El último documento incorpora a este volumen una entrevista que la revista *Conscience et Liberté* realizó al representante permanente de Pakistán en la sede de Ginebra de las Naciones Unidas en el año 2010. El entrevistado hace un conjunto de reflexiones sobre el significado del concepto de difamación religiosa y las razones por las cuales este tema ha sido objeto de discusiones en la Naciones Unidas durante más de diez años. Tomando como referencia los acontecimientos del 11 de Septiembre, el embajador constata el persistente acoso contra el Islam y los musulmanes en los países de Occidente. Entiende que la difamación del Islam conduce directa e irreversiblemente a la discriminación de los musulmanes y, aún reconociendo que los derechos humanos son un baluarte importante de la cultura universal, deben ser reinterpretados en función de las culturas derivadas de los distintos conjuntos sociales o políticos. En tal sentido insiste que los derechos humanos no solo son garantías individuales sino también "de ideas y hechos históricos". En consecuencia la libertad de expresión como derecho individual no deba amparar, a su juicio, campañas destinadas a denigrar las religiones.

JAIME CONTRERAS

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In this issue we explore the concepts of secularism and religious freedom. Western liberal democracies have struggled to find the right balance between interests of the state and religious interests of the individual. Recent political thought on the matter suggests that the individual, to be wholly free, requires a state that is unencumbered with religious sentiment. That is to say, the state is to be totally secular – not favouring one religious group, or religious thought over another. Simply put, the state is to have no interest in matters of religion. In principle, so the argument goes, the state cares only for the public safety and well being of its citizenry irrespective of the religious persuasion of the citizen. Each country has its own unique historical context and ethnic diversity (or lack of it) that results in distinctive approaches to the general sentiment of the need for religious freedom.

While the individual rights argument has much to offer it is not the whole story. The reality is much more complex. Included in that complexity are the religious communities of which the individuals are a part. Such communities not only enrich a society but through their own internal structures and traditions, provide another layer of ordering the individual's life who holds such strictures as authoritative. Further, there are the socio-economic arguments that modernization and material increase leads inevitably to less religiosity. One has to be mindful that there are no straight jacket explanations for secularity and its effects on religious freedom. In our quest for understanding this phenomenon we take time to hear the conversation of those who explore the boundaries of this fascinating topic.

In this issue we join the scholarly conversation and consider some theoretical and practical dimensions that surround secularism and religious freedom. On tap first we present Christoph Engel's piece arguing that law is a precondition for religious freedom. The enshrining of religious protection in a constitution is a must according to Engel, in order that religious freedom becomes practical. Such protection allows reli-

gious communities to flourish without fear of state intrusion in their practise. The state benefits because society is blessed by the good works of religious adherents; their otherworldliness makes them less inclined to corruption because of the eternal consequences; and because of this they have the willingness to face down state brutality. However, while both benefit both also see such protection as a threat. Religions, argues Engel, fear that constitutional protection implies secularism. The threat to the state is that religions are willing to forgo material benefits for a transcendental cause – this limits state control. The dilemma is resolved by the recognition of law as a practical "social technology" that resolves conflict. "Pragmatic law does not stand outside the battles between competing religions, and between religion and the state. Pragmatic law is policy-making in the guise of legislation and adjudication."

We move then to Kristine Kalanges work on why religion is essential to defending religious human rights. Whenever religious freedom is violated, she argues, then "almost invariably" so are other rights. As I read her I could not but wonder if religious freedom is much like the "canary in the mine shaft." The problem is this, "if religion is an important source of international legal norms, if globalization means that religious and value homogeneity can no longer be taken for granted, and if the global resurgence of religion in part represents a project of self-definition by non-Western countries, then variation among the religious traditions (and legal-political cultures) that dominate Western and non-Western states suggests a fundamental challenge to the universalizability of the principles upon which international human rights law is based." For Kalanges, the current models of religious pluralism fail to provide an answer. Muslim reformers, she maintains, are essential to the defense of religious human rights in Muslim states just as the Judeo-Christian principles will be necessary for the defense of religious human rights in the West.

Nicholas Miller has been prescient in reminding us of the prominent role that the Protestant experience had in laying the foundation for the American experience of religious freedom. "It was not religion versus secularism, but rather one kind of medieval-like church/state arrangements versus various kinds of "enlightened" ideologies that promoted the idea of a state that was neutral in matters of religion." Amongst the "enlightened" were those who sought a separation of church and state that recognized different "spheres of sovereignty." Miller seeks to show that "secularism does not need to mean anti-religious." In his presentation of the ideas of Samuel Pufendorf, John Locke and Pierre Bayle, he argues that it was the thinking of John Locke that was persuasive to the founders of the American republic. Church and state had distinctive roles – the church to protect the individual rights both as a member of the spiritual world and as a citizen of the temporal world. The move toward the American concept was the result of a religious view and not simply the non-religious "Enlightenment" view. The point is "that a "secular" version of government that has a healthy and robust freedom of religion can exist in a highly religious community."

We then move over to Europe with Meins Coetsier's piece on Europe's secularism. Unlike the early American experience which, as noted by Miller, had a distinctly religious element – Europe is "challenged by radical atheism." Coetsier fears the removal of the Judeo-Christian heritage. He sees it as a sign of Europe's degradation and a "need of finding restoration of an open conversation with God, and a free dialogue between man and man." "The solution to religious conflict or to major social, cultural and economic problems is not established by 'scapegoating'... but a 'politics of the soul,' that is *politike episteme* or understanding of how to live in society, which brings justice to

all people." There is a need to be open "to the pull of the Beyond" beyond "one's present horizon of knowledge, of religious and ethical orientation towards the divine." "[W]e confront our fears and ignorance and allow ourselves to be moved by a genuine desire for love and truth, for a relationship with the 'Eternal Thou.' This is the politics of the soul."

From the politics of the soul we are treated with an in-depth look into modern Russia. In Russia, according to Robert Blitt, the concept of a secular state is well established in the constitution and other statements of law. However, in practise, the legal definition holds little sway. Increasingly, the Russian government has laid aside its secular legal requirements and adopted favouritism toward the Russian Orthodox Church. Blitt paints a dark picture of the future. The government endorsement of "spiritual values," he maintains, is seen as a means for national security and Russian identity. The irony is that there is a risk "of bringing about a return of the subordination of the Russian Orthodox faith to the Kremlin's political diktats."

From Russia we move to Asia with another great piece by Li-ann Thio who "examines the state's role in regulating religious propagation within Asian multi-religious secular democracies where religious conversions are politically sensitive and raise issues of national identity, communal integrity and 'public order' through laws pertaining to apostasy, the maintenance of religious harmony and explicit anti-propagation laws." She argues that there is a "close inter-relationship between religious propagation and the right to change one's religion, and the quality of constitutional secularism." Focusing on India, Malaysia and Singapore Thio presents the contextual complexities that are faced by these three multi-religious and multi-ethnic former British colonies that have written constitutions purporting to protect religious propagation. She concludes that "an accommodative form of agnostic rather than atheistic secularism best sustains the importance and legitimacy of sharing religious views."

In our book reviews this year we have three great reviews of work that is making an impact in the field. Zane Yi reviews "A Secular Age" by Charles Taylor. Yi points out that "A Secular Age is a sprawling work that engages numerous disciplines—philosophy, history, literature, sociology, religious studies, etc. The heart of the work is Taylor's account of the rise of modern, secular society in the West. Yi's focus is on the main arch of Taylor's narrative, explicating the issue(s) that will most likely be of interest to readers of the journal, namely, Taylor's account of natural law and rights. "Although rights, and more specifically the right to the freedom of religion, are not an obvious focus of the work, Taylor's argument can be understood to be an indirect argument for the importance of such rights. My analysis will show that Taylor's narrative is part of a larger argument for the continuing relevance of religion in modern, secular societies."

Ann M. Warner reviews John Witte, Jr., and Frank S. Alexander volume, *Christianity and Human Rights*. The volume challenges every Christian to draw from of the rich heritage of their faith to defend individual and religious liberty, bringing freedom, dignity, and hope to all members of the human family. Warner notes that the case is made in Witte's work that Christianity has directly impacted the theory of human rights and provides a compelling basis for its practical application. "The book illustrates how historical Christian faith and doctrine provide a powerful case for the sanctity and dignity of the human person, from roots in Judaic and Roman law, through the developments of early Christian, Orthodox, Catholic, and Protestant thought. It also illustrates how modern Christianity has limited its potential contribution to the global

human rights dialogue as a result of internal strife and disputes over controversial issues such as the equality of women. Nevertheless, Christianity can restore and further its influence through efforts to establish common ground on human rights among Christians, commit to the preservation of religious autonomy, and cultivate cooperation and respect in a multifaith society.

Thomas R. Pope reviews, "Religion, the Enlightenment, and the New Global Order," with John M. Owen IV and J. Judd Owen, as editors. Pope notes that work is a worthwhile read "as it reminds us to approach the task of spreading Western values with a certain healthy conservatism. It does an excellent job reemphasizing the nuances of such a project in both theory and practice." But, "the work frequently descends into an unwarranted pessimism, leaving the reader with the impression that the contributions of the Enlightenment are so bound to historical time and place that one begins to wonder if any lessons at all can be drawn from the great philosophic movement."

If you have not yet picked up your copy of *Fides et Libertas* you may read it for free at www.irla.org website.

BARRY W. BUSSEY

MACRÌ, Gianfranco, PARISI, Marco, TOZZI, Valerio, *Diritto e religione*, Plectica ed., Salerno, 2011, 143 pp.

Il libro, piccolo per mole ma denso di contenuti, ha origine in una affermata Scuola del diritto ecclesiastico italiano, guidata, con passione e competenza, da Valerio Tozzi, cui afferiscono gli altri collaboratori del volume, Gianfranco Macrì e Marco Parisi.

Il lavoro è pertanto espressione e risultato di un metodo, originale e condiviso, sia nella stesura a più mani (frutto di una collaborazione accademica davvero esemplare), sia, più specialmente, nella illustrazione, usata in tutte le pagine del libro, degli elementi di specificità e dei criteri metodologici tipici che, giustamente secondo gli autori, sono propri del Diritto ecclesiastico (p.9).

Dico subito che questo "esperimento a fini didattici" (p.7) mi sembra ben riuscito, tanto da poterlo apprezzare molto di più di quanto, nella sopraccopertina del libro viene semplicemente presentato come "una introduzione allo studio della disciplina giuridica italiana dei fenomeni religiosi". La ragione principale ne è – a mio avviso – la consapevolezza critica di Tozzi e dei suoi allievi, unita a una conoscenza precisa della materia trattata, di quale debba essere la funzione del giurista, "che deve operare nel senso dell'equilibrio del sistema, con tutta la ricchezza della attualità dello svolgimento del suo compito, ma con i limiti della fallibilità dell'uomo" (p.84).

Questa intelligenza e sensibilità ermeneutiche si riverberano sul taglio e sul contenuto stesso del libro che, a più voci (ma di base e di indirizzo prevalenti è naturalmente la parte svolta dal Maestro), si propone (pp.7-8) almeno quattro risultati: il superamento della vecchia dizione della disciplina come Diritto ecclesiastico, privilegiando quella, assunta a titolo stesso del volume: *Diritto e religione* (ma, nell' ormai necessario rinnovamento terminologico, io continuo a preferire quella di Diritto delle religioni); la ricerca di un suo 'respiro' sovranazionale, assicurato in particolare dalla acquisita veste europea (illustrata specialmente nei due capitoli, di diritto sostanziale, di Macrì: *Vincoli sovra-nazionali e produzione normativa*, pp.57-61 e *Diritti umani,*