

THE CHALLENGE OF OTHERNESS. DIFFERENCES AND ANALOGIES BETWEEN SYSTEMS OF MULTIRELIGIOUS PRESENCE IN EUROPE

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Abstract

One of the most important experience made by the Roman Catholic Church in the 20th Century concerns the meaning of "the other". Since the Middle Ages one of the defining point of the *Christianitas* was its difference in comparison to the other which was by definition an enemy. The Muslim, the Jew, and mostly the Heretic were paradigm of an unremedied distance between the sphere of salvation and the sphere of damnation: the role of the law was exactly that of identifying at whatever price the other and expel him from the Christian body.

Modernity challenged this idea from outside: trying to teach and to impose to the Churches a neutral space of citizenship and rights where ecclesiastical laws and condemnations had to be ineffective. The result of this effort of the 19th - 20th Century was very important and what is now called western constitutionalism comes from such a separation between church and state under a principle of *laïcité*. However these measures were accepted as a "secular" pressure, and in the intransigent Catholicism rejected as an imposition. A similar refusal of a neutral political authority can be found in different religious context, where secularization instead of eradicating religious fundamentalism is feeding it.

The real change came for Roman Catholicism from inside: inside its spiritual experience, inside its historical self-perception, inside its theological framework. Scientific exegesis did show a different Jesus, rooted in Jewish tradition and eschatological Messianism. The missionary experience of the 10th Century imposed to the Christian agenda – first of all in Anglican and Protestant milieu, later among Catholics – the issue of unity among those who professed the Name of Jesus: the ecumenical movement (since 1948 represented by the World Council of Churches and since 1965 accepted by Vatican II for the Roman Catholic Church) gave to the most obvious "other" available to the common people experience a positive meaning and it made of the "other Christians" brother to be loved and understood. Last but not the least the pontificate of John XXIII gave a new language to the Roman Catholic magisterium: the other in confessional terms, the other in religious terms and mostly the Jews became the subject of a common quest for what unifies instead of a research of the divisional reasons.

Such an impulse was solemnly defined at the II Vatican Council in the declaration *Nostra aetate*: it was planned on a document on Jewish-Christian relations after the Shoah, but it was apparently watered with other religions in order to avoid political conflicts with the Arab countries and the Arab Christians. Nonetheless this choice made of an intrinsecist paradigm (Christianity cannot think itself without Judaism) a universal paradigm of otherness: as a source of what is different and therefore vital to think one's identity.

This experience and this "inner" paradigm is very important in the end of the 20th century when the idea of a clash of civilization, interpreted and vitalized by religious experience, became a way to understand the political instability of the post-cold-war times. Inter-religious dialogue so emerged during the pontificate of John Paul II not as a polite respect of a foreigner, but as a tool to re-establish a proper harmony among differences based on internal resources and not simply relying on external orders which calls for disobedience.

Looking over the "divine surprise"

One of the facts that shock an observer of this last decade is that religions are more and more liable to enter the scene of political conflicts, and sometimes they seem able to inform the entire meaning of a conflict: the Irish pattern - where confessional difference has been absorbed within national identity - looks like an old style war.¹ Clash of civilizations and clash of religions come so close that the media are unable to discern the difference between the religious foundations of a conflict, and religious conflict.²

Our post-cold war times have given the chance to each and every group and even individuals to wage war: after decades in which only two men were able to start a doomsday conflict, now even kids (as in Zaire)³ and youths (as in Algeria) can kill - and they can also do this as "believers".⁴ War in the name of a faith is not a new creation, but after a century of ideological struggle it looks like a ghost: new catalogues of martyrs and heroes are splitting the victims into opposing sides.

Literature is hurrying breathlessly run get a convincing explanation of a "divine surprise",⁵ which often turns itself into an abyss of horrors, we have seen in the Balkans.⁶ To my knowledge the best attempt to explain the phenomenon is the framework offered by a stimulating book of Huntington: he predicts a clash of civilizations, and he describes a cultural (hidden) stereotype which is often used to frame facts. Namely that religious difference is one of the basic, unchanging axes which separates peoples and countries: from this point of view "the world" is only a marketing abstraction; different "worlds" are what does really exist, with a desire for peaceful coexistence and a corresponding inclination to misunderstand each other. Each one of these "worlds" looks to the presence of other worlds within its border as a challenge, a risk or even a real problem. According to Huntington, the revenge of God, turns itself into a struggle between humans.⁷ The existence of multireligious cohabitation - as in many European cities - is an uncomfortable reality: both the media and individual consciences are attracted much more easily by the contemplation of difficulties.

In facts problems do exist: and a lack of interpretation is evident in western reflection - either historical, juridical, or political. Current explanations are conflicting and weak. Some authors are tempted by a neo-Victorian view of the international scenario: multireligious coexistence reflects a capacity created by the western tradition of tolerance. Modern Western tolerance is a quid which other countries, cultures and religions need. If they are unable to accept it by consent, an appropriate dose of violent, though humanitarian interference can teach these savage people the art of tolerance.⁸ A different approach thinks that multireligious coexistence cannot be confronted with tolerance in the meaning that tolerance assumed after Peace of Westphalia.⁹ The coexistence of religions is and has to be dealt with as a truly new issue. After the death of God, religions have inherited from him an unexpected capacity to shape identity and ethnicity:¹⁰ a perspective which can be faced only through a secularized

¹ G. La Bella, *La questione irlandese* (Roma: 1996).

² S.P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: 1996).

³ See J. Skinnader, *Premières réflexions sur la crise du Rwanda*, in J. & P. Desk, *Spiritane congregation* ([Paris]: 1995).

⁴ M. Giro-M. Impagliazzo, *L'Algeria in ostaggio* (Milano: 1996).

⁵ A. Riccardi, *Intransigenza e modernità. La chiesa cattolica verso il terzo millennio* (Roma:-Bari 1996).

⁶ See P. Mojzes, *Yugoslavian Inferno: Ethnoreligious Warfare in the Balkans* (New York: 1994); H.T. Norris, *Islam in the Balkans. Religion and society between Europe and the Arab World* (Columbia: 1993).

⁷ G. Kepel, *La revanche de Dieu. Chrétiens, Juifs et Musulmans à la reconquête du monde* (Paris: 1991).

⁸ G. Mattai-B. Marra, *Dalla guerra all'ingerenza umanitaria, con appendice di documenti* (Torino: 1994). A typical case is that of Afghanistan: the former "freedom fighters" of Reagan's times are now depicted in western literature as the Medieval clerics opposed to women's rights...

⁹ A particular version of this approach is also looking for a theological foundation of the new world order, see J.W. de Gruchy, *Christianity and Democracy: A Theology for a Just World Order* (New York: 1995). On the Weltethos approach see: "Projekt Weltethos". *Beiträge aus Philosophie und Theologie. Zum 65. Geburtstag von Hans Küng*, Hrsg. von Bernd Jaspert (Hofgeismar: 1993); A. Auer, *Zur Theologie der Ethik. Das Weltethos im theologischen Diskurs*, Fribourg-Freiburg i.B.-Wien: 1995); *Erklärung zum Weltethos. Die Deklaration des Parlamentes der Weltreligionen*, Hrsg. H. Küng-K.J. Kuschel (München-Zürich: 1993); on recent developments *Ökologisches Weltethos im Dialog der Kulturen und Religionen*, hrsg. von Hans Kessler (Darmstadt: 1996).

¹⁰ *Ethnicity and Nations* (Houston: 1979); H. Ditten, *Ethnische Verschiebungen zwischen der Balkanhalbinsel und Kleinasien vom Ende des 6. bis zur zweiten Hälfte des 9. Jahr.* (Berlin: 1993).

appeal to a fundamental ethic. Only the search for new patterns - like a world ethic, or a secularized reading of religious sources - can be helpful.¹¹

Both these approaches, however, are seriously challenged by the whispering impotence of a tolerance' system in the West and by its capacity to orient other areas through trustworthy leadership. Where a search for religious identity is consistently massive, words differing from "fundamentalism" are lacking.¹² The chador,¹³ women's rights, polygamy and children reincarnating great masters - do not fit into a system which, even when it matches freedom and rights, is unprepared to manage freedom conflicting with rights.¹⁴ The impasse is hidden under a sense of superiority: it does exist, and it calls for comprehension. But what type of comprehension? A comprehension consisting of purely sociological description? An extreme case for constitutional law? A platform for futurist projections?

The assumption of this paper is that history (along with sociology or a juridical approach) can be helpful: in fact the process and the problems of a multireligious society can pose new questions. They can push historical research to revise - as also happens for political equilibrium - stable truths and truisms.

The long run questioning two commonplaces

If one looks at the arguments used in debating on the limits and possibilities of multireligious coexistence, one gets that a certain number of historical assumptions are taken for granted, whereas they are inconsistent or under severe revision.

One of the commonplaces at work in the discussion is the wrong assumption that tolerance (and a parallel doctrine of rights) is a modern tool created by modern western societies to curb the native, violent inclination of established churches.¹⁵ An image of tolerance as the antagonist of a religious *and therefore intolerant* background is often accepted unquestioningly.¹⁶ Such a perspective holds that the ideas of tolerance and human rights were created *ex nihilo* by modern philosophy as a remedy for religious wars and conflicts. In such a perspective Antiquity and the Middle Ages are considered to have been intolerant, because of a conceptual impotence. The Constantinian change becomes irrelevant.¹⁷ From Aristotle, to Roman law up to Thomas Aquinas, ancient philosophy shared a view of "right" as referring to an existing entity. Only an unexpected deviation from the tradition -- due to William of Ockham -- allowed for an interpretation of *ius* as being a subjective characteristic of human beings. Ockham's "aberration" - so to say - would have pioneered tolerance in political

¹¹ P. Knitter, *One Earth, Many Religions: Multifaith Dialogue and Global Responsibility* (New York: 1995); the deepest approach is that of P.C. Bori, *Un consenso etico fra le culture. Tesi per una lettura secolare delle scritture ebraico-cristiane* (Genova: 1991), with some revisions in *Per un percorso etico tra culture. Testi antichi di tradizione scritta*, a cura di P.C. Bori (Roma: 1996).

¹² A historical perspective on Christian communities in M. Percy, *Words, Wonders and Powers. Understanding Contemporary Christian Fundamentalism and Revivalism* (London: 1996); for Islamic tendencies W.M. Wyatt, *Islamic fundamentalism and modernity*, (London-New York: 1988). See also *The struggle over the past. Fundamentalism in the modern world*, ed. by William M. Shea (Lanham-New York-London: 1993); Th. Meyer, *Fundamentalismus. Aufstand gegen die Moderne* (Reinbek bei Hamburg: 1989).

¹³ L. Parisoli, *L'affaire del velo islamico. Il cittadino e i limiti della libertà*, in «Materiali per una storia della cultura giuridica» 26(1996)/1, 181-208.

¹⁴ About the impact of *'ilmāniyya* see the PISAI Dossier, *Islam et laïcité*, in «Etudes Arabes» 91/92(1996/2-1997/1), ed. by Habib C. Moussali; Mohamed-Chérif Ferjani, *Islamisme, laïcité et droits de l'homme. Un siècle de débat sans cesse reporté au sein de la pensée arabe contemporaine* (Paris: 1991).

¹⁵ See the volumes *Religious Human Rights in Global Perspective. Legal Perspectives*, and its companion book *Religious Human Rights in Global Perspective. Religious Perspectives* J. D. van der Vyver e J. Witte, Jr., eds. (The Hague: 1996) in particular the introduction of J.V. Dervyver, in *Legal...*, XVII-XXXV; and J. Witte, in *Religious...*, XVII-XXXV.

¹⁶ E.g. *Naissance et affirmation de l'idée de tolérance, 16^{ue}-18^{ue} siècles: Actes du 5^{ue} Colloque Jean Boisset*, ed. M. Péronnet (Montpellier: 1989); a different approach B. Plongeron, *De la Réforme aux Lumières: tolérance et liberté: autour d'une fausse idée claire*, in «Recherches de Science Religieuses» 78(1990), 41-72.

¹⁷ P. Brown, *Authority and the sacred. Aspects of the christianisation of the Roman world* (Cambridge-New York-Melbourne: 1995).

thought.¹⁸

This leitmotif, disseminated throughout the historical literature, was slightly modified by an apologetic neo-Thomist perspective.¹⁹ Authors such as Maritain or Finnis, maintained that Thomas Aquinas' concept of right fits perfectly within the framework of a new (and therefore more tolerant) Christendom-- but similar changes do not affect the general historical scheme just recalled.²⁰

Only recently have historians cracked this stereotype. New analysis on Roman antiquity shows the value of a *pax deorum* based on the unknown and unknowable nature of God.²¹ There is increasing reflection on the historical meaning of christianizing the Empire: not simply as a change which "perverted" an original purity of the Church, but rather as a move which changed the density of available arguments.²²

In the past twenty years we have become more conscious of differences and changes: the clash between great churches and heretic churches is no longer considered a blatant struggle of classes, but rather as a complex reality, with varying degrees of violence, severity and arguments.²³ The transposition of "pagan" violence against religious minorities into Christian intolerance against the pagan has been moderated or criticized by various authors, who were able to mix the killing of the *errantes* and the killing of the mistake.²⁴ The Jewish themselves - the target of a hate subculture - experienced varying degrees of tolerance (in the Christian east as well as in the Christian west) until the end of the 15th century--precisely the time which is usually considered to be *terminus a quo* for a history of tolerance.²⁵ As for individual and natural rights, Brian Tierney's most recent work has carefully examined the origins of *ius* and has proved definitively that a subjective comprehension of *ius* can be traced back to medieval canon lawyers:²⁶ even if the express definition of a natural religious rights came late in the debate, the conceptual instruments are traditional. I do not know a parallel work on Islamic jurisprudence and the origins of the millet, but Bernard Lewis' study of Jews under Islam has shown, since various decades, that a sophisticated regulation of religious differences can be traced from Quran foundations.²⁷

This, of course does not mean that the Christian emperor or the medieval lawyer developed an acceptable degree of coexistence between religious experience. It simply tells us that a simplification can often be an oversimplification. To reaffirm that modern tolerance has medieval roots does not change the pattern of facts, but affects the level of interpretation against a "falsified notion" of tolerance.²⁸ What history is finding out is something else: over

¹⁸ From Lachance and Villey, to Jordan and Lecler: L. Lachance, *Le concept de droit selon Aristote et S. Thomas* (Ottawa-Montreal ²1948; M. Villey, *La formation de la pensée juridique moderne* (Paris: ⁴1975) and the 2 volumes of *Philosophie du droit*, (Paris: ³1982). Less useful, D. Composta, *Il concetto di diritto nell'umanesimo giuridico di Francesco Vitoria o.p.*, in *I diritti dell'uomo e la pace nel pensiero di Francisco de Vitoria e Bartolomé de las Casas*, a cura di C. Soria (Milano: 1988). Also W. K. Jordan, *The Development of Religious Toleration in England*, 4 vol.s, (London: 1932-1940) and J. Lecler, *Histoire de la tolérance au siècle de la Réforme*, 2 vol.s (Paris: 1955).

¹⁹ See J. Finnis, *Natural law* (Oxford: 1980).

²⁰ See B. Tierney, *Public Expediency and Natural Law: A Fourteenth-Century Discussion on the Origins of Government and Property*, in *Authority and power. Studies on Medieval Law and Government presented to W. Ullmann*, ed. by B. Tierney and Peter Linehan (Cambridge: 1980), 167-182.

²¹ See M. Sordi, *Tolleranza e intolleranza nel mondo antico*, and P. Zerbi, *Medioevo: tolleranza o intolleranza religiosa*, in M. Sina (ed.), *La tolleranza religiosa. Indagini storiche e riflessioni teologiche* (Milano: 1991).

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G. Ruggieri, *La storia della tolleranza e dell'intolleranza cristiana come problema teologico*, in «Cristianesimo nella storia» 17 (1996), 463-484.

²³ See B. Tierney, *Origins of Natural Rights Language: Text and Context, 1150-1250*, in «History of Political Thought» 10(1989), 615-646; *Religious Rights: An Historical Perspective*, in J. Witte, Jr., e J. D. van der Vyver, eds., *Religious Human Rights in Global Perspectives*, J. Witte jr. ed. (The Hague: 1996), 17-45, in part. 30; *The Idea of Natural Rights. Studies on Natural Law and Church Law. 1150-1625*, (Atlanta: 1997).

²⁴ *L'intolleranza cristiana nei confronti dei pagani*, in «Cristianesimo nella storia» 11(1990), a cura di P.F. Beatrice e F. Paschoud.

²⁵ In a Jewish perspective, J. Katz, *Exclusiveness and Tolerance: Studies in Jewish-Gentile Relations in Medieval and Modern Times* (Oxford: 1961).

²⁶ B. Tierney, *The Idea of Natural Rights. Studies on Natural Rights, Natural Law and Church Law 1150-1650* (Atlanta: 1997).

²⁷ B. Lewis, *The Jews of Islam* (Princeton: 1987).

²⁸ On 18th Century development see B. Plongeron, *Aux sources d'une notion faussée: les langages théologiques de la*

the last centuries western society has incorporated into her own experience and conscience that it has to be "tolerant": it had, in other words, developed a "perfect" system to prevent intolerance from a religious factor, and (even when it is unable to acknowledge basic human rights to others) this has a pedagogic motivation in order to implement a better order. Tolerance is a truly modern tool, but it has inherited - silently - previous arguments and criteria: this is not simply a matter of change in chronology. It is important because it tells us that *within* a Christian society, and within Christian tradition - even when a culture of the enemy was hegemonic - it would have been possible arguing in terms of rights (or only in terms of tolerance?). *A fortiori* it should be possible to the Churches to reflect on this subject in a pluralistic context, not simply from a passive position of institutions regulated by civil powers, but playing a positive, active role.

Another argument coming in the discussion on the limits and possibilities of multireligious coexistence is much more a matter of prejudice, than a historical analysis. It is easy to hear and read that the contemporary coexistence of religions in the very same political space is something new.²⁹ Something new, of course, exists, and by definition one should mistrust the equivalence between long term perspective and rigid continuity. It is surely wise to underline that in the past four centuries, definitions of the limits of religions' influence have been clearer delimited than in some previous times: but situations of multireligious neighbourhood or coexistence did exist, in the past, along a *limes* which crosses cultures and continents, and within the very body of European Christendom.

When we talk of cohabitation, we should underline a difference between confessional borders and religious differences. Even if Christians, after the 16th century, got used to talking about themselves as "religions", the coexistence is by no means related to their presence (ruled according to the principle of "modern" tolerance).³⁰ A really multireligious presence did exist, and it worked. Thanks to the Jewish community and economic exchanges with Islamic countries, a *complicatio* took place: it was not because of a tightness of religious obligation that antisemitism became more violent, rather in correspondence with to strengthening of the regime Christendom. This balance of conflict and coexistence, however, has roots which have not been properly explored. Much research is needed to understand the border between Christianity and other religious worlds (one might remember that the encounter between Buddhism and Christianity does not belong to America's contemporary history, but the Middle East of the fourth century;³¹ or we would welcome studies on the real impact of repressive manifestoes in European juridical history, which can reveal a harsh hate as well as lack of implementation in repression; and when Christianity and Islam did meet, among Christians there was a theory of voluntary martyrdom, which explains how the 7th Century saw the "challenge" of a new religion³²).

In Europe's past and in the deepest strata of its history there is also the experience of a meeting which took place far from home. The renegades question, for instance, is very interesting: prisoners of Islamic countries the "renegades" had quitted Christianity for Islam. When some of them had the luck to escape, they posed serious problems to the religious authorities: living witnesses of a possible encounter, they were a heresy for Christendom.³³ Far from the Mediterranean, merchants and travellers found the challenge of cohabitation: the heavenly harmony within Indians' tribes and natives' villages of the new world - as well as the sophisticated culture in Chinese courts - impressed the European observer.

tolérance au 18e siècle, in *Bulletin de la Société de l'Histoire du Protestantisme Français* 134(1988) 219-238 e J. Delumeau, *La difficile émergence de la tolérance*, in *La Révocation de l'Edit de Nantes*; éd. par R. Zuber et L. Theis (Paris: 1986) 359-374.

²⁹ *Christlicher Glaube in multireligiöser Gesellschaft. Erfahrung - Theologische reflexionen- Missionarische Perspektiven*, Hrsg. Anton Peter (1996).

³⁰ See *Tolerance and intolerance in the European Reformation*, ed. by O.P. Grell & B. Scribner (Cambridge: 1996).

³¹ Ch. S. Prebish, *Historical dictionary of Buddhism* (Metuchen, NJ: 1993). T. Tweed, *The American encounter with Buddhism 1844-1912. Victorian Culture and the limits of dissent* (Bloomington and Indianapolis: 1992)

³² On Juan Alvarez and Eulogius of Cordoba see D. Millet-Gérard, *Chrétiens mozarabes et culture islamique des VII^e-IX^e siècles* (Paris: 1984).

³³ B. & L. Bennisar, *Chrétiens d'Allah, L'histoire extraordinaire des renégats XVI^e-XVII^e siècles* (Paris: 1989).

These are only seeds of future research, rather than definitive conclusions. Nonetheless they show that deeper historical knowledge - able to maintain a balance between general trends, particular histories, dormant realities - can be useful. When one goes back to revisin⁹ the two dominating theses concerning the issue of multireligious relationships in our world - the ideological character of current explanations becomes self-evident. Neither by underlining the tool of tolerance nor the novelty of a "*necessitata*" coexistence of religious difference can one trace the origins of our present uncertainty. If there is a spreading perception of danger, and a threat to western tolerance, this has to be explained by a different background.

If one loses this diachronic depth there will be no understanding, and even the danger of something worse. Only a passive, cynical acceptance of the shoa's effects may conceal the fact that a European Jewry did exist, though in a condition of discrimination and persecution;³⁴ and beside this, a Christian presence - affected by colonialist echos - did exist within Islamic society or Buddhist kingdoms. The massive number of immigrants arriving from Islamic countries, and the formation of a considerable non-Christian community of peoples from Africa and Asia, has deeply affected the *degree* of complexity within Europe; but they have not created a multireligious society. And the limits of European tolerance are challenged not only by an identity revenge of competing minorities, but from an internal, genetic limit, which pertains to the realm of the political relation between churches and societies.

The juridical background of a missing analysis

The lack of comprehension I have talked about, is mostly a deficit of historical depth, which affects political elites as well as religious leaders. It is expressed through an undefined fear about the future - a fear which is seeking juridical protection. Paradoxically the mistrust for the other is expressed in terms of a threat to (or a violation of) legal order, and the lack of historical perspective are concealed by the demand to respect a confessional history which is a habit of recent privileges.³⁵ A realistic approach to the juridical instrument and situation *de facto* created or regulated, shows that it is characterized by a double movement. European legislation shows differences in laws matched by analogous results in practical life. Contradictory evidence of this process is easy to find.

On one side, Europe knows a rich plurality of systems regulating religious difference and the relationship between states and churches.³⁶ Finland, Sweden, Norway, Denmark and in some ways Great Britain have a constitutional State Church. In a reformed system secularization and control over ecclesiastical affairs seem to match each other with a certain degree of plausibility: only isolated reformers like Kierkegaard criticized such a situation from a "religious" point of view. Even in Sweden, where a constitutional reform will deprive the Lutheran Church of the *status* of ecclesiastical reflex of national identity - that Church will have particular privileges.³⁷ Even the disestablishment of the relations between the Crown and the Church of England does not imply a systemic change of basic attitudes...³⁸ Greece - and recently Serbia, Bulgaria and Romania³⁹ - have a different system discriminating between a national dominating religion, and other cults tolerated to various degrees: like fascist Italy and Spain, the difference between the people's religion and the other beliefs can affect many practical aspects of minoritarian communities' life, but the Greek solution - adhering to the principle of the *European convention on human rights* - seems to be acting as a model for East European countries. A good many of the European countries with a catholic "majority"

³⁴ C. Iancu, *L'émancipation des juifs de Roumanie (1913-1919). De l'inégalité civique aux droits de minorité: l'originalité d'un combat à partir des guerres balkaniques et jusqu'à la Conférence de paix de Paris* (Montpellier: 1992); E. Benbassa-A. Rodrigue, *Juifs des Balkans. Espaces judéo-ibériques, XIVE-XXe siècles* (Paris: 1993).

³⁵ Description in *Religioni e sistemi giuridici. Introduzione al diritto ecclesiastico comparato*, a cura di F. Margiotta Broglio, C. Mirabelli, F. Onida (Bologna: 1997); an classical anticlerical perspective from the ULB in *Pluralisme religieux et laïcité dans l'Union Européenne*, éd. A. Diekers (Bruxelles: 1994).

³⁶ See *Stato e chiesa nell'unione europea*, ed. by G. Robbers (Baden-Baden: 1996).

³⁷ R. Schött, *Stato e chiesa in Svezia*, in *Stato e chiesa nell'unione europea...*, 322-324.

³⁸ See Robbers..., and V. Bogdanor, *The Monarchy and the Constitution*, (Oxford: 1995), 215-239.

³⁹ P. Mojzes, *Religious Human Rights in Post Communist Balkan Countries*, in *Religious Human Rights in Global Perspective. Legal Perspectives*, cit., 263-284

(sociologically speaking) regulate their ecclesiastical affairs through a constitutional reluctance to commit the State to one confession, and a practical bilateral regulation of the issue. Concordats were stipulated in Germany, Italy, Spain and Portugal,⁴⁰ and influenced the entire architecture of the system: even other confessions and religions (either as corporation or federation) have been attracted into an orbit of bilateral relations. A proportion (or disproportion) of forces and the national (or international) character of religions is the exchanging platform for solutions.⁴¹ Some scholars - like Silvio Ferrari - argue that separationist countries - France, Belgium, the Netherlands, Ireland - are defined only *ex opposito*:⁴² how can one define a common identity of nations which have written into their constitution the invocation of the Trinity (like Ireland), or the principle of *laïcité* (like France)?⁴³ Usually, these differences - although culturally neglected - are described to extract the core of a European *ius commune*: the primacy of individual consciousness seems to be the really dividing line between Islamic countries and western countries. Arranged in different ways, western laws and constitutions seems to guarantee from a «prohibition of the free exercise» because of cultural superiority (things are more difficult about the statement that no law shall be made «to respect an establishment»).⁴⁴

Apparently the only thing which will never be subscribed to by European States is the interchangeability of their system. Ideological and national pride will not allow the admission that so different methods produce comparable results. People of different Christian denominations can live in the same way in different countries: actually the condition of an *acknowledged and established* religious minority in England do not seem preferable to that of an Italian one, and *vice versa*. Even where the churches had for a long time asked for a "special" status proportional to the religious identity of the country (like the Catholic church in Italy or the Orthodox church in Greece), practical discrimination does not work any more on an individual basis: the guarantee of freedom - *infra fines* - can be compatible with unequal treatments.⁴⁵ One perceptive thesis maintains the principle that there is, indeed, a "constant" at work: where the US has been assuming the issue of equality and imposes limitations on confessions which do not affect the association of people in any other way, Europe has developed a system where freedom is privileged, even if an unequal cooperation with corporate churches can create a difference.⁴⁶

The contradiction of evidence is the outcome of a process: for decades different systems produced different situations, particularly in relation to the proper goal of these solutions. The system of toleration (toleration of a neutral state, or of a confessional kingdom) was built to guarantee peace among conflicting Christianities. Changes on the level of inter-Christian relations did affect the meaning of a system which has performed extraordinarily well as far as expected results are concerned: if it seems evidently inadequate for new needs this takes us back to the questions raised in the beginning.

Learning from changes

No matter about difficulties: is the substance of a tolerant system a universal value, which has only to be sponsored by or imposed on other countries? Does the vacillating stability of this system where great populations' migrations are occurring, mean something more than a simple extension of an actual therapy to a larger population? Can solutions (born into a world

⁴⁰ *A Concordata de 1940, Portugal-Santa Sé* (Lisboa: 1993).

⁴¹ J. Julg, *L'Église et les états. Histoire des concordats*, Préface de Jean Chélini (Paris: 1990)

⁴² J. Martínez Torrón, *Separatismo y cooperación en los Acuerdos del Estado con las minorías religiosas* (Granada: 1994).

⁴³ See J.-M. Mayeur, *Regard d'un historien sur la liberté religieuse et le régimes des culte en droit française*, in «Trasversalités» 62(1997) 275-282, presentation of the volume *Liberté religieuse et régimes des cultes en droit français. Texte, pratique administrative, jurisprudence* (Paris: 1996); of the same historian *La question laïque XIX^e-XX^e siècle* (Paris: 1996).

⁴⁴ *Political Order and the Plural Structure of Society*, ed. J.W. Skillen and R.M. McCartney (Atlanta: 1991).

⁴⁵ See M. Root, *The Concordat and the Northern European Porvoo Common Statement: Different Paths to the Same Goal*, in *A Commentary on Concordat and Agreement*, ed. J. Enfiss-D. Martensens (Minneapolis: 1994), 138-151.

⁴⁶ *Diritto e religione in Europa occidentale*, ed. S. Ferrari-I.C. Ibán (Bologna: 1987).

where religious difference *meant* Christian confessional pluralism) be adapted to a world where a huge religious market is now populated and confronted by a vocal Islam, a rooted Buddhism, a resurgence of violent Hinduism (not to mention the persistence of a Catholic/Anglican war within the EC itself!)?

In fact, historically speaking,⁴⁷ one should focus on something else: namely the impact of the ecumenical movement and its ties with multireligious issues. Contemporary theology usually reflects on the relation between ecumenism and interreligious dialogue in terms of continuity, or development.⁴⁸ Sometimes even some guidelines of ecumenical effort (dialogue, the search of points in common, doctrinal statement, convergence) are presented as a model for an interreligious encounter. Maybe this is positively useful: I think nevertheless that the changes that have occurred in the churches' conscience over the last half-century can offer new resources to the issue of a multireligious society.

Ecumenical experience modified the scenario and affected the problem, because it forced us to step up from a reluctant acceptance of tolerant society as a hypothesis to a consideration of freedom as a positive space in which the conscience can experience its proper vocation. Since tolerance was an "outsider" coming in to regulate interconfessional antagonism, a great deal of reflection deriving from patristic writings on the *tolerantia Dei* and His *υπομονή* was wasted and left aside. If - when - the churches prove themselves able to regulate and overcome their conflict in a perspective of communion, a new path will open up and all the previous solutions will need to be updated.⁴⁹

The very concept of truth should be updated. Tolerance and freedom have been for at least two centuries a big issue for the Christian, particularly the Catholic, as far as they were unable to approach truth without a particular conception of truth, claiming absoluteness for it.⁵⁰ The «freedom opposite to the religion's virtue» which Leo XIII condemned in *Libertas* (June 20, 1888), was considered a serious threat to a stable and established equilibrium,⁵¹ but actually it was the declaration of shameful impotence: where the tyranny of truth comes to feed violence, when the State acts as *tertium* between religious differences and adopts rules able to prevent a situation of religious conflict - this means that a deep perversion of Christian purposes did occur. When, on the contrary, truth and its absoluteness finds a path for communion, tolerance ceases to be a civil imposition and it acknowledged as something proper to the Christian experience of freedom.

Civil instruments to regulate the conflict - the principle of *cujus regio*, confessional establishment, separation and concordats - *obviously* become similar as far as effects on confessional differences are concerned. And *obviously* they seem ineffective and unable to regulate a quite different phenomenon like multireligious coexistence. Something effective can only come from a deep reflection on truth: the more Christian theologians are able to grasp within their own religious traditions the dimension of a welcoming truth, to understand the meaning of otherness as a fundamental dimension of truth, to express evangelization in terms of revelation of an Otherness -- the more European societies will be delivered from the *aporia* they are living in.⁵² Can our situation be described as a secularized culture using a system of

⁴⁷ Of course jurists might offer a better inventory of fundamental tools, variable details and developing guidelines. The task of a historian is different, but nonetheless - hopefully - relevant. A sociological description in B. Tibi, *Il fondamentalismo religioso* (Torino: 1997) and E. Pace, *Il regime della verità. Il fondamentalismo religioso contemporaneo* (Bologna: 1990); see also *Fundamentalism*, «Concilium», 3 (1992); less perceptive *Gli odierni fondamentalismi nelle religioni del Libro; Ai quattro angoli del fondamentalismo. Movimenti politico-religiosi nella loro tradizione, epifania, protesta, regressione*, a cura di R. Giammanco (Firenze: 1993).

⁴⁸ *Christianity and the world religions. Paths of dialogue with Islam, Hinduism, and Buddhism*, (by) Hans Küng, Josef van Ess, Heinrich von Stietencron, Heinz Bechert (London 2¹⁹⁹³).

⁴⁹ See my *Tolerance and Rights. An Exploration of Medieval Canon Law*, in *Perspectives actuelles sur la tolérance*, sous la dir. de J. Doré (Paris: 1997), 47-66

⁵⁰ H. Waldenfels, *Der Absolutheitsanspruch des Christentums*, in «Hochland» 62(1970), 202-217.

⁵¹ On Leo XIII's times see also A. Acerbi, *Chiesa e democrazia. Da Leone XIII al Vaticano II* (Milano: 1991), concerning the political issue.

⁵² The issue of infra-ecclesiastical defence of human rights rests, in my opinion, on a different basis and it touches on different dynamics. A theological approach in G. Ruggieri in *La verità crocifissa fra Trinità e storia. Per una determinazione del rapporto tra verità e comunione*, in «Cristianesimo nella storia», 2 (1995), 383-406.

moral references based on Christian history, to enforce a superiority complex of mistrust and denigration toward other forms of religious thought?

Such an effort can support the due extension of the idea of freedom. One of the great and painful efforts of the 20th century Catholic theology - and later of doctrinal teaching - has been that of accepting the State's neutral position not simply as hypothesis, but rather as a thesis, coherent with Christian positions and worries concerning freedom of conscience. Churches - and the Catholic Church in particular - did not walk on this path alone.⁵³ The 1948 *Declaration of the UN*⁵⁴ on human rights spelt out a world where human beings were *free* to speak and believe: the legal reflection on "Church and State" had been confronted by the disaster of WW2 and the challenge of Communist regimes underlined a definition of human rights capable of marking the difference between capitalist and socialist societies. Each religious formation understood his place in this system in different and changing way during these years: in the US Baptist Bible Belt, as well as in the Catholic Veneto or Bavaria, a religious majority did exercise a strong pressure to guarantee their privileges not on a basis of "truth", but rather as a defendant of a legal, political majority and its own rights.

Only little groups, or cultured circles reflected on the issue of freedom since the early Fifties without a "tactical" approach: that particular situation shortened the list of those who decided to take the risk of publication (one could recall Catholic Intellectuals or the Catholic Conference for Ecumenical Questions as promoter of meetings and exchanges⁵⁵). Even very prudent positions were suspected, and at the same time the "objects" were not removed by condemnation: looking again within the Catholic ghetto, the silencing of John C. Murray⁵⁶ did not prevent Pius XII from voicing inquietudes about Feeney's intransigent conception of the Church and State relationship. The double and conflicting 1953 statements - the Ottaviani address on the confessional State, and on the other side Pius XII's address *Ci riesce* - show that traditional positions were ready for a new enforcement or a deep revision, but for sure were untenable as such.⁵⁷

Vatican II and *Pacem in terris* marked the turning point:⁵⁸ avoiding the trap of rights as immunities or empowerment, Pietro Pavan (who drafted the encyclical), offered a solid basis to *Gaudium et spes* and to *Dignitatis humanae*.⁵⁹ The assumption of the human beings' dignity as core of the argument, and peace as horizon (*titulus*) of the ecclesiastical intervention - opened up a new way: freedom had not to be a disturbing intruder in the realm of truth, but rather the companion of a church which becomes available to acknowledge the *mirabilia dei* outside its own borders.

⁵³ On the WCC, see L. Vischer, *La liberté religieuse et le Conseil Œcuménique des Églises*, in «Concilium», 18 (1966), 47-55; and N. Koshy, *The Ecumenical Understanding of Religious Liberty: The Contribution of the World Council of Churches*, in «Journal of Church and State», 38 (1996), 137-154.

⁵⁴ Cfr. UNESCO, *Autour de la nouvelle Déclaration Universelle des Droits de l'homme* (Paris: 1949). A recent reflection in T. C. van Boven, *Religious Liberty in the Context of Human Rights*, «The Ecumenical Review», 37 (1985), 340-357; Th. Meron, ed., *Human Rights in International Law*, Oxford: 1985; and N. Lerner, *Religious Human Rights Under The United Nations*, in *Religious Human Rights in Global Perspective. Legal Perspectives*, cit., 79-134.

⁵⁵ *Unité chrétienne et tolérance religieuse* (Paris: 1950); *Tolérance et communauté humaine. Chrétiens dans un monde divisé* (Paris-Tournai: 1952); *L'Église et la liberté* (Paris: 1952).

⁵⁶ See J. Komonchak, *The Silencing of John Courtney Murray*, in *Cristianesimo nella storia. Saggi in onore di Giuseppe Alberigo*, a cura di A. Melloni, D. Menozzi, G. Ruggieri, M. Toschi (Bologna: 1996), 657-702. See also T.P. Ferguson, *Catholic and American: The Political Theology of John Courtney Murray* (Kansas City: 1993); J. K. Pavlischek, *John Courtney Murray and the dilemma of Religious Toleration* (Kirksville: 1994); D. Gonnet, *La liberté religieuse à Vatican II. La contribution de John Cortney Murray* (Paris: 1994).

⁵⁷ Cfr. A. Riccardi, *Governo e "profezia" nel pontificato di Pio XII*, in *Pio XII*, ed. A. Riccardi himself, a cura dello stesso autore (Roma-Bari: 1984) 31-92. Apologetic attitudes in J.B. Hehir, *Religious Activism for Human Rights: a Christian Case Study*, in *Religious Human Rights in Global Perspective. Religious Perspectives*, cit., 97-119, especially 107-109.

⁵⁸ P. Pavan, *Il momento storico di Giovanni XXIII e della "Pacem in terris": sua incidenza negli atti conciliari e nella vita della chiesa e sua incidenza nella società contemporanea*, in *I diritti fondamentali della persona e la libertà religiosa. Atti del V colloquio giuridico (8-10 marzo: 1984)*, a cura di F. Biffi. (Roma: 1985), 149-154. See also *Jean XXIII devant l'histoire*, éd. G. Alberigo (Paris: 1988).

⁵⁹ See J. Hamer, *Histoire du texte de la déclaration*, in J. Hamer - Y. Congar, éd., *Vatican II. La liberté religieuse*, «Unam Sanctam» 60 (Paris: 1967), 53-110; T. F. Stransky, *Declaration on Religious Freedom of Vatican Council II. Commentary* (Glen Rock: 1966); P. Pavan, a cura di, *La libertà religiosa. Dichiarazione conciliare "Dignitatis humanae". Testo conciliare e commento* (Brescia: 1967), 7-117.

Perspectives

To enlarge the idea of freedom does not mean to surrender responsibility - but to move that problem on to the political plane.

Constitutional laws and governmental styles had proved themselves able enough (not always!) to guarantee human rights and religious freedom rights to minorities, even when the pressure of majorities had been strong and politically organized.⁶⁰ Different believers can participate in such a process - as Gutierrez said in a fascinating title - «drinking at their own sources». Differences in the guarantee of religious freedom still affect Europe: so we can also feel the irony of the Holy See's plea against the Patriarch of Moscow, who seems able to get from his Duma, things that the Pope has been asking for a long time from the Italian Parliament...⁶¹ However, when difference becomes irritating, often the problem arises from a deficiency in the religious understanding of its own tradition and life, and not always in religious legislation. It might be thought that those residual deficiencies will act according to the "prophecy" on this century by Gustav Mahler in the famous final D of his last symphony: it can last much more than you expect, but it will end, sooner or later. But precisely our post-cold-war times make us conscious that the accomplishment of secularization and modernization through democratic rules even on human rights,⁶² is part of the problem, not the solution.

Others can look to the ecumenical pattern as a way to clone a successful method: such an ambiguous position - relevant also in a signal event like the Assisi meeting and its repetition - assumes that interreligious relationship can be based in terms of proximity. The effectiveness of the "undivided church"'s myth, should be reproduced through another temporary myth: an undivided religious anthropology, the link among all those who acknowledge monotheism or spiritual conception of life and death -- the mutual acceptance on this basis is much better than conflict, but worse than an awareness of the meaning of differences.

Both the crisis and the success of the ecumenical movement are basic to our understanding of the terms of relationship with other religions, not only because they can suggest models and patterns. The real issue is otherness and the capacity of each religious system to understand on his own theological basis the right, the existence, and the meaning of the other.⁶³ The point is not a simple theology of rights,⁶⁴ but a right proper to theology to reflect on a *veritas filia temporis*.⁶⁵

In practice this means that the problem of western law and society is not to sit and wait, proud of his solution of tolerance and its objective results in terms of freedom and equality. It is not enough to wish Islamic nations would find a way to implement a tolerance which will

⁶⁰ J. Witte, Jr., *Christianity and Democracy: Past Contributions and Future Challenges*, «Emory International Law Review», 6 (1992), 55-69.

⁶¹ Something should be probably added on the problem of Uniatism, "the handicapped son of a divorced couple": on the background see B. Korsch, *Religion in the Soviet Union, A bibliography: 1980-1989* (New York-London: 1992).

⁶² M.E. Marty, *Religious Dimensions of Human Rights*, and W. J. Everett, *Human Rights in the Church*, in *Religious Human Rights in Global Perspective - Religious...*, 1-16, and 121-141; H. Bielefeldt, *Zum Ethos der Menschenrechtlichen Demokratie. Eine Einführung am Beispiel des Grundgesetzes* (Würzburg: 1991)

⁶³ See *L'alterità. Concezioni ed esperienze nel cristianesimo contemporaneo*, a cura di A. Melloni e G. La Bella (Bologna: 1995).

⁶⁴ See the special issue of «Concilium» 124 (1979), *The Church and the Rights of Man*; after this H. U. von Balthasar, *Die "Seiligkeiten" und die Menschenrechte*, in «Communio. Internationale katholisches Zeitschrift», 10 (1981), 97-106; G. Thils, *Les droits de l'homme et perspectives chrétiennes*, Leuven: 1981; a statement of the ITC came in: 1983, *Les chrétiens d'aujourd'hui devant la dignité et les droits de la personne humaine. Commission théologique internationale, 1-7 décembre: 1983* (Città del Vaticano: 1985); E. Fuchs-P.A. Astucki, *Au nom de l'autre. Essai sur le fondement des droits de l'homme* (Genève: 1985). Recent studies: J. F. Collange, *Théologie des droits de l'homme* (Paris: 1989); on the reception of Vatican II declaration C. Jarczyk, *La liberté religieuse 20 ans après le Concile* (Paris: 1984). A more systematic approach in e W. Kaspar, *The Theological Foundations of Human Rights*, «The Jurist», 50 (1990), 148-166.

⁶⁵ The sentences come from Aul.Gallius,, *Mist.Act., XII,11,7*, ed. G. Bernardi-Pierini (Torino: 1992), II, p. 912; it reappears in Bernardus Chart., *Metol. III.4*, (ed. Walb), p. 136; see F. Saxl, *Veritas filia temporis in Philosophy and History - Ernst Cassirer Festschrift*, ed. R. Kliehminsky - N.-J. Poton (New York: 1963), 197-222; E. Garin, *Medioevo e Rinascimento* (Roma: 1954), 195ss -- ref. In E. Jeaneau, *Nani sulle spalle dei giganti* (Napoli: 1969).

only provoke fundamentalism. Mostly it means something for the churches: now a temptation is coming, namely to appeal first to political powers rather than to other churches, first to parliaments rather than to religions. Signs of a different approach are visible: even with its own ambiguities and uncertainty the "Assisi '86" sets a standard.⁶⁶ And therefore the Churches can also be enabled to acknowledge the challenge of a multireligious society as grace and opportunity to serve the universal community of human beings. Three temptations were common in the past and may possibly become operational again in the future:

- a demand by from the State to churches in order to guarantee a civil religion⁶⁷
- a demand by from the Churches to the State on moral issues (a tyranny of values?)⁶⁸
- a demand by from public opinion (and/or media) to express in confessional (or religious) terms the uncomfortable search for identity in a society becoming not simply multiconfessional, neither secularized *and* multiconfessional, but rather multireligious as such.⁶⁹

In the limits of democracy proper to a complex society ruled by media consent, the task to link reconciliation, memory and justice is the challenge for religions. If the believer can –if the believer wants to invest in such a service to the unity of humankind - which is the earthly name of their gods - they will be able not simply to receive a civil benefit from outside,⁷⁰ but to deepen their own faithfulness to their vocation to a superior duty. Possibly this "listening" to the difference can teach and can sound like a voice calling to conversion, speaking the word in different ways, and singing on unknown tunes. What a theologian and passionate fighter of ecumenism like Jean-Marie Tillard wrote, is true: that the Spirit is talking to the Churches through other Churches;⁷¹ this is true and is the "sacrament" of a meaning of each and every otherness. This could be a way to discovering what evangelization is, beyond the multiple and sticky caricatures imposed by a colonial culture. The conflict between respect and mission is a post colonial heritage and debt: even for early modern theologians and canonists an "unjust" conquest was to refuse and condemn.⁷² The opportunity and the challenge of a multireligious society is to receive the Gospel and to walk, looking for an "elsewhere", where the evangelization can discern God himself working to build unity and to make understanding grow.⁷³

⁶⁶ See my *La rencontre d'Assise et ses développements dans la dynamique du Concile Vatican II*, in *Le christianisme vis-à-vis les religions*, sous la dir. de J. Doré (Paris: 1997), 99-130.

⁶⁷ *The Church's public role. Retrospect and prospect*, ed. by Dieter T. Hessel (Grand Rapids: 1993). On a theological foundation of human rights see R. Traee, *Faith in Human Rights: Support in Religious Traditions for a Global Struggle* (Washington: 1991), e, più recentemente, H. Cox e A. Sharma, *Positive Resources of Religion for Human Rights*, in *Religion and Human Rights*, J. Kelsay e S. B. Twiss eds. (New York: 1994), 61-79.

⁶⁸ C. Schmitt, *Die Tyrannei der Werte*, in *Säkularisation und Utopie, Ebracher Studien. Festschrift für Ernst Forsthoff*, Stuttgart 1967, 37ff.

⁶⁹ See L. Swidler, *Human Rights and Religious Liberty from the Past to the Future*, in *Religious Liberty and Human Rights in Nation and Religions*, L. Swidler, ed., (Philadelphia: 1986), VII-XVI: proceedings of the conference gathered on November: 1985) in Pennsylvania, by the «Journal of Ecumenical Studies», the Religion Department of Temple University and the Jacob Blaustein Institute for the Advancement of Human Rights, New York.

⁷⁰ This is the position of *Conscience oblige. Entretien avec Claude Geffré*, in C. Sahel (éd.), *La tolérance. Pour un humanisme hérétique* (Paris: 1993), 55-70.

⁷¹ J.-M. R. Tillard, *Conversion, oecumenisme*, in *Cristianesimo nella storia. Saggi in onore di Giuseppe Alberigo...*, 517-536.

⁷² See J. Muldoon, *The struggle for justice in the conquest of the New World*, in «Monumenta Iuris Canonici», C.9, 707-720 and *Medieval Canon Law and Formation of International Law*, in «Zeitschrift der Savigny-Stiftung für Rechtsgeschichte», Kan.Ab. 81(1995), 64-82.

⁷³ *Michel de Certeau ou la différence chrétienne. Actes du colloque "Michel de Certeau et le christianisme"*, éd. par Claude Geffré (Paris: 1991), and the collection M. De Certeau, *Mai senza l'altro* (Bose: 1993). See S. Scatena, *La libertà religiosa*, in the proceedings of the conference on *Derechos humanos* held at the University of Quilmes, Buenos Aires, in November 1997, ed. by A. Migone.