, fulfilled the prophecy of the prophet Isaiah: "They will beat their swords into plowshares, and their spears into pruning hooks. Nations will not take up the sword against other nations, and they will no longer train for war"². This is, thus, a confirmation of the universal and pacifying character of Christianity, which qualitatively transforms society on a classless, transnational and transracial level. This truth is also highlighted in the hymn of the Christmas Eve service: "When Augustus became supreme ruler of the earth, the multiplicity of rule among men ceased. And when you became human from the spotless one, the worship of many heathen gods also ceased. Then the cities came under one worldly rule; and the nations believed in one divine supremacy".

According to St. John Chrysostom, the presence and action of Constantine the Great is part of the so-called pattern of "synchronic parallelism", according to which there is –not by chance, but by divine providence– a coincidence in time between a capable political leader and socio-political

2. *Is.* 2:4.

and cultural conditions, with the aim of promoting Christianity for the salvation of Humanity more swiftly and effortlessly. This pattern was also described by the same Father, when he presented the coincidence of the birth of Christ with the Empire of Octavian Augustus, a fact which indicated that Divine Providence deliberately allowed the *Pax Romana* to precede it, by which the fragmented world was politically unified. The Greek language and culture, which achieved the same kind of unification on a cultural level, fit into the same interpretative pattern. The objective conditions for the easier spread of the Gospel were thus created³.

St. John Chrysostom, seeking to highlight the socio-political consequences of spreading the Gospel message, emphasizes that wars and revolutions are now succeeded in the Eastern Roman Empire by a long period of stability, freedom and peace, and for this reason the compulsory conscription of citizens is not necessary, as it was in ancient Athens. "The cities are no longer fighting among themselves or being torn apart by successive revolutions. Peace spread everywhere, from the British Isles to the Tigris River, and beyond, to Libya, Egypt and Palestine, throughout the vast expanse of the Roman Empire"⁴. Warfare, as he points out, was only observed on the borders of the Empire as a result of barbarian raids, but these were of an instructive nature.

The Edict of Milan, of historical importance for the later development of democracy and individual rights, which enshrines the principle of the freedom of religion, definitively and irrevocably turns against the deification of Caesar, thus attempting the Christian distinction between the institution of power, which is divinized but not idolized, and the person of the ruler, who may not be at the height of his task (without, of course, implying anti-authoritarian action and behavior on the part of the citizens). In the text of the Edict the return of expropriated and confiscated Christian worship centres, as well as any other church property,

3. Io. Chrysostomus, *On the Book of Isaiah*, PG 56, 33. For the notion of synchronic parallelism, see K. Mpozinis, *Ο Ιωάννης ο Χρυσόστομος για τὸ Imperium Romanum*, Athens: Kardamitsas 2003.

4. Io. Chysostomus, *On the book of Isaiah*, *ibid.*

without compensation are also referred. The above measures are part of the strategy of strengthening the social base of the Empire, which is experiencing the growing influence and social dynamism of Christianity. It will be emphasized in the Edit: "When we, Constantine and Licinius, emperors, had an interview in Milan, and conferred together with respect to the good and security of the commonweal, it seemed to us that, amongst those things that are profitable to mankind in general, the reverence paid to the Divinity merited our first and chief attention, and that it was proper that the Christians and all others should have liberty to follow that mode of religion which to each of them appeared best"⁵.

In this direction, a series of other measures were taken, which amounted to the prevalence of the new religion of Christianity, without, however, negating the right to religious freedom. Thus the clergy is exempted from public burdens, the right to property is recognized to Christian churches, which can now accept donations, the Sunday holiday is established, State subsidies are given for the construction of magnificent churches in large cities, and Christian symbols are established on public buildings, coins and military flags, the presence of Christians in the higher offices of the State is strengthened, Christian education is cultivated within the royal family⁶ and –most importantly– the decisions of the Ecumenical Councils dating from the schism of the Donatists and the heresy of Arianism become law of the Empire.

The latter measure in the modern language of the science of canon law is called "constitutional guarantee of sacred canons"⁷, as long as state and constitutional support is given to the dominant religion. These decisions certainly presuppose a corresponding philosophical and theological view, according to which the Church is recognized as the "primary agent of spiritual authority", since, according to the Canon Law of the Orthodox Church, its authority is God-given and not given

5. Eusebius, *Historia Ecclesiastica*, 5, 2-14, PG 20, 881.

6. Eusebius, *Vita Constantini* 1, 30-31; 2, 6-8, PG 20, 1008-1009 and PG 20, 892.

7. Ch. Papastathis, *Ἐκκλησιαστικὸ δίκαιο*, vol. I, Athens/Thessaloniki: Sakkoulas 2003; G. Poulis, «Ἐννοια, ἰσχὺς καὶ συνταγματικὴ κατοχύρωση τῶν κανόνων τῆς Ἐκκλησίας», *Armenopoulos* 59 (2005) 497.

by the Caesar. Constantine the Great does not interfere in the doctrinal and administrative task of the First Ecumenical Council, and this is proven by the fact that he does not accept the institution of the Church as a “secondary agent of spiritual authority”, as the representatives of the political theory of Statism would argue, which leads to the negation of the Church’s self-government.

In fact, Constantine the Great laid the foundations of Byzantine State Ecclesiastical Law, according to which the Canons of the Church are recognized as the Laws of the State. It was recognized both by himself and, to a large extent, by subsequent Emperors, that the Canon Law of the Church had a beneficial effect both on state legislation and on society in general. For this reason, Justinian in his *Novel* 131 emphasizes: “we ordain that the canons of the holy church shall have the force of law”, while elsewhere he will acknowledge the superiority of the canons over the laws: “it is written [elsewhere] that the canons stand as laws, but it is also written that the laws follow the canons. And [...] that the actual state rules that are contrary to the canon are invalid”⁸.

Under these conditions we have the fact of coincidence between the ecclesiastical and state injustice, in so far as the same act can be considered unjust both in the law of the Church and in the law of the State. In this sense, it can be argued that the entire ecclesiastical criminal law has been incorporated into positive or state law and acquires a regulative and formative character of human conscience.

In the current scholarship, it has been argued that contemporary texts and universal declarations of human rights reflect the equality of human beings before God, regardless of their ethnic or social origin. This equality of religious origin even leads intellectuals to the conclusion that: “all the revolutions of the modern world have their origins in Christianity, even if they were atheistic in their beliefs”⁹.

It is well known that the European Enlightenment moved in the direction of secularization and demystification. The dominant rationalist

8. G. Rallis – M. Potlis, *Σύνταγμα τῶν θεῶν καὶ ἱερῶν κανόνων*, vol. I, p. 36.

9. H. Arendt, *Essai sur la révolution*, Paris: Gallimard 1967, p. 32.

illuministic spirit rejects the authority of the Holy Scriptures and the Holy Tradition of the Church. These neo-Nestorian developments led to the creation of the natural religion of deism, according to which supernatural revelation is rejected, since God creates and does not provide for the world.

As immediate consequence emerges the construction of an authoritarian worldview with characteristics of autonomous and self-reliant anthropocentrism, which relativizes traditionally established values. A new type of “messianism” is being built, as Christian self-consciousness is being transformed into a secularised “democratic” self-consciousness, with the obvious elements of state and social absolutism, which in the long term invalidate the freedom of the person. This absolute “humanistic” evolution will lead to the creation of millenarian and utopian visions, the “institutionalisation” of which will nullify any notion of freedom and dignity.

Marquis de Condorcet, Voltaire’s friend and collaborator, will characteristically note that the Enlightenment introduces a new doctrine "which is to deal the final blow to the already shaken edifice of religious prejudice. It is about the idea of the unlimited perfection of the human race"¹⁰. In the same vein, Voltaire will also attack Byzantium and the Ecumenical Councils, while he will mock Constantine the Great for the Edict of the Milan, saying that "Constantin commença par donner un édit qui permettait toutes les religions; il finit par persécuter"¹¹. He disagrees with the will of the Byzantine Emperors to uphold the institution of the dominant religion and especially Christianity¹², while he believes that in the name of freedom the dogmatic formulations of the Ecumenical Councils are sophisticated and irrelevant¹³. Finally, on the question of Church-State relations, he accepts separation since, as he says, "the alliance between clergy and Empire is the most monstrous

10. Marquis de Condorcet, *Sketch for a Historical Picture of the Human Mind*, Paris 1933.

11. Voltaire, *Dictionnaire philosophique*, Paris 1838, p. 908.

12. *Ibid.*

13. *Ibid.*, p. 104.

system"¹⁴. Finally, he will support the statist concept: "no ecclesiastical law should ever be in force unless it has been expressly ratified by the government"¹⁵.

Several years earlier than the French Revolution (1789), which led to a neutral regime of religious freedom, John Locke (1632-1704) would also advocate, albeit much more gently, the system of separation of Church and State. He would hold that the Church is not a divine-human organization, but an anthropocentric collectivity in the name of faith in Christ, while the religious freedom of different religious communities should be neutral without structures of dominant religion for the State¹⁶.

On a completely different wavelength and following the Byzantine Orthodox Tradition, Eugenios Voulgaris (1716-1806), one of the greatest figures of the Modern Greek Enlightenment, would not hesitate to open up to the realms of the European intelligentsia. In his work *On Religious Freedom*, he would turn against the Papal Theocracy, without, however, agreeing with the critique of Protestantism, which sought a separation of Church and State. Voulgaris holds the sovereign responsible for protecting the prevailing religion of Orthodoxy. The Orthodox who supports the religious freedom –according to Voulgaris– has "a zeal with discernment and not a blind fanaticism"¹⁷. He is "zealous of piety" so as not to be indifferent, because indifference, as he writes, leads to atheism¹⁸.

In fact, based on the principle of moderation, Voulgaris will argue that Religious freedom cannot be either the excess of "indifference" or the lack of it, which is "atrocious". The indifferent person, according to Voulgaris is

14. *Ibid.*, p. 231.

15. *Ibid.*, p. 355.

16. On Locke's theory regarding the Freedom of Religion and his political philosophy, see for example P. Nicholson, "John Locke's later letters on Toleration", in J. Horton and S. Mendus, *John Locke, A letter Concerning Toleration in focus*, London 1991, pp. 163-187; J. Moore, "Locke on assent and toleration", *Journal of Religion* 58 (1978) 30-36; K. Kotsiopoulos, *Ανεξίθροσκειά*, op.cit., p. 188.

17. E. Voulgaris, *Σχεδιάσμα περι τῆς Ἀνεξίθροσκειάς*, Athens: Stachy ed. 2001, p. 22. Cf. K. Kotsiopoulos, *Ανεξίθροσκειά*, op.cit., p. 298.

18. E. Voulgaris, op.cit., pp. 22, 23.

not religious liberated because he has no religion, and the beastly person also is not religious liberated because he does not show tolerance. On the contrary, he writes that the “zeal with discrimination” induces the man of faith to use corresponding spiritual means to spread his faith¹⁹.

In conclusion, we could argue that the model of Church-State cooperation and coexistence, which Voulgaris desires in accordance with the Byzantine tradition (as he emphasizes), is in absolute agreement with the reasoning of the dominant religion promoted by Religious Freedom and not with the reasoning of the Church-State separation promoted by neutral religious liberty.

Indeed, this distinction between religious freedom and religious liberty still exists today in scientific theory and in the political and constitutional practice of the Member States of the European Union, which, in accordance with Article I-52 of the European Constitution²⁰, choose the regime that corresponds to their history and local tradition.

19. *Ibid.*

20. The exact wording of the article is as follows: "The Union respects and do not prejudice the statuds under national law of churches and religious associations or communities in the Member States", while in the paragraph 3 of the same article: "Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations".