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## Universalist Religions, the Identity of Liberal Democracy and the Horizon of Post-Secularism in Common Public Culture

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### Abstract

*This article Analyzes the weight of universalist religions with the identity of liberal democracy with it's influence on common public arena. In addition to its liberal dimension, the triumph of democracy constitutes a turning point concerning the thought underlying the place occupied by religion in the public action of the so-called free and democratic society. It is undoubtedly one of the most remarkable religious phenomena of this century, that of a vision by the permanence of religion in the public arena. Unlike Islamic democracy, illiberal democracy, deliberative democracy and consociational democracy liberal democracy is defined by clearly identifiable variables such as: human rights, secularism and its corollary the separation of power, free and transparent election, political alternation, and increasingly decentralization. This was first established in Europe and North America, hence the frequent use of the term of 'western democracy', often associated, and sometimes confused with it, before being exported to or imported in foreign societies. In this way, it illustrates the transformation of political model born in particular religious context into a universalizing norm. In the wake of recent work by Jürgen Habermas and Jean-Marc Ferry on the conditions and requirements of post-secular society, one where religion and public reason are no longer in a relationship of mutual exclusion but rather in a relationship of mutual recognition and documentary analysis, the aim is to show that universalist religions, notably Christianity and to a lesser extent Islam, fulfil a matrix function for liberal democracy. Far from being confined to the private sphere, religion is at the heart of a common public culture that aims to be democratic.*

**Keywords:** common public culture, election, human rights, liberal democracy, post-secularism, separation of power and Universalist religion

## INTRODUCTION

The end of the Cold War was partly presented as marking in international relations, the triumph of liberal ideology,<sup>1</sup> the market economy and democracy (Fukuyama, 1992; Mandelbaum, 2005) on the one hand, the "clash of civilizations" (Huntington, 1997) on the other.

Theoretically, the globalization of liberal democracy renews the debate on the circulation of values and political models in international relations. The scientific production on the relation between religion and democracy is abundant. It has been mainly considered under three (3) different analytical approaches:

The first approach defends the thesis of the Western invention of democracy and its confinement to the cultural and religious areas of the West (Seymour Lipset, 1963; Huntington, 1997). The second defends the thesis of a broader cultural and religious foundation of democracy, its universality and its exportability (Sindjoun, 1994: 191-230; Sen, 2005 cited by Goujon, 2015: 53; Yavari, 1999; Jaffrelot, 2000: 5-57; Noomane Raboudi, 2008: 38; Gemma, 1999: 9). The third analyses religion as a factor triggering democratisation (Constantin and Coulon, 1997: 192-196; Médard, 1997: 192-196; Mayrargue, 1997: 153; Gauchet, 1998:13).

However, these three (3) approaches have the common disadvantage of offering a partial and fragmentary reading grid. The first approach has a culturalist accent<sup>2</sup> and Eurocentric. Here, according to the thesis of Moyrand and Michalon (quoted by De Gaudusson, 1992: 57), it is a matter of the "incompatibility of nature" between liberal democracy and certain universalist religions, or even its intransferability of the liberal model of democracy in certain religious areas. In this perspective, certain religions are understood as carrying anti-democratic seeds: from Catholicism to Islam, via Orthodoxy or Confucianism, all, or almost all, with the exception of Protestantism. Democracy thus remains problematic in certain religious contexts. However, it would be exaggeration to conclude that certain religions are incompatible with democracy from a Huntingtonian perspective.

The second approach, which puts forward a universalizing and homogenizing conception of democracy, does not take into account the plurality of religious trajectories of democracy and the weight

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<sup>1</sup>Liberal ideology, as it refers to a system of perception and representations inspired by specific values and proposing an orientation of action, is a matter of culture. It is this which is at work under the cover of the presentation of post-Cold War international relations as a "liberal moment" (Sindjoun, 2007: 18). The same is truly more explicit when Samuel Huntington proposes to consider culture as a decisive category for the analysis of international relations to understand alliances and hostilities, "the structures of cohesion, disintegration and conflict in the post-Cold War world" (Huntington, 1997).

<sup>2</sup>The culturalist current can be understood as a current of thought that disqualifies the introduction of the rule of law and democracy in Africa and it conveys cultural relativism and defends the idea of an incompatibility of nature between Africa and liberal democracy and the immaturity of the subcontinent for democracy. The cause would no longer be the "primitive mentality", but tradition, tribalism, poverty, and colonial legacy. The construction of a true democracy is undermined by the persistence of culturalist considerations. Read in this regard, Patrick Quantin, 2009).

of cultural relativism. Starting from the hypothesis of "reiterative universalism" or "contiguity", that is to say a universalism in interaction with cultural particularities, we can admit and explain the indigenous domestication of democratization (Walzer, 1992: 114-132 cited by Assana, 2021: 55).

The third approach understands religion as a triggering factor of democracy and not as a matrix or revitalizing variable. The aim of this article is to analyze universalist religion as a factor in configuring the identity of liberal democracy.

"Universalist religion" (Mbembe, 1988; Dasre and Hertrich, 2017), also called: "ultimate religion" (Tillich, 2012) or "global religion" (Hick, 2023) seek to integrate different religious traditions into a broader perspective. It is worth noting that the rise of Universalist religion is part of the dynamics of globalization (Thual, 2003:189-205). For Horton (1971; 1975), the specificity of traditionalist religion reaches its limits with the development of exchanges and the confrontation with other systems of representations (quoted by Dasre and Hertrich, 2017; Mouiche, 2005: 378-420).

These limits concern both the system of belief (insufficient) to encompass and explain new information and the dynamics of exchanges and integration<sup>3</sup>. On the other hand, universalist religion responds to it with a globalizing religious framework (Dasre and Hertrich, 2017), allowing liberal democracy to be thought of as a coherent whole and providing the ethical and cultural basis of political models. It should therefore be specified that a linear interpretation that establishes a clear separation between (political) modernity and (religious) tradition (Berger, 1967; Luckman, 1967; Dobbelaere, 1981; see also Bobineau and Tank-Storper, 2012: 59-61; Hervieu-Leger, 1996: 13 cited by Lavoie, 2019: 62) actually ignores the eminently complex relationship between national fact and religious fact (Zawadzki, 2006: 263-309 cited by Dieckhoff, 2023: 20; Larouche, 2006). These links are in fact very variable depending on periods and places.

Among the contributions from the literature in political sociology and political science, the concept of liberal democracy seems particularly relevant to us for understanding and analyzing the place that religion occupies within public organizations and institutions. Western liberal democracy as invoked here is not only a mode of government; it is a legal system (rule of law), economic (market economy, free trade), based on a system of values that ranges from the micro level (individualistic rationality) to the macro level (international pacifism) (Benoit, 1978). It is based on several clearly identifiable variables, including: human rights, separation of power (secularism), free and transparent elections, political alternation and, increasingly, decentralization. Unlike Islamic democracies<sup>4</sup>, illiberal<sup>5</sup>, African style<sup>6</sup> and consociational<sup>7</sup>,

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<sup>3</sup>Postures hinder closeness and the construction of a common culture.

<sup>4</sup>Islamic democracy is distinguished from Western democracy, which is liberal. In most texts of the contemporary Islamist corpus, two verses are presented as proof that Islam prescribes its democratic model and that Muslims do not need to adopt Western liberal democracy to manage their political life (Hellencourt Nouchine, 1999; Raboudi, 2008: 38).

<sup>5</sup>It has been more than twenty years since the concept of illiberal democracy was coined by the American political scientist Fareed

liberal democracy identifies with a secular culture in search of universality. In the context of this study, liberal democracy of Western essence will be mainly examined here.

The choice of liberal democracy as a site for observing the place of religion in public institutions has a symbolic dimension. First, liberal democracy is a political model inscribed by history in the evolving horizon of the world (David, 2018: 41). From then on, we are witnessing the global diffusion of the Western model of democracy <sup>8</sup>(Fukuyama, 1992; Sindjoun, 2001: 31-50;

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Zakaria. It was then a question of giving a name to the disenchantment that had followed the collapse of the Eastern Bloc and the hope of seeing the entire planet gradually rally to the so-called liberal democracy regime; the end of history announced by Francis Fukuyama already seemed a misleading promise, and Zakaria could write that "Western liberal democracies" could turn out not to be the end of the democratic route, but only one exit among several other possible ones (Mineur, 2019: 105-117). We can then understand Fareed Zakaria's discourse on "illiberal" democracy which would primarily be more or less ignorant of human rights and the rule of law (Fareed Zakaria, 2003 cited by Goujon, 2015: 34).

<sup>6</sup>In the wake of the more general discussion on the concept of democracy, many African authors also address another question: Should there be a specifically African democracy? Contributions to this debate can be divided into two categories. Some authors, the majority, focus primarily on refuting Western democracy as an imported system, unsuited to specifically African conditions, while others, fewer in number, try to outline the contours of a genuine African democracy. Among the authors in the first category, we can cite (Okamba, 1993; Ake, 1993; cited by Buijtenhuits, 1995: 85). As for FU Uyanne (1994), he points out the difference, according to him essential, between Western democracy and African democracy: "the Western model is essentially quantitative. It is matter of number. The African model (traditional consensual democracy) is essentially qualitative, *Ibid*). The African "palaver tree" is one of these variants that abound in the past and present throughout the world (Mohammed Mouaqit, 2016: 99).

<sup>7</sup>Consociational democracies constitute the great discovery of Arendt Lijphart (1987). These models of democracy present a unique phenomenon: mass parties that tend to bring together the majority of the population and to secrete beyond ideology and political discourse, a true community lifestyle, which can be found in Austria as well as in Belgium or the Netherlands. The Dutch case is undoubtedly the most striking. Instead of a left/right divide, a culture of grand coalition; instead of a majority decision-making mode, a constant search for compromise; far from a strong party of the law of numbers, trying to impose its will on the minority, all political forces have a vocation to govern and participate in the decision. The notion of majority disappears, since each party, each interest group, each minority has a vocation to participate in power (*Ibid*).

<sup>8</sup>The world is more democratic than ever. As the report entitled, The State of Democracy in the World 2019 shows, more than half of the world's countries (97 countries, or 62%) are now democratic (compared to only 26% in 1975) and more than half (57%) of the world's population, or more than four billion people, now live in some form of democracy, compared to 36% in 1975). The share of non-democratic regimes has more than half since 1975 (68% of

Mandelbaum, 2005; Mcfaul, 2004, pp.147-163 cited by Assana, 2021:42).

Second, it is one of the most elaborate and imposing forms of democracy in the contemporary political context. Third, Western liberal democracy now constitutes the insurmountable horizon in relation to which other models of democracy are problematized and in relation to which their capacity to evolve is evaluated in the common public culture.<sup>9</sup>. More specifically, according to Gary Caldwell, common public culture includes in particular right and freedom, the underlying foundation of democracy and certain common beliefs, as well as civic duties and virtues (2001: 31 et seq., *Ibid*).

It is interesting to note that the origin of liberal democracy in its contemporary form is in the West. It first took hold in Europe and North America from the 18th century onward, hence, the frequently used term Western democracy often associated with it and sometimes confused with it (Goujoun, 2015: 8), before being spreaded throughout the world in successive waves, but in a non-linear manner by several vectors<sup>10</sup>. Samuel Huntington distinguishes three major waves of democratization (Huntington, 1991).

The first began a little before the revolutions that swept through Europe in 1830 and 1848; it concerned the main founding democracies (Great Britain, the United States and France) but also other countries in America and Oceania (Chile, Uruguay, Australia, New Zealand).

The second, in the immediate post-war period, reached Italy, Germany, Austria and Japan, as well as India and Ceylon. The third began in 1974 with the collapse of the dictatorships of Southern Europe, in Portugal and Greece, then in Spain after Franco's ideas; It also corresponds to the end of a certain number of authoritarian regimes in Latin America (Perrou in 1980, Argentina from 1982 and the Falklands War, Uruguay in 1983, Brazil in 1984); in Southeast Asia (Philippines in 1986) South Korea in 1987, and to a certain extent, Taiwan the following year) and in Eastern Europe after the fall of the Berlin Wall in 1989. Certainly, liberal democracy had been seriously jeopardized by the rise of fascism, Nazism and communism at the beginning of the 20th century. However, it had been rehabilitated in the free world after the Second World War and was called upon to become widespread after the Cold War (Zacharie, 2018). Nevertheless, it came back in force from the 1990s (Quantin, 2009: 67). Beyond its liberal dimension, the triumph of liberal democracy of Western essence constitutes a major turning point, concerning the reflections underlying the place that religion occupies and should occupy

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countries in 1975 compared to only 20% in 2018 (The State of Democracy in the World 2019: 4 cited by Assana, 2021: 42).

<sup>9</sup>Common public culture can be understood as "the set of values and norms characterizing the public life of a democratic society" (Lavoie, 2019: 58). Having emerged in the 1980s in Quebec, the concept of public culture serves as a reference point for resolving the problems that run through the public life of a society (*Ibid*).

<sup>10</sup>The typologies of democratic diffusion mechanisms are drawn up, the authors distinguish the logics of diffusion, by imposition or foreign intervention from those, more endogenous, by imitation or democratic contagion. Usefully read Santiso, 1998: 228; Shipan, 1998: 840-857 cited by Assana, 2021: 42-69).



within "the public action of a so-called free and democratic society" (Lavoie, 2019: 59).

The central question is then: What is the weight of universalist religion on the identity of liberal democracy in its deployment in the common public culture or in the public arena? To answer this, we put forward the following hypothesis: universalist religion has a significant weight on the identity of liberal democracy in its different variations in the common public culture. In reality, this significant weight reveals the difficult evacuation or separation of religion from the public space.

At the level of methodology, this article falls in line with the recent work of Jürgen Habermas (2008a and 2008b) and Jean-Marc Ferry (2002) on the conditions and requirements of post-secular society, where religion and public reason are no longer in a relationship of reciprocal exclusion but rather in a relationship of mutual recognition. To verify this hypothesis, data collection was done through documentary analysis of articles, journals, books, and specialized reports on democracy and democratization. The discussion of the data collected gave rise to two orders of concern: Universalist religion as a matrix of human rights and the separation of power (I) on the one hand, and electoral democracy and decentralization (II) on the other.

### **I-Universalist religion as a matrix for human rights and separation of power**

The roots of modern democracy are usually found in ancient Greece, and especially in Athens.<sup>11</sup> While recognizing the political and philosophical connections between Hellenic democracy and its later revival in a modified form, we put forward the thesis of the religious roots of democracy (Roshwald, 2005: 174-190). It is important to study universalist religions as the primary sources of human rights (A) before the Christian prevalence of the separation of power (B).

#### **A-The primary sources of human rights**

Here we give to human rights the meaning given by the Universal Declaration of Human Rights, that is to say, the indivisible, interdependent and inalienable universal rights, recognized to every human beings regardless of their nationality, ethnic origin, skin color or any other conditions.<sup>12</sup>(See Moukoko, 2016:21). A serious examination of the place that human rights must occupy in universal human society and of the methodology of human rights, requires that the role of the religious phenomenon be mentioned. It is true, religions of salvation, have always admitted the equality of all human beings before God. Christianity was opened to slaves from the beginning and spreaded first among the little people. There was an aspiration for the proclamation of their dignity<sup>13</sup>. To

understand universalist religion as primary sources of human rights, it is appropriate to study the contribution of Christianity (1) before that of Islam (2).

### **1. The contribution of Christianity**

Christianity is a monotheistic religion based on the life, teachings, death, and resurrection of Jesus Christ. Christians believe that Jesus is the Son of God and the Savior of the world, and that he came to save humanity from sin and death.<sup>14</sup>It is important to analyze the contribution of the social ethics of the Churches before that of naturalistic law.

Human rights are inspired by the social ethics of the Christian Churches of the liberal tradition of the Enlightenment (Collange, 1989). Indeed, religion has, from the beginning, highlighted human dignity, which is the basis of the Universal Declaration of 1948. This is secular, because it was necessary for this instrument to be able to unite the support of all parts of humanity. But, it is in no way anti-religious (Cassin, 97). In its first article, it proclaims "the duty to act in a spirit of brotherhood", incumbent on all men, a text which corresponds to "Love your neighbor as yourself" and "Love the stranger as yourself" of the Bible (Leviticus XIX 18-XIX33). The leitmotif of liberal democracy is the Christian conception of Man. It is based on the individuality and inalienable dignity of Man. The Christian image of Man emphasizes his dual nature: Man is an individual with inalienable rights and a social being who is only fulfilled in the community shared with other men. From this conception of Man, Christian democracy deduces the right of each person to active, equal, responsible participation in politics and society.

The contribution of Christianity to the genesis of human rights is multifaceted. The dignity of the human person belongs to all men without distinction, whatever their origin or place in society, because humanity which descends from the same ancestor is one (Lochak, 2002: 10). This is the meaning of the famous passage from the Epistle to the Galatians in which Saint Paul states: "There is neither Greek nor Jew, slave nor free man." We must not misunderstand the scope of this egalitarian universalism which is only valid in relations with God and not as a principle of social organization. Virtually a bearer of equality, Christianity is also potentially a vector of freedom. This is how the foundations of democracy based on freedom, human dignity and the consent of the people are implicitly established. The government of the people must be based on the consent of the people. Christianity, as is well known, played a major role in the thinking of the founders of modern political theory such as Thomas Hobbes, John Locke, and Jean-Jacques Rousseau. Although each of them distorted and modified the agreement in their own way—the contract may be between the people and their ruler(s), or between the people themselves to designate the rulers—the basic assumption remains

and 1793 were followed by the first attempt to abolish slavery, which was not entirely successful by the convention (Cassin, 99; Bizeul, 2012: 42).

<sup>14</sup>The main elements of Christianity are: the Bible (consisting of the Old and New Testaments) as a source of authority; the Trinity (God the Father, Jesus Christ, the Son and the Holy Spirit); the life, death and resurrection of Jesus Christ; Faith in Jesus Christ as a means of Salvation and the Sacraments, such as baptism and communion; on the history of Christianity, we refer readers to Marrou, 1965; Butmann, 1967; Kung, 1967).

<sup>11</sup>The difference between the direct democracy of Athens and the representative democracy of the contemporary era is of course recognised (Roshwald, 2005: 174).

<sup>12</sup>This definition is found in the Universal Declaration of Human Rights, Article 2 which states that every human being "is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions".

<sup>13</sup>It was not until the Renaissance, the Reformation and the 18th century, known as the "Enlightenment", that the French Revolution came about that the equality of human beings on earth was proclaimed, and that the Declaration of the Rights of Man of 1789

the same: the consent of those who are governed is necessary for the establishment of a morally approved and legally binding government (Roshwald, 2005: 177). Pass-over marks the beginning of a blood pact that the people made with God on Sinai (Exodus 24: 6–8). The Hebrew theocracy described in chapter 17 is another example of a pact that the people make, in the course of their existence, with God. This pact itself is divided into two: the first is a political act, an act of subjection to an eminent King; this pact establishes the power of God, it is desired by the people who recognize and obey the sovereign power that it gives itself and to whom it gives itself.<sup>15</sup> The second covenant modifies the first and gives Moses unconditionally the exclusive power to consult God<sup>16</sup>, on behalf of the people<sup>17</sup> (Hadi Rizk, 2020: 146). The pact intervenes as a mediation by which the Hebrews recognized and elected God. Similarly, in the political tradition of Islam, the *bayca* is a contract of allegiance between the caliph and the community<sup>18</sup> (Tozy, 1999: 33).

While it is true that neither Luther nor Calvin were democrats and that many Protestants remained attached for a long time to the principle of absolute obedience to political power advocated by Romans 13:1, the countries shaped by Calvinism and its "sectarian" substitutes became democratized earlier than others, and the list of thinkers who saw a link between Protestantism and democracy is long: did Montesquieu not affirm the existence of an elective affinity between Protestantism and the Republic, Catholicism being, because of its pyramidal ecclesiastical structure, in phase with the monarchy (Montesquieu, 1951: 718)?

<sup>15</sup>It follows from the first pact with God that equality is guaranteed among citizens, as in a democracy, since God alone is recognized as the bearer of sovereignty.

<sup>16</sup>It is worth noting that two functions belonging to Moses were strictly separated. The power to interpret divine laws was reserved for the priests, but they could only consult God at the request of the administrators of the State (chiefs of the tribes or commander-in-chief of the army) and had no executive power; conversely, political leaders did not have the right to consult God directly, without the intermediary of the priests. A form of division of powers is emerging and, in a certain way, the so-called theocratic organization ended up preventing any arbitrary and excessive power of the priests or leaders (Hadi Rizk, 2020: 153).

<sup>17</sup>"After the exodus from Egypt, the Hebrews are no longer bound by the law of a foreign nation, they do not belong to a State and do not yet form a State; they have the right to determine new rules of collective existence and to occupy a territory (...)" He is guided by the concern to see the Hebrews transfer their right to no mortal, but to God exclusively.

<sup>18</sup>"In its first versions, this contract imposed firm obligations on the caliph. On the other hand, the governed committed themselves to absolute obedience as long as the caliph respected his commitments. The two main characteristics of this "contractual" act are, on the one hand, its sacredness, and on the other hand, the fact that it does not stipulate the mechanisms for monitoring the commitments made by the caliph. It should be remembered that initially, this commitment was based on trust, a major value for the pre-Islamic Arab tribes (...) In modern Morocco, this contract is presented according to the equation: absolute authority equals guarantee of security (Abdessamad, 2006)."

Did Voltaire (1830) not see in Protestantism the return of a primitive republican Christianity? Wasn't Tocqueville (1992: 341) surprised by the fact that in Protestant America the "spirit of liberty" and the "spirit of religion" had been so perfectly combined? And didn't Michelet (1856: 32) write: "What do I see in the 16th century? That Protestantism alone gives us the Republic (...), the idea and the thing and the word"? It is therefore appropriate to study the contribution of the natural law practitioners.

We also find in the reflections of Protestant naturalists an important source of modern human rights. The thesis of their birth in a Protestant environment was supported from the beginning of the 19th century by the philologist and expert on Kant Charles de Villers (1804). It was later taken up by Georg Jellinek, who saw in the Declaration of the Rights of Man and of the Citizen of 1789 not a pure product of the French Revolution, but the fruit of the Reformation and its struggles. It was supposedly modeled on the American declaration of rights themselves resulting from Protestantism (Cf Jellinek, 1902). This thesis, later taken up by Max Weber, was, it is true, contested by Emile Boutmy, the founder of the Free School of Political Sciences.<sup>19</sup> (Boutmy, 1902), and Gerhard Oestreich claims that it has been refuted by later studies (Oestreich, 1978: 13, Ibid; Kriegel, 1998: 144). As noted by Hegel (1970: 496) and Gervinus (1855) cited by Bizeul, 2012: 43), Protestantism was a confession in line with the demand for freedom of modernity, even if it was this modernity that ultimately gave rise to liberal democracy. The close link between modernity and Protestantism led Eric Voegelin to see in the latter the vector of a new Gnosticism that would have contributed to the advent of the great political religions<sup>20</sup>. Similarly, while the Catholic Church was the declared enemy of the philosophy of human rights in the 19th century, since John XXIII and the Second Vatican Council, it has become its ally to the point where Human Rights and democracy are now the new "political theology" through which the Catholic Church exercises its universal moral magisterium anew (Bourdin, 2021).

## 2. The contribution of Islam

Islam is a monotheistic religion based on the teachings of the Prophet Muhammad or Muhammad<sup>21</sup>. Muslims believe that Muhammad is the last prophet sent by God (Allah) to guide

<sup>19</sup> On the quarrel between Boutmy and Jellinek, see the file published in *Revue Française d'histoire des idées politiques*, n°1 (cited by Bizeul, 2012: 41).

<sup>20</sup>The debate between Voegelin and sociologist Talcott Parsons on this issue reveals two divergent interpretations of the role played by Calvinism in history. While the former describes Calvin's work as a "Gnostic Quran" and the 17th-century English Puritans as precursors of modern totalitarianism, the latter considers Calvinism to have been the substratum of empirical science (Trevino, 2001: 40).

<sup>21</sup>Introduced in the 11th century with the rise of the great medieval empires of West Africa and the Arab-Berber influence (Cuq, 1984 cited by Dasre and Hertrich, 2017), Islam then provided a framework for organizing society in accordance with the rules dictated by scholars. The large-scale diffusion of the Muslim religion took place mainly from the 17th to the 19th century, taking advantage of the development of new trade routes (Ibid

humanity.<sup>22</sup> Indeed, man, his dignity and his freedom<sup>23</sup>, is the basis of the universal Islamic conception of human rights (Mohammed and Al-Midani Anwar, 7). Islam created rights and duties to guarantee one's life and dignity, to protect one's freedom and ensure one's equality<sup>24</sup> (Ibid). To understand this Islamic conception of human rights, one must first discuss the notion of Muslim law and then examine the situation. It is important to study the controversies surrounding the compatibility between sharia or Muslim law and human rights according to the West.

The first thesis is the thesis of the opposition between Muslim law and human rights. It assumes the denial by Muslim law of the freedom to change religion and the acceptance of the death penalty which threatens the apostate, the application of corporal punishment (Hudûd) contrary to human dignity, and the inequality of the free man and the slave, of the Muslim and the non-Muslim and raises the question of equality between man and woman. The second thesis is that of the compatibility between Muslim law and human rights. It incessantly demands the principle of freedom of conscience. It also announces the principle of respect for persons and the inviolability of property. According to this thesis, for example, slavery is not tolerated by Islam. It insists on freedom of religion. It qualifies, conditions and reduces the application of corporal punishment.<sup>25</sup> It states that the obligation of the non-Muslim to pay a special tax (jizya) is only justice, since the people of the Book living in the land of Islam are not subject to the heavier Islamic tax, that is to say, the legal alms (Zakat). Finally, the difference between man and woman, which is not superiority of one over the other, is presented as a situation that corresponds to the physical inequality and the inequality of duties between man and woman, while emphasizing their fundamental equality. The third thesis is an intermediate thesis. It attempts to go beyond the controversy, and notes that Muslim law guarantees most of the human rights proclaimed in international and regional texts for the

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<sup>22</sup>The main elements of Islam are: the Quran as a source of authority; belief in one God (Allah); the five pillars of Islam: the profession of faith (Shahada); prayer (Salat); almsgiving (Zakat); fasting in Ramadan (Sawm); and the pilgrimage to Mecca (Hajj). For more details on Islam, readers are referred to Corbin, 1970; Esposito, 1999).

<sup>23</sup>The concept of human dignity in Islam is based on equality, it does not allow any distinction between men, even with regard to their religion, because this dignity is linked to the human being beyond his convictions and beliefs. We read in the Quran: "And most certainly, We have given nobility to the children of Adam" (XVII, 70 cited by Mohammed and Al-Midani Anwar, 21).

<sup>24</sup>Islam affirmed the principle of equality between men from the first days of its advent, thus putting, forever, a definitive end to all kinds of discriminations that existed in pre-Islamic society, and calling on all humanity to cease from all forms of exploitation of man by man.

<sup>25</sup>Acts of devotion accompanied by some physical suffering, such as the fast of Ramadan, have been lightened for the sick, the elderly and pregnant women. The pilgrimage to Mecca can be performed by a Muslim in place of another Muslim if the latter is sick or old. On the other hand, in criminal investigations, for example, no confession should be extorted by force or violence. And the prohibition of torture is not limited, in Islam, to men but to animals as well.

protection of human rights. And if this Muslim law stands out from others and/or ignores certain human rights, it is because the economic, cultural and social situations, at the time of the founders of the great legal schools, do not resemble the current situations or standards that protect human rights, without putting into question the compatibility between the current standards of human rights and those of Muslim law.

As for us, we support this third thesis of the balanced position and believe that it is necessary to rethink and reinterpret certain standards of sharia or Muslim law, emphasizing that some human rights standards do not find favourable and acceptable echoes in Arab and Muslim societies.

The analysis of the sources of Sharia or Muslim law is important insofar as it allows us to know, on the one hand, the sources of human rights in Islam and, on the other hand, the legal basis of these rights. It must be said that the sources of Sharia are also the sources of human rights in Islam. We distinguish the main sources or Usûl, that is to say the roots, and the complementary sources (Al-Durayni, 1984 cited by (Mohammed and Al-Midani Anwar, 8).

The main sources are the Quran<sup>26</sup>, the sunnah or tradition of the Prophet, the general consensus or Ijmâ' and the analogical reasoning or Qiyâs. Considering the Quran as a constitution, the cornerstone of Islamist ideology (Noomane, 2000: 42), it is divided into 30 chapters, and 114 surahs and a total of 6236 verses: 85 surahs revealed to Muhammad over the course of twelve years, five months and thirteen days: the duration of his stay in Mecca. These surahs, which are called "the Meccan surahs", establish Muslim dogma (Ibid); 29 surahs revealed in Medina after the emigration (Hijra 4) of the Prophet to Medina. These surahs, called "the Medinan surahs", concern relations between Muslims, outlining the rules of social and family life, and contain the general provisions of law (criminal, international, etc.) (Ibid). In one word, these are the rules of the Muslim City. However, the Qur'an is a whole: the two periods are intertwined and one can find both legal and spiritual dimensions in each of them. It is noteworthy that there are only 500 verses in the Qur'an concerning legal matters, while there are 1300 concerning the heavens and the Earth (Ibid).

The Sunnah constitutes the second main source of Muslim law. The Sunnah "is made up of all the words and acts attributed to the Prophet. These are his habits, his rules of conduct, his way of doing or not doing, his moments of silence on this or that occasion" (Ibid). The Sunnah plays a great role in the interpretation of the provisions of the Qur'an and in the development of its principles and rules. It has provided solutions to the problems of the new Muslim community. However, its place is always inferior to that of the Qur'an in the hierarchy of sources of Muslim law (Hilmy, 1981:128, Ibid). If the Qur'an has an authentic and incontestable

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<sup>26</sup>The word "Quran" comes from the Arabic kara'a, which means "to read." Some Muslim authors distinguish between Sharia and fiqh. According to them, the sources of Sharia are the Quran and the Sunnah; the sources of fiqh are general consensus, personal opinion (Ijtihad), finding good (al-Istihsan), the general interest (alMaslaha), and custom. For our part, we believe that there is only one legislative body, that is, the Sharia, and fiqh is part of this body.

value<sup>27</sup>, we can say that this is not the case with all the words, the *hadiths*.

The third main source of Muslim law is the *Ijma'*<sup>28</sup>, which has been defined as "the unanimous consensus of Muslim scholars, after the death of the Prophet Muhammad, in a given era regarding a given effect." The consensus of the Muslim scholars must be unanimous, which means that if there is protest or opposition from other Muslim scholars regarding a consensus, then *Ijma'* will not be established. The scholars must be Muslim scholars. The unanimous consensus of the Muslim scholars should come after the death of the Prophet Muhammad. The unanimous consensus of the Muslim scholars of a given era is considered as *Ijma'* without the need to prove it by other Muslim scholars of the following era. Several verses of the Qur'an recognize the value and binding force of this unanimous consensus of the Muslim scholars, and threaten those who do not accept it. Ibn Hazm, a Muslim Doctor (384-456/994-1064), "strikes with excommunication, (tukfir) any person who opposes it, in the sense that he opposes an *ijmâ'* tradition" (Turki, 1984 cited by Mohammed and Al-Midani Anwar: 10).

The *Qiyas*<sup>29</sup>, which constitutes the fourth main source of Muslim law, has been defined as follows: "It is to rely on a pre-existing rule to deduce another rule, whatever the particular mode of logical reasoning that one uses. The deduced rule remaining, for this good, attached to the first rule which constitutes its foundation". There are different translations of the word *Qiyâs*. It has been translated as "analogical reasoning" (Brunschvig, 1972). To understand the meaning of this source, know that in Islam each legitimization or prohibition of an act arises from a cause- a precise reason. Thus, the role of *Qiyâs* consists of comparing the cause or reason of a case which does not find a solution in the three main sources (Quran, sunna and *Ijmâ'*), with the cause of a case for which we know the solution. When the two causes are the same or similar, the solution of the old case is applied to the new case. The practice of *Qiyas* is based on several Quranic verses, such as: "O you who believe! Obey God! Obey the Prophet and those among you who hold authority. Bring your differences before God and before the Prophet." Quran, IV, 59.

There are four complementary sources of Muslim law, namely: Personal opinion *Ijtihad*<sup>30</sup>, finding the good *al-Istihsân*, the general

interest *al-Maslaha*, and custom. For some authors, these sources are derived sources (Blanc, 1995: 14 et seq.). *Ijtihad* was practised by the different schools of thoughts between the beginning of the 2nd century and the first half of the 4th century of Hegira (from the 8th to the 11th century of our era). It is to these schools that goes the credits of interpreting and explaining the main sources of Muslim law, and of tracing, consequently, the rules of this law and more particularly the distinction between the different categories of rights (Mohammed and Al-Midani Anwar: 12). The most important and best-known schools are: the Hanafi school, the Maliki school, the Shafi'i school, the Hanbali school, the Shi'ite school (Mohammed and Al-Midani Anwar: 16).

Finally, custom is used to find the desired solution. Custom, as a complementary source, is the practice in a given society at a given time. But custom must not be in contradiction with other main or complementary sources, or contrary to a contract (Mohammed and Al-Midani Anwar: 16).

Since 1994, there has been an Islamic Human Rights Commission, a state institution with one of the objectives being "to help "Westerners" understand human rights from an Islamic perspective" (Arzoo Osanloo, 2009: 177). The Arab Charter on Human Right adopted in 1994, emphasized the particularity of Islamic civilization, and by referring to its preamble in the eternal principles defined by Muslim law, deliberately breaks with the universalist aim of the 1948 Declaration. The two drafts of the Islamic Declaration of Human Rights and the Universal Islamic Declaration of Human Rights go even further since they base human rights on divine will and confine the rights set out within the limits of the prescriptions of religious law (Lockak, 2005: 54-55). The Universal Islamic Declaration of Human Rights adopted on September 19, 1981, the Arab Charter of Human Rights of September 15, 1994 revised on May 23, 2014. As Mustapha Afroukh wrote, "the scope of these texts is defined based on a criterion of religious affiliation, namely, belonging to the Islamic Ummah. It is less the Man who is targeted than the Muslim (Afroukh, 2019:18). See also, for a more optimistic but questionable vision of human rights, (p.219-233) (Gérard Gonzalez, 2020).

However, it would be an exaggeration to conclude that Islam and democracy are incompatible from a Huntingtonian perspective (Barreau, 1992 cited by Yavari D'Hellencourt, 1999: 2); Islam is also a historical phenomenon and as such it can legitimize a democratic system as well as an autocratic regime (Carre, 1993). Extremely diverse from an ethnical, political and ideological point of view, Muslim communities have very varied attitudes towards Western democracy (Raboudi, 2008: 29). In this way, the attachment of Muslims in sub-Saharan Africa to democracy would not be in any way weaker than that of followers of other religions. Soroush is a controversial thinker who advocates that democratic values and human rights have their place in all Islamic governments, and that there can be no definite and total vision of Islam (thus rejecting any attempt to formulate an official Islamic political ideology)(Gemma, 1999: 9). In some states such as Mauritania, the affirmation of the supremacy of Islamic law, "the

this one: "[...] the effort made, in an inductive reasoning, by a doctor of Islam, to provide solutions to new questions that are mentioned neither in the Quran nor in the Sunnah" (Daoualibi, 1941; Maisonneuve, 41 cited by Mohammed and Al-Midani Anwar: 12).

<sup>27</sup>We have sent down the Reminder [the Quran]; we are its guardians" (The Quran, Introduction, translation and notes by D. Masson, Paris: Gallimard, 1967, chapter 15, verse 9).

<sup>28</sup>It should be noted that the *Ijma'* "is a strictly Muslim concept", as explained by C. Mansour (1975) in *Authority in Muslim Thought. The Conception of Ijma' (Consensus) and the Problem of Authority*. Paris: Librairie Philosophique J. Vrin (p. 75). The consensus must be a consensus of Muslim Doctors. From this point of view, the consensus of the Muslim masses cannot be considered as an *Ijma'*.

<sup>29</sup>There are different translations of the word *Qiyâs*. It was translated as "analogical reasoning" by R. Brunschvig (1972) in his article "Value and foundation of legal reasoning by analogy according to Al-Gazal", *Studia Islamica* (volume 34, pp. 57 and seq).

<sup>30</sup>Personal opinion or personal effort (*Ijtihad*) constitutes the first complementary and fundamental source of Muslim law. Different definitions have been proposed for *Ijtihad*, among which we find



sole source of law” is combined with the solemn commitment of the people to the Universal Declaration of Human Rights (Donfack Sokeng, 2007: 125 cited by Assana, 2021: 62). At the same time, in the competitions within the Islamic sphere, some actors have the mission of countering the anti-Western discourse of their coreligionists, which they see as counterproductive in terms of development. Within the same confession, readings of religious texts vary and can lead to different visions of awareness-raising actions (Mayke and Maud, 2011: 6, Ibid). In addition to the contribution to the genesis of human rights, we observe the Christian prevalence of the separation of power.

### **B-The Christian prevalence of the separation of power**

The principle of separation of power refers to the differentiation of power, that is to say, their non-concentration in the hands of a social group or an actor (monarch) (Montesquieu, 1978). We can see on this point that differentiation for Montesquieu constituted a response to this monarchical concentration of power that took on both political (centralization, nationalization, etc.) and societal (subordination of the nobility, etc.) aspects. Its aim is to limit the arbitrariness and abuses linked to the exercise of power and domination. Indeed, John Locke and Montesquieu are generally presented as the founders of the principle of separation of power. If it is true that they had the credits of having systematized this principle, it is equally true that they are not its inventor. Before Montesquieu, was there any sense in talking of "separation of power"? This can be admitted, in the sense that the conception of "political power" to which the separation of power is linked is based on a long religious tradition. Christianity therefore, marks a fundamental turning point in the history of the regime of separation of power.<sup>31</sup> To understand the religious significance of the principle of the separation of power, it is important to analyze it as a product of secularism (1) before its political translation (2).

#### **1. As a product of secularism**

The principle of the separation of power is an avatar of secularism. The link between religious thought and the separation of power is particularly striking.

Etymologically and historically, secularism expresses the ancient tensions between the laity and the clergy within Catholicism, before the modern distinction between Church and State was made.<sup>32</sup> The work of historian Georges de Lagarde (1956) shades light on the religious origins of secularism.<sup>33</sup> He traces “the birth of the secular spirit” to the decline of the Middle Ages that is to say to the 13th century, when the distinction between the two orders of Christian society was very clear. The origin of the term

"secularism" is found in the struggle for spiritual power in France<sup>34</sup> (Lefebvre, 1998: 69).

The distant origin of this principle is found in the Bible. The Epistle to the Hebrews already emphasizes that "strangers and pilgrims on earth" (11:13), "we have no permanent city here, but we seek the city to come" (13-14). On such biblical basis, Augustine will formulate in detail his doctrine of the two cities, inscribing it in the broad dynamics of the history of salvation, while the Middle Ages will be crossed by the incessant conflict of the two swords, that of the pope and that of the emperor, each trying to establish and guarantee its power over the other. From a theological perspective, one will also willingly speak of the two institutional regimes that are the State and the Church, each of the regiments functioning according to its own legislation (Buhler, 2007: 6). To establish this constitutive duality, the preferred biblical reference is with the book of Romans 13, 1-7 calling believers to respect authorities, the synoptic words of Jesus in Mark 12, 17 and parallels “render to Caesar the things that are Caesar’s, and to God the things that are God’s”.

In these words of Jesus, formulated in the context of a narrative of controversy, in response to a trick question from his religious adversaries, the idea is clearly marked that this duality does not lie in a simple division between two distinct domains, but rather in a distinction to be constantly made between two instances of responsibility (Buhler, 2007: 7). This responsibility is highlighted by the call to give back to each of the instances what should come to it, which suggests that the distinction leaves something to be desired, that the instances often receive what does not come to them and do not receive what should come to them.

The message of Christ alone does not determine the subsequent evolution of the Church's positions on the relationship between the spiritual and temporal orders.<sup>35</sup> This is the set of considerations set

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<sup>34</sup> Introducing a vision of the relationship between the Church and the world, as it was understood in the 18th and 19th centuries, the term nevertheless takes root in the humanism of the Renaissance and in the period of Enlightenment. The demands for autonomy of the Church, for separation between clergy and laity, between priesthood and reign, came first from the clergy themselves who, at the end of the 11th century and the beginning of the 12th century, aspired to "freedom" (Ibid: 68).

<sup>35</sup> Before the Christian revelation, the biblical tradition of the Old Testament already expressed a great distrust of royalty, the place of political power. The words of the prophets enjoin men to seek their salvation in an inner quest and the search for God, in a properly spiritual commitment far removed from the world of the city. Shortly before his condemnation to crucifixion, Jesus of Nazareth declared to the Roman prosecutor Pontius Pilate, who asked him if he recognized himself as the King of the Jews: "My Kingship is not of the world." He was then simply repeating the message that he had never ceased to spread in Judea: the salvation of men does not depend in any way on their earthly life, but on the place they will have, after their death, in the "Kingdom of God." The words of Christ thus clearly break with the idea that justice could be achieved through a transformation of the social and political world. The words of Christ therefore extend the biblical tradition through their distrust of political power.

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<sup>31</sup> At the doctrinal level, the Christian religion defends the thesis of the eternal separation of the spiritual and the temporal. On the contrary, Islam ignores the principle of secularism, that is to say the distinction between politics and religion. Religious rules are rules that apply in civil life.

<sup>32</sup> "Already King Saint-Louis was questioning theocracy by distinguishing legal responsibilities. This distinction was then enshrined in law by his grandson Philip the Fair. "Legal emancipation far outstripped that of political authorities and the struggle for influence between clergy and laity does not date from the 19th century" Defois, 1995: 28 cited by Lefebvre, 1998: 64).

<sup>33</sup> He speaks of the "secular spirit", and his work stops at the end of the Middle Ages, with the study of the work of William of Ockham (quoted by Lefebvre, 1998: 70).



out by the Fathers of the Church (Paul<sup>36</sup>, Tertullian, Origen, Leo the Great, Ambrose Geremia, Saint Augustine, John Chrysostom, Gelasius I, Gregory the Great...) who progressively "fixed" the doctrine of the duality of the spheres over the first five centuries (Nay, 2016: 74). Saint Augustine constituted the main intellectual reference of the medieval West, at least until the 13th century (when Aristotle was discovered). In a word, Saint Augustine affirmed the superiority of "Christian justice" over "natural justice" (that defended by the Romans, like Cicero). Only a society governed by the principles of Christianity can truly be just (Nay, 2016: 76). It is in the context of these debates that Luther developed the doctrine of the two kingdoms<sup>37</sup>. It is therefore appropriate to study its political manifestation.

## 2. Political manifestation

Separation can also take various forms: the separation of the Church and the State and the separation of power within the State.

Regarding the separation of the Church and the State, it has two forms: direct contestation (the two jurisdictions fight each other), mutual contempt or ignorance (whether in the form of visceral anticlericalism or sectarian rejection of a world considered radically impious), or the distribution of domains, compartmentalization with a view to peaceful coexistence (according to the principle "To each his own business!"). This is the case of the theory of the two swords. His most enlightening and radical political reflection is in line with the Gregorian reform. In his treatise "On Consideration", he gives a vibrant interpretation of papal primacy. Drawing on various passages from the Gospel and the dualist conception of power, Bernard recalls that the world is governed by "two swords"; that of temporal power and that of spiritual power.<sup>38</sup> He certainly does not have the vocation to reign as a temporal sovereign, but he has the right to intervene in secular affairs as soon as Christian law or ecclesiastical interests are threatened by the senseless acts of a king or a lord. The pope possesses both "the rights of the earthly Empire and those of celestial Empire". "He is above all laws". In the realm of ultimate goals, he dominates secular power. The latter is only "one of the offices of the Church" (Ibid: 89).

The doctrine of the two swords will receive various interpretations. Many theologians will reject the theocratic conception stated by

Bernard<sup>39</sup>. Gratian, the first great canonist, will for example take up the image of the two swords in his famous Decree (c. 1140), but by recalling that the priest must not use "the temporal sword". However, the Bernardian position ended up winning in the 13th century, supported by a few ambitious popes (Innocent III, Gregory IX, Innocent IV, Boniface VIII), at a time when the Church would no longer have any rival power capable of contesting its supremacy (Nay, 2016: 89). By wishing to dispossess the latter of the rights they had arrogated to themselves over the distribution of spiritual responsibilities (notably the investiture of bishops), the Church opened the "investiture dispute". The dispute initially pitted the Pope against the Holy Emperor. It would continue until the middle of the 13th century throughout Europe (Ibid). In its attempt to restore the power of the Church, the papacy used two weapons: theology and excommunication. Faced with this, the secular power, too divided in the feudal system, would have more and more difficulty in maintaining the local clergy under their direct supervision (Ibid). The rivalry between the two swords began with the publication of the *Dictatus papae*. Unhappy to see his spiritual power challenged, the German emperor Henry IV immediately retaliated and had the pope deposed by an assembly of bishops loyal to him (1075) (Ibid: 90). Gregory VII then responded by excommunicating him and releasing his subjects from their oath of loyalty (1076). At the same time, it can be said that the dialectical articulation of the distinction between the two jurisdictions allowed the Reformers, at least partially, to think about both the freedom of the State with regard to the Churches and the freedom of the Churches in relation to the State.

Talking about the separation of power within the State, it also has two modalities: the flexible separation of power and the strict separation of power. The theory of separation of power has even served as the basis for a classification of political regimes.

The parliamentary system is a system of flexible separation of power in which the conduct of public affairs is ensured by the collaboration between the executive and the legislative through a government responsible to the Parliament, but which can itself dissolve the latter. None exercises its main function alone: the government collaborates in the development of laws (legislative initiative), while Parliament participates in the execution (authorization to ratify treaties for example). The parliamentary system appeared in the 18th century in the United Kingdom, then

<sup>36</sup>Paul (v.5-15-v.62-67) is one of the first Fathers of the Church (this is the name given to all those who contributed to the development of Christian doctrine in the first centuries of Christianity). In the Epistle to the Corinthians, Paul considers that "Christian justice" (or "new law") is superior to that of the ancient Jewish Law revealed by Moses.

<sup>37</sup>See the writings collected in vol. IV of the Works of Martin Luther King (Geneva, Labor et Fides, 1958). For a synthetic presentation: Gerhard Ebeling, Luther. An Introduction to Theological Reflection, trans. Annelise RIGO and Pierre Buhler, Geneva, Labor et Fides, 1983 chap. 11: "Reign of Christ and Reign of the World" and chap. 12: "Christian Person and Public Person", pp. 149-175.

<sup>38</sup>But he gives a theocratic interpretation of duality by affirming that the Pope possesses the two swords since he is "above kingdoms and nations" by the office entrusted to him.

<sup>39</sup>Bernard (1090-1153) is "one of the most famous personalities of the medieval Church. A monk of the Cistercian order, he is the founder of the Clairvaux Abbey (1115) which will become the cradle of the Cistercian community. Even if his monastic commitment leads him to withdraw from the world, he very early acquires influence outside his order. The thought of Bernard of Clairvaux is based on a rigorous, extremely conservative reading of the Gospels. Man is a sinner, ignorant and totally powerless to the will of God. His life must be dedicated to asceticism and the imitation of Christ. In this regard, Bernard never ceases to fight, within the Church, against the excesses of the secular clergy, accused of giving in to a life governed by the search for pleasure and luxury. He castigates, in particular, any involvement of ecclesiastics in temporal affairs. He is one of the most fervent critics of the confusion maintained between politics and religion for several centuries by kings and lords" (Nay, 2016: 88-89).

became widespread throughout Europe. It was initially dualist. It then evolved into a monist form.

Rigid separation refers to a regime that combines legal separation of power while promoting their political collaboration.<sup>40</sup> In the presidential system, which is an American model, most executive powers are vested in a single man, not in a team. In the United States, there is no government in the way that it is understood in Europe. Furthermore, the Chief Executive does not incur any political responsibility (he cannot be overthrown by the Congress). Furthermore, legislative power is held by Congress (the President does not have the initiative of laws). However, the presidential system implies political collaboration of the constitutional bodies.

It is often observed that representations of religion tend to present the various phenomena associated with it either as belonging to the private sphere or as being "outdated" (Lavoie, 2019: 61). In this sense, it can be said that democratic Western societies are going through a significant process of secularization, which marks both social practices and dominant social narratives (Ibid). Secularization is generally defined as a process that leads to a progressive decline in religious practices (Bobineau and Tank-Storper, 2012: 59-64). From this perspective, secularization refers to the loss of social and cultural relevance of religion. When it comes to the place of religion in public action, the idea of a reappearance of religious expression in the public sphere is very recurrent (Beyer, 2010: 190-191; Ahdar and Leigh, 2013: 4-5 cited by Lavoie, 2019: 62). The acceleration of the process of secularization or deconfessionalization in modern societies, that is to say, the empowerment of society from religious supervision, has led some authors to think that the more modernity advanced, the more religion declined, and would eventually disappear (See Berger, 1967; Hervieu-Leger, 1996: 37). Since Nietzsche, and even with the "Enlightenment" and its critique of superstition, many analyses have considered the birth of the democratic universe as the effect of a break with religion. "Death of God", "disenchantment of the world" (Weber, Gauchet), end of the "theologico-political" (Carl Schmitt), "secularization", "secularization": more or less controlled and controversial (cited by Ferry, 1996:37). Religion would have become a private matter (Berger, 1967; Luckmann, 1967; Dobbelaere, 1981; see also Bobineau and Tank-Storper, 2012: 59-61). Some authors have been able to put forward the thesis of "a paradigm"<sup>41</sup> of secularization", or a set of theoretical and epistemological presuppositions which support the idea of a secularization of modern societies (Tschannen, 1992 cited by Lavoie, 2019: 62).

However, these "secularist" certainties were called into question during the 1980s and 1990s, particularly by the proliferation of new religious movements. In this sense, José Casanova (1994) defends the idea of a "deprivatization" of religion in the context of advanced modernity in order to explain the emergence of religion in public debates, particularly that concerning the wearing of religious clothing in public establishments (Ibid). Thus, rather than witnessing the "end of religion", Western modernity contributes to transforming religion, which diversifies and strongly individualizes itself. We can observe a decline in the social and public influence

<sup>40</sup>The term presidential regime is misleading. In fact, it does not designate a regime organized around an all-powerful President.

<sup>41</sup>Regarding the notion of paradigm, we refer readers to Khun, 1972.

of religion, a decline that does not automatically mean its disappearance (Willaime, 2010: 98-100, Ibid). To these cases which are variations on the same theme of the opposition between religion and public reason, we oppose, following the work of Jürgen Habermas (2008) and Jean-Marc Ferry (2002), a way of overcoming this opposition and thus marking out the conditions for the participation of religious ethics in public reason.<sup>42</sup> According to Jürgen Habermas, we would today be in a "post-secular", that is to say a society where religion remains important for many people, even founding their identity, while no longer having the influence it had on public authorities and the collective conception of living together (Habermas, 2006; 2008; Modood, 2010). The religious foundation of liberal democracy allows for a better understanding of human rights and the separation of power. It is now appropriate to study electoral democracy and decentralization.

## **II-Universalist religions: a matrix of electoral democracy and decentralization**

We have shown so far how the variables of liberal democracy such as human rights and the separation of power are inspired by a religious substratum that projects them into universality. We will now try to analyze the religious prevalence of electoral democracy (A) on the one hand, and decentralization (B) on the other.

### **A-The religious influence of electoral democracy**

Also called procedural democracy, electoral democracy corresponds to what Przeworski (1999) calls the minimal definition of democracy. By minimal definition of democracy, we mean the possibility of choosing one's leaders through free elections.<sup>43</sup> This minimalist definition therefore leads us to saying that democracy is the most legitimate form of organization of societies and that the value of this legitimacy is verified through elections.<sup>44</sup> On analysis, religion played an important role in the genesis of electoral democracy. It is appropriate to study the original correlation (1) before the political alternation (2).

#### **1. The original correlation**

The idea of an original correlation between religion and electoral democracy was highlighted by Laurent Fonbaustier: "An early key word in theological vocabulary, "election" refers from the beginning to the guiding idea of a chosen people, freely designated by love of God and consenting to be faithful to his promises" (Fonbaustier, 2003: 604). In retrospect, election was also practised in contexts and for reasons foreign to democracy (Christin, 2014)

<sup>42</sup>Today, we speak more readily of a European exception. On a global scale, we cannot speak of secularization, as Africa, Asia, and Latin America remain, or even become more and more, deeply religious. In this perspective, Olivier Roy (complete: 268) speaks of "a remarkable third-worldization of Christianity", and in particular of Catholicism, due not only to the demographic vitality of the countries of the South (and to the birth crisis in traditionally Catholic nations such as Spain and Italy), but also because vocations are more numerous there (...).

<sup>43</sup>This is more or less the definition of democracy given by Schumpeter. It is also that of Popper (1962: 124), who sees democracy as the only system capable of ridding a society of its leaders without bloodshed.

<sup>44</sup>The regular organization of free elections, based on universal suffrage, is an important criterion most often put forward in international relations, to evaluate the democratic character of a political regime (UNDP, 2005 cited by Pourtois, 2016: 411).

for the designation of Abbots or Bishops, that of Rectors or professors in medieval and early modern universities, etc.<sup>45</sup>. Since then, several studies have established an original correlation between the appearance of electoral and deliberative techniques within the Church and more particularly within religious Orders, whose diversity and organization imply a very great wealth of practical experiences (Moulin, 1960: 48-75; Moulin, 1953: 106-148; Moulin, 1964: 103-111 cited by Moulin, 1973: 785). The studies of Leo Moulin published in 1973 came out with the idea of an original correlation between election and Christianity from three conclusions drawn.

The first is that: neither the Church in general, nor the Religious Orders in particular, owe anything in terms of electoral and deliberative techniques to Greek or Roman precedents, and even less to Germanic practices. When the Church began to resort to systems of elections, Rome and Athens had long since ceased to use the rudimentary mechanisms of elections and deliberations that had been theirs. On the other hand, neither Rome nor Athens ever developed techniques as complex and refined as those to which the Church, the only Institution at the time where the will (if not always the use) of regular elections survived, developed over the centuries. Finally, the use of drawing lots (Dimitri, 2021: 17), which Rome and Athens used widely, the Church, in accordance with its voluntarist vision of Man and his role in society, immediately prohibited it (Larsen, 1966; Bostford, 1968 cited by Moulin, 1973: 783). Second conclusion: the Church owes nothing either, in this matter, to the medieval communities and Assemblies: in almost all cases, it precedes the latter and largely, in the discovery and the use of the great democratic principles and techniques. And, in any case, it prevails over civil institutions, the *Parliamentum* of England included in terms of wealth of invention, subtlety and refinement (Moulin, 1973: 783). Third conclusion: consequence of the previous one, is that, if there is any influence, it is, initially, that of the Church (and especially of the religious Orders) on the secular world. The most striking illustration of this thesis is found in England where historians no longer deny the primordial part that the Church had in the appearance and development of the concepts of "Parliamentum", *Plena Proestas*, "Consent", "Representation", "Potestas" etc. (Cam, 1945: 137-150; Clarke, 1964, cited by Moulin, 1973: 783).

Electoral democracy is also rooted in the Islamic religion. Elections are immediately part of the ummah's right to scrutinize the way in which the caliph exercises his power (as shown by the speech that the first caliph Abu Bakr is said to have made after his election (Mohammed Mouaqit, 2016: 103). According to Amartya Sen (2010), the search for "single identity affiliation" is one of the major sources of conflicts and wars; for him, it is dangerous<sup>46</sup>. The ethics of pluralism postulates the plurality of normative references in a society, that is, a pluralism of perspectives (Watson, 1990 cited by Lavoie, 2019: 72). It is a matter of inscribing the democratic ideal within Islam as a common historical-cultural whole. This

<sup>45</sup>The fact that, for many, it is "God" who manifests himself by actually choosing the winner, does not necessarily lead to an attitude of passivity on the part of believers. It is important to vote, since "the Eternal" proceeds through men: his choice is expressed through the votes of citizens (Mayrargue, 2004:159-173).

<sup>46</sup>The project of single identity affiliation is, for Sen (2010: 27), carried as much by Western ultra-nationalists as by religious extremist groups in the Middle East.

possibility was recently and brilliantly evoked by a Tunisian researcher Soumaya Mestiri (2009), who identified in the work of Ibn Khaldun an analogy between the Roman Republic and the mode of designation of the tribal Chief in Arab society, extended in the Islamic experience in the form of the "shura" (cited by Mohammed Mouaqit, 2016: 101). In this way, the Khadounian analogy presents a certain heuristic interest. Operated outside the contemporary context, where Muslim reformist thought has transformed it into an apologetic analogy, it is part of the perspective of a common sociological background where democracy is not presented as a Western invention. The parallel established by Ibn Khaldun allows us to establish the presence of a "democratic principle" (which, in fact, benefits the aristocratic category) and gives it a historical depth that allows us to escape the debate between the partisans of the Western invention of democracy and the defenders of a broader cultural foundation of the universality of democracy. Overall, it seems permissible to affirm that the electoral and deliberative practices of the modern world were invented by religious Orders. Electoral democracy has political alternation as its corollary.

## 2. Political alternation

Political alternation refers to the replacement of the majority by the opposition or the succession to the levers of command of the State, of political forces, either opposed or very differently oriented (Mathiot, 1977: 92). Indeed, the alternation of power has gradually imposed itself as a reality of political life to citizens by means of the expression of different doctrines. Indeed, the Bible, or more precisely the four books from Exodus to Deuteronomy, traces the religious foundation of the alternation of power (Korsia, 2020). The transfer of political power is done in three ways: blessing, anointing and the laying on of hands. However, we will limit ourselves to the laying on of hands.

One of the most glaring transfer cases is that of Moses. Who can succeed Moses? Joshua is the deputy, the assistant of Moses. Here is a moving episode in the words of the Bible: God has difficulty forcing Moses to stop. Moses does everything he can to make the Lord give in and would beg God to continue his mission. Or at least, just to enter the Holy Land. God cannot accept because it is a new time that is going to open with a new generation that dreams of freedom that is going to enter the Holy Land. Moses cannot be both the leader of the desert and the leader of the Holy Land. Another leader is needed for this new period that is opening. God asks Moses to place his hand on Joshua's head and he will be the leader. But "Moses placed both his hands on Joshua's head as the Lord had commanded him."

Commentators ask themselves: God asks him to place his hand and not his hands? In fact, God understands Moses' pain and asks him to do things minimally, just with one hand. But Moses transfers the power entirely, without ulterior motive, with his two hands; now Joshua is the Leader. The symbol of this power is seen when Joshua, invested in this way, enters the Tent of Meeting. When he comes out, Moses questions him about the words of God, and Joshua answers him as we say in the army: "I cannot tell you, because you have no business knowing them". Moses then feels that it is time for him to die and accepts God's decision. He knows that he cannot encroach on Joshua's power by seeking to know or by carrying a word other than that of the leader. Moses, refusing to use speech, created a new way of managing power: a kind of bicephalism of power where Moses will receive inspiration and Aron will be his spokesperson, literally the one who will speak on



his behalf. "You will speak to him and transmit the words to his mouth; and I will assist your mouth and his and I will teach you what you will have to do. He will speak for you to the people, so that he will be for you an organ and you will be for him an inspirer (Ex. 4: 10-16). The transfer of power in the Bible is therefore always the search for the common good in the one who can best assume it.

Alternation of power as a means of preventing the confiscation and patrimonialization of power, and of promoting the rotation of elites is widely shared by several constituents and theorists of democracy throughout history. Greater circulation of elites would therefore allow, as some Greek philosophers argued, to prevent certain excesses, and to improve relations between governors and the governed. The outgoing political leader knowing that he is not eligible for re-election will be less tempted to pass laws against the interests of the people to which he and his entourage will have to submit to when he will have left his post. Alternation of power increases the probability of having governors who possess a greater virtue of pursuing the common good of society, knowing that after two or three terms, they will share the common lot of ordinary citizens (Loada, 2003: 151).

### **B- Christian influence on decentralization**

At a time of globalization of liberal democracy, where decentralization tends to impose itself as a universal norm, it is interesting to analyze the Christian prevalence of decentralization. To analyze the Christian origin of decentralization, it is important to study its biblical roots (1) before the ecclesiastical models (2).

#### **1. Biblical roots**

The decentralization of political power, one of the concepts of particular interest in the administration of public or private companies and even in the management of States, closely associated with the universalization of democracy<sup>47</sup> has a biblical basis (Kanyandekwe, 2018:91). The principle of delegation of power: the principle of "protestas delegata" is clearly defined by the Preachers (1228) and the Franciscans (1239); but the Cistercians already know it and Saint Benedict is not unaware of it (chapter LXXI, 5, XXI, 3 cited by Moulin, 1973: 791). When we examine the Bible, we very easily see that this concept was used in one way or another in the administration of the children of Israel. In the Pentateuch<sup>48</sup> and the Deuteronomistic stories, decentralization appears with Moses who, assisted by Aaron, is responsible for leading the Hebrews out of Egypt. Two stories already highlight, with some divergences of course, the importance of the decentralization of power (Koulagna, 2016: 165). The first political measure of Israel as a people is found in the book of

Exodus a few days after crossing the Red sea. It comes from Jethro, Moses' father-in-law who is a priest of Midian. By observing the way the people were organized, he noticed a dysfunction. When Jethro went to visit Moses, the latter was facing a problem of maximum centralization to judge the people (Exodus 18: 13). Seeing that Moses regulates all questions concerning the organization of the people, he says to him:

Why do you sit there alone, and all the people stand before you from morning till evening? ... What you are doing is not good. You will wear yourself out, just like these people who are with you; the work is too heavy for you...Select out worthy men from among all the people; appoint them as captains of thousands, captains of hundreds, captains of fifties, and captains of tens. Let them judge the people at all times; let them bring every important matter before you, and let them judge themselves. Lighten your burden, and let them bear it with you<sup>49</sup> (Exodus, 18, 14, 14-22).

These biblical episodes lay the foundations of decentralization, which presupposes an exercise of authority that is located as close as possible to individuals. It is a political principle that is based on the ethical principle of leaving to each person all the responsibilities that they are able to assume (Nouis, 2022).

The objectification of the above clearly highlights the evils of the centralization of political power. This excerpt implies two concepts in the management of political power: decentralization and deconcentration. In Exodus, 18: 19-26, it is clear that Jethro recommends to Moses administrative decentralization, through the delegation of decision-making power to hierarchical Chiefs. The implication of this administrative modality certainly denotes the importance of the delegation of responsibilities and the evils of excessive centralization (Exodus, 18: 22-23). Decentralization of authority is a very good thing in the management of business, because it allows the superior Chiefs (bosses) to take care of very sensitive issues such as strategic planning, leaving the small operations to the subordinates. Returning to the administration of the people of Israel, we see that Moses embodies the figure of the hierarchical Chief, more precisely of the Chief of the executive, while Jethro embodies the figure of the Counselor. It is therefore appropriate to study the ecclesiastic forms of decentralization in ecclesiastic organizations.

#### **2. Ecclesial forms of decentralization**

Ecclesiastical organizations constitute a treasure of political and sociological experiences, even a laboratory for experimenting with decentralization (Moulin, 1964: 397). Indeed, the Church can be assimilated to:

*Mutatis mutatis*, to a State, to a monarchical regime, strongly hierarchical, integrated and centralized, the Religious Orders and Institutes present themselves to us as decentralized public interest organizations or services ("parastatal", "parastatali", "autonomous" or "semi autonomous agencies").

<sup>47</sup>Supported by international development agencies, decentralization has become a central variable for liberal democracy. Since the end of the Cold War, most Western countries have implemented a "political conditionality" that leads to linking economic and political support "to respect for democracy and human rights" (Zaiki, 611: ). It has become, for some authors, an indicator of democratization and an instrument for balanced development of newly created territories (Nanako, 2018; Souhail Belhadj, 2018: 11).

<sup>48</sup>It is the set of the first five books of the Bible (Genesis, Exodus, Leviticus, Numbers and Deuteronomy). In the early days of primitive Christianity, the dietary laws were abolished by Paul of Tarsus.

<sup>49</sup>A little further on in the Exodus, there came a time when Moses was exhausted by the incessant demands of the people who found that the price of freedom was too high and began to cultivate nostalgia for Egypt. God asked him to take a further step in political organization by appointing elders to decentralize decisions and be closer to the majority of the people (Num 11:16-17).

*"Parastatals", they in fact possess legal personality, distinct assets, management bodies with their own decision-making power, a particular sector of activity, a special mission responding to a need in social life.* (Moulin, 1964: 397).

There is an analogy between the organization of the Church and the Roman model of territorial control.<sup>50</sup> Through the Congregation of the Religious (Van Lierde, 1966: 103-117), a true ministry of parastatals, Rome exercises a right of guardianship over religious institutes, approving their constitutions (Beyer, 1964; Chélini-Pont, 2003: 21 cited by Gomes, 2005: 54).

However, the affirmation of the centralized and pyramidal model in the Catholic Church is concomitant with the imposition of religious decentralization from below which results in the establishment of small Christian communities at the Level of Neighborhoods and Villages (CCLV).<sup>51</sup> In Latin America, the Christian Communities at the level of neighborhoods and villages were the ones that enjoyed great success during the 1970s and early 1980s. CCLVs are basic ecclesial communities, made up solely of lay people. Through these communities, the Church sought greater proximity with the population, greater roots in the territory of the parishes, and greater involvement of the faithful in religion, but also of religion in society (Gomes, 2005: 54). The establishment of small basic Christian communities (CCBs) is part of the promotion of the decentralization of ecclesial governance to the benefit of the laity in the Catholic Church.<sup>52</sup>

However, the centralized organization of the Catholic Church contrasts with the flexibility of the Evangelical Churches. From the point of view of organizational structure, we can distinguish three main types of organization among the Evangelical Churches that coexist with the democratic model. They are structured in three forms: Presbyterian, Congregationalist and Episcopal. The three types of structure exist as much among the traditionalists as among the Pentecostals (Gomez Garcia, 2011: 66 cited by Assana, 2021: 60-61). However, congregationalism:

adopted by a significant number of Evangelical Churches, appears from the beginning of the Protestant Reformation, it pushes the Protestant principle of autonomy very far. This system gives local Churches a very broad autonomy, each parish being able to act freely

<sup>50</sup>The aim of this model is the exhaustive division of the territory, the administration of each portion by a representative of the Church in principle this should allow it to be present everywhere (Gomes, 2005: 54).

<sup>51</sup>However, the language of decentralization was applied to the functioning of the Catholic Church from the day after the Second Vatican Council, when it came to implementing the doctrine of episcopal "collegiality", approved by the Council (Famerée, 2019: 17). The aim sought was to obtain a "decentralization" of decision-making in relation to "Rome" (the pope or the Roman Curia) in favor of a more autonomous consultation of bishops at the level of an ecclesiastical region, in particular through episcopal conferences (Caprile, 1970; Roman Synod of 1969 cited by Famerée, 2019: 17).

<sup>52</sup>On the history of the evolution of CEBs in Africa, we refer readers to (Bouillot, 1997:121 cited by Assana, 2021: 60).

without any higher authority being recognized. This does not mean that Churches of the same congregationalist denomination have no relationship with one another. Meetings between pastors or leaders, conventions, organizations are often set up, at a regional or national level (Gomes, 2005: 64).

In Brazil, for example, the main Evangelical Congregational Churches are the Christian Congregation of Brazil and the Assembly of God for Pentecostals, and the Baptist Church for traditionalists. To these denominations must be added a huge number of independent churches and small denominations where congregationalism is very much in the majority (Gomes, 2005: 64). On the other hand, the Presbyterian system rejects both episcopatism (government of the Church by Bishops) and congregationalism, and claims an ecclesiastical formula that entrusts power to elected assemblies of "elders" (lay people) and pastors at all levels, from the parish to the World Alliance. "The Presbyterian system is based on the parish, a concrete community established in a place (...)" (Gomes, 2005: 64). Normally elected by the general assembly of adult members received into communion, the "elders" are responsible for maintaining ecclesiastical discipline and safeguarding morals. The pastor, chosen by all the faithfuls, by the consistory or by the presbyteral council, is the president of the formed institution and has his own authority (...). Above the parishes, consistorial and regional assemblies operate and, at the top, a national synod, which defines the major orientations and arbitrates, as a last resort, conflicts" ("Presbyterians", Encyclopaedia Universalis) (Gomes, 2005: 64).

## Conclusion

At the end of this analysis, we see clearly that the weight of universalist religions is significant on the identity of liberal democracy. It configures liberal democracy in all its variants (human rights, deliberative democracy, procedural (electoral) democracy, separation of power, political alternation and increasingly decentralization), by fulfilling the matrix function. The globalization of liberal democracy is undoubtedly one of the most remarkable religious phenomena of this century, that of a theoretical vision fueled by the permanence of religion in the public arena. It illustrates the transformation of a political model born in particular religious circumstances into a universalizing norm. The rise of globalized liberal democracy confirms the position of religion in the public arena. Liberal democracy guarantees its international legitimacy by resorting to religious attributes. With this triumph of liberal democracy, the horizon of a post-secular society is emerging, one that consecrates the passage from exclusion to reciprocal recognition between religion and public reason. However, if one of the effects of secularization in liberal societies has been to confine religion to the private sphere, it is clear today that there is a vision fueled by the permanence of religion. Contrary to the paradigm of secularization, religion is at the heart of a common public culture that claims to be democratic. Liberal democracy actively uses religious symbolism.

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