

**LIBERAL DEMOCRACY AND THE RIGHT TO RELIGIOUS FREEDOM**  
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**Abstract:** First of all, this paper exams the current situation of the right to religious freedom and the democracy around the world that deserve attention and warning. All civil liberties are under crossfire around the world. Moreover, this paper is also about the foundations of the right to religious freedom. Depending on the philosophical foundations, there are two different points of view of the right of religious freedom: liberal and anti-liberal. The best reason to protect religious freedom rests upon the autonomy of the individual conscience, according to liberal tradition. It's so clear that the constitutional democracy doesn't allow the establishment of any religion by the government, state or legislative power. In other words, there are democratic restrictions to the autonomy of the collective consensus on the field of religion conscience. Behind the discussion on the separation between the state and the church and about different forms of governments, there are a struggle between the autonomy of individual conscience and the autonomy of the collective consensus. The purpose of this paper is to demonstrate the importance of liberal thought as the foundation of democracy, religious freedom, and also of all western civilization. The paper also shows the risk to both democracy and religious freedom if the government, eventually, adopted the anti-liberal viewpoint of the religious freedom or, in other words the full autonomy of the collective consensus. The individuals should be free to choose how they want to live or what to believe in.

**Summary:** 1. Introduction – 2. Current Situation about Religious Freedom and Democracy – 3. Democratic Origin of the Right to Religious Freedom – 4. Legal and Philosophical Foundation of the Right to Religious Freedom – 5. Liberal Democracy and the Thinking of John Rawls – 6. Autonomy of the Individual Conscience or Autonomy of the Collective Consensus? – 7. Conclusion – Bibliographic References.

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“For where is the man that has incontestable evidence of the truth of all that he holds, or of the falsehood of all he condemns; or can say that he has examined to the bottom all his own, or other men's opinions? The necessity of believing without knowledge, may often upon very slight grounds, in this fleeting state of action and blindness we are in, should make us busier and careful to inform ourselves than constrain others.”

**John Locke**

## **1. Introduction**

The fundamental right to religious freedom may be considered to be a legacy of the liberal thought that permeated the American Revolution and was a determining factor in the coming forth of the U.S. Constitution. This same chain of political thought also influenced the constitutionalism of other nations, mainly western ones. Thus, religious freedom, as an established human right by law, is a recent achievement in the history of mankind, which may easily be associated with the coming forth of the liberal and democratic state. Without democracy, there is neither civil rights nor religious freedom. Democracy is the substrate that permits the exercise of religious freedom and also of the other fundamental rights of the human person.

Lamentably, democracy is in decline around the world and all civil liberties are under crossfire. The freedoms of expression and religion, the touchstone of democracy, are also being threatened. It must be understood that religious freedom and democracy are inseparable.

In the context of these threats against democracy and individual liberty, it is essential to restore the liberal thought of such authors as John Locke, the father of liberalism, and John Rawls, who was responsible for the resurgence of political liberalism, as well that of the Austrian School of Economics, as represented by Ludwig von Mises and Friedrich Hayek, and others.

The purpose of this paper is to demonstrate the importance of liberal thought as the foundation of democracy, religious freedom, and also of all western civilization.

## **2. Current situation about religious freedom and democracy**

Today, religious freedom is a fundamental right of the human person, consecrated in the constitutions of a number of democratic states and also in the principle international human rights treaties. Thus, it is not just a natural right with no binding legal force. It is an achievement without which there could be neither social peace nor harmonious association among the various existing religious expressions in society, including atheists and agnostics.<sup>1</sup>

In spite of the recognition of religion-related rights in the most important international human rights treaties and in the constitutions of the various democratic and even non-democratic states, the overall status of these rights is worrisome, at the very least. Paul Marshall observed that religious persecutions affect all religious groups, such as, for example, Baha'is in Iran, Ahmadis in Pakistan, Buddhists in China-Tibet, members of the Falun Gong religion in China, and Christians in Saudi Arabia. In addition to these religious

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<sup>1</sup> Basically, atheists do not believe in God, while agnostics doubt his existence but admit a chance of the possibility of his existence.

groups, atheists and agnostics may also suffer persecution. It is illegal to be an atheist in Indonesia. In Saudi Arabia, a person who declares himself to be an atheist may be executed for apostasy.<sup>2</sup> Christians are the one who most often suffer persecution. In 1997, Marshall estimated, based on the numbers provided by Barrett, that at least two hundred million Christians lived under some form of religious oppression, discrimination, or persecution in more than sixty countries.<sup>3</sup> Nowadays, there is a great number of these suffering Christians, who, because of their faith, are discriminated against, persecuted, incarcerated, executed, beheaded, hanged, martyred, or tortured to death.

According to the research reports, the most important religious persecutions and violations of the right to religious freedom are spread all over the Eastern Countries and also over the Near East Countries (North Africa and the Arabian Peninsula of Asia). Thus, there are terrible religious persecutions over the countries from 10/40 Window. The situation is markedly better in democratic countries of the western world. As Marshall observed, of the twenty most problematic countries considered unfree (not free), twelve are Muslim-majority countries (Iran, Iraq, Maldives, Saudi Arabia, Sudan, Turkmenistan, Uzbekistan, Afghanistan, Bangladesh, Mauritania, Pakistan, and Palestine). Of these twenty countries, it may also be inferred that five of them have anti-democratic tendencies (China, North Korea, Cuba, Vietnam, and China-Tibet) and systematically restrict the freedom of religious and also freedom of speech.<sup>4</sup> Democratic and Christian states of the western world offer better conditions for the exercise of religion-related public liberties. On the other hand, non-democratic states, which are not considered free, are notorious for serious violations.

According to Robert F. Drinan, the “172 nations that participated in the 1993 UN World Conference on Human Rights in Vienna repeated and reinforced the proclamations of world law in favor of religious freedom”,<sup>5</sup> such as the International Covenant on Civil and Political Rights of 1966. This same conference established the proposition of the universality of human rights over cultural relativism. Also according to the 1993 Vienna Declaration, “all human rights are universal, indivisible and interdependent and interrelated.” Therefore, religious freedom is, theoretically, a transnational right that should be equally respected, whether in the West or the East.

The controversy with regard to the universality of the human rights that were proclaimed in the 1948 Universal Declaration of Human Rights was also present in the debates about the article 18 of the International Covenant on Civil and Political Rights of 1966 and in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief of 1981.<sup>6</sup> Even today, in spite of the consensus achieved at the 1993 Vienna Conference, the idea of cultural relativism continues to be invoked as a justification for discrimination and even for the persecution of religious minorities through government institutions. Thus, cultural relativism in relation to the universality of human rights nevertheless constitutes the greatest challenge to international law in the 21<sup>st</sup> Century.

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<sup>2</sup> See Paul Marshall, *Religious Freedom in the World*, p. 1.

<sup>3</sup> Paul Marshall, *Their Blood Cries Out: The Untold Story of the Persecution against Christians in the Modern World*, p. 255.

<sup>4</sup> Paul Marshall, *Religious Freedom in the World*, pp. 4-7.

<sup>5</sup> Robert F. Drinan, *Can God and Caesar Coexist?: Balancing Religious Freedom and International Law*, p. 6.

<sup>6</sup> See Malcolm Evans, *Religious Liberty and International Law in Europe*, pp. 194-261.

According to Cançado Trindade, “the two world human rights conferences, the 1968 Tehran Conference and the 1993 Vienna Conference [World Conference on Human Rights], are, in fact, part of a lengthy process of constructing a universal culture of observing human rights.” To Littman, on the other hand, the 1990 Cairo Declaration on Human Rights in Islam clearly establishes that human rights should submit to Islamic law, i.e. Sharia.<sup>7</sup>

Incidentally, it should be noted that democracy around the world is in considerable decline and there is a notorious decrease of public freedoms in thirty-eight countries. This degradation of democracy around the world is easily verified in the 2007 Freedom House report. Thus, political scientist Larry Diamond warns that the “democratic recession” is more important than the “economic recession.”<sup>8</sup> “According to the Economist’s Democracy Index, there are twenty-six full democracies and fifty-five authoritarian regimes with the latter outnumbering the former in population three to one,” observes Daniel Greenfield.<sup>9</sup>

### 3. Democratic Origin of the Right to Religious Freedom

The Virginia Declaration of Rights of 1776 was the first liberal document to establish the idea of the universality of natural or innate rights. The same idea was later reproduced in the Declaration of Independence of the United States of 1776, in the French Declaration of the Rights of Man and of the Citizen of 1789, and even in the Universal Declaration of Human Rights of 1948. Article 1 of the Universal Declaration of Human Rights of 1948 proclaims: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

According to McConnell, the provision of religious freedom in the Virginia Declaration of 1776 is recognized as the precursor of the First Amendment of American Constitution.<sup>10</sup> It is interesting to note the concept of religion as a duty of obedience to divine precepts in this liberal document:

“SECTION XVI That religion, of the duty which we owe our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity toward each other.”<sup>11</sup>

The Declaration of Independence of the United States of America of 1776 reflects political liberalism, as well as the Judeo-Christian legacy. It behooves us to point out the idea

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<sup>7</sup> See Cançado Trindade, *O direito internacional em um mundo em transformação* [International Law in Transforming World], p. 649. See also David Littman, *Universal Human Rights and “Human Rights in Islam.”* In: *The Myth of Islamic Tolerance: How Islamic Law Treats Non-Muslims*, pp. 317-331. Regarding the discrimination of non-Muslims, see Bat Ye’or, *The Dhimmi: Jews & Christians Under Islam*, p. 51 et seq.

<sup>8</sup> See Larry Diamond, *The Spirit of Democracy: The Struggle to Build Free Societies Throughout the World*, pp. 56-87.

<sup>9</sup> Daniel Greenfield, *10 Reasons to Abolish the UN* (Amazon E-Book), p. 53.

<sup>10</sup> Michael McConnell, *Religious Freedom at a Crossroads*. In Stone; Epstein; Sunstein (Ed.). *The Bill of Rights in the Modern State*, p. 155.

<sup>11</sup> Forrest Church, *The Separation of Church and State: Writings on a Fundamental Freedom by America’s Founders*, p. 30.

in this most important document that “men are created equal” and “endowed by their Creator with certain unalienable rights.” Thus, the rights are not concessions from the king, the government, or the state. On the contrary, this document establishes that “to secure these rights, governments are instituted among men. Therefore, the foremost purpose of the democratic and liberal state is to protect the human person. In the words of Jacques Maritain, the state is an instrument at man’s service. It would be a political perversion to place man at the service of this instrument, the state.<sup>12</sup> Ultimately, the state can neither revoke nor restrict human rights at its own pleasure because it was not the one that instituted those rights. Rights are innate, whether from the rational point of view (natural rights) or the metaphysical or religious point of view.

The First Amendment of the American Constitution contains two inter-related pillars or crucial principles of liberal democracy: the free exercise of religion and non-establishment of religion by the state (non-establishment clause).<sup>13</sup> Thence, the metaphor of Jefferson’s wall of separation between the church and the state. The metaphor of the wall of separation was made constitutional by two important decisions by Justice Hugo L. Black of the U. S. Supreme Court in *Everson vs. Board of Education* (1947) and *McCullum vs. Board of Education* (1948). Thus prevailed the understanding that neither the states nor the federal government may establish a church. This metaphor graphically explains the relationship between the religious and secular powers and the prohibition of one intruding on the other. According to Black, the wall should be kept high and impenetrable.<sup>14</sup>

Today, it is typical for constitutions around the world to contain a catalogue of fundamental rights (the dogmatic part) which guarantees to the citizen the greatest possible freedom with a minimum necessary restriction, in consonance with liberal democracy.

#### **4. Legal and Philosophical Foundation of the Right to Religious Freedom**

The legal and philosophical foundation of the right to religious freedom may be found in the following question: Why should the state protect the right to religious freedom? So, there are two tendencies that try to establish the foundation of the right to religious freedom: liberal and anti-liberal.

According to the liberal viewpoint, the state should protect religious freedom because the citizen has the right to choose.<sup>15</sup> That is, he has the right to choose his beliefs and to live according to the dictates of his religious, atheist, or agnostic conscience – or not. Furthermore, to obey divine precepts is a human faculty (free will). This answer, however, poses another question: Why should the citizen’s right to choose be respected? The most satisfactory explanation is connected to the principle of the dignity of the human person. Accordingly, the state should respect choices because human beings are endowed with their own intrinsic dignity and therefore deserve to be treated with respect and consideration. Thus, the cardinal foundation of the right to religious freedom is the dignity of the human person.<sup>16</sup>

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<sup>12</sup> Jacques Maritain, *Man and the State*, p. 13.

<sup>13</sup> Kent Greenawalt, *Religion and the Constitution: free exercise and fairness*, p. 1.

<sup>14</sup> See Daniel Dreisbach, *Thomas Jefferson and the Wall of Separation Between Church and State*, p. 4.

<sup>15</sup> See John Garvey, *What are freedoms for?*, p. 42.

<sup>16</sup> About dignity of the human person, See Pico Della Mirandola, *On the Dignity of Man: On Being and the One*.

According to the liberal viewpoint, the foundation of religious freedom resides in the autonomy of the individual conscience, that is, in the right to choose.

To John Garvey, the liberal concept would be agnostic and would therefore include a broad concept of religion, to the point of considering “that even disbelief is a kind of religion.”<sup>17</sup> It is noteworthy, however, that this concept called agnosticism (*agnostic viewpoint*) broadens religious freedom by reaching both believers and non-believers (atheists and agnostics). In other words, it protects both religion and irreligion. The liberal concept, however, does not represent a break with religion, although it might adopt the rational viewpoint of natural right. Liberal thought bases the right to religious freedom on the right to choose (autonomy of the individual conscience), which the Bible calls free will. Therefore, the liberal viewpoint could not be classified as agnostic.

The liberal thought of John Locke, John Milton, and even of the French illuminist Voltaire did not completely break with either metaphysics or religion.<sup>18</sup>

According to the liberal tradition, the right to choose is one of the most fundamental rights of the human person. The dignity of the human person is denigrated when the citizen is hindered in the exercise of his right to choose and express his religious beliefs through worship, teaching, and also the choice of one day of religious rest that is compatible with his religion.

John Garvey presents an anti-liberal concept of religious freedom based on the idea that religion is a good thing. According to the Garvey’s anti-liberal viewpoint, the state should protect religious freedom because religion is a good thing. But, if religion is a good thing, then the state should protect it.<sup>19</sup> This proposition collides with at least two important objections. First, the state should define religion, which is an insurmountable impossibility if it is democratic, secular, and pluralistic. Religion can only be defined internally, with its religious and metaphysical arguments. There is nothing more utopian than the pretence of achieving a religious concept that satisfies the entire diversity of creeds that exist in human societies. Furthermore, the anti-liberal premise – religion is a good thing – is an axiom. Would it be reasonable to admit that if religion is a good thing for the individual, then it would also be a good thing for the state? So, which religious concept should the state adopt? Would it be the sum of all religions, or a synthesis of them? If the citizen, however, did not agree with the result, would he not be excluded from the state and society? As you can see, this anti-liberal idea of religious freedom, in contrast with political liberalism, would permit only a single moral concept of good, established *a priori*. Therefore, an anti-liberal concept of religious freedom would end up restricting the citizen’s right to choose.

In defining religion, the state would end up adopting an official religion. The human person would not be completely free to choose because he would be conditioned to pre-established standards and in conformity with one moral concept of good. Such thought revives the medieval religious view of religious freedom, which restricts human liberty far beyond what is reasonable in that it authorizes freedom within the boundaries of the

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<sup>17</sup> John Garvey, *Op. Cit.*, pp. 42-43.

<sup>18</sup> Such authors did not break with religion. On the contrary, they created a synthesis between religion, reason, and natural right. To Umberto Eco, Illuminism was a heterogeneous movement divided into: 1) the Christian Illuminism of Voltaire, Kant, Newton, and Rousseau, and 2) the atheistic illuminism of Marx, Nietzsche, and Freud. ( See Umberto Eco, *Em que crêem os que não crêem?* [*What do non-believers believe in?*], pp. 129-134.

<sup>19</sup> John Garvey, *Op. Cit.*, pp. 49-57).

dominant religion and impedes the right to choose. In fact, the anti-liberal view of religious freedom is a return to the confessional state or to the religious view of religious freedom (*libertas ecclesiae*).<sup>20</sup> Therefore, the anti-liberal tendency is contrary to pluralism, religious diversity, and religious freedom for all religions and religious groups under equal terms.

## 5. Liberal Democracy and the Thought of John Rawls

Liberal democracy is the political system that offers the best conditions for peaceful association among all religions and religious professions. In this regard, Ortega y Gasset observed:

“The political form that provides the greatest desire for association is liberal democracy. It takes to the extreme the decision to take one’s neighbor into consideration and is the prototype of ‘indirect action.’ Liberalism is the principle of public right by which public power, even if it is omnipotent, is limited to itself and seeks, even at the possible expense of its existence, to leave a place in the state in which it rules for those to live who neither think nor feel like it does, that is, in the same way that the strongest and the majority do. Liberalism, it should be remembered, is the supreme generosity: it is the right that the majority grants to the minority. Therefore, it is the noblest of cries that ever sounded on the planet.”<sup>21</sup>

The idea of justice as fairness, as elaborated by John Rawls in “*A Theory of Justice*” and “*Political Liberalism*”, is very opportune in the context of the fundamental right to religious freedom because this theory reconciles two important values: the liberties of the moderns, associated with John Locke, and the liberties of the ancients, represented by Rousseau, that is individual freedom and equality.<sup>22</sup> Furthermore, Harvard philosopher’s liberal propositions contribute to the resolution of difficult cases in which rights collide. In other words, Rawls’ liberalism establishes a clear limit on the restriction of individual freedoms.

In his theory, Rawls starts with the presupposed fact of pluralism, which divides society with its profound and insurmountable religious, philosophical, political, and moral differences.<sup>23</sup> From this finding comes the question or central problem of his reflections: how can society be ordered so that free and equal individuals may peacefully associate, in spite of their profound religious, cultural, and moral differences?<sup>24</sup>

According to Rawls’ thought, constitutional democracy acknowledges all reasonable religious views (diverse reasonable views of good on reasonable terms). This is the central idea of his first principle: “Each person has equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair

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<sup>20</sup> Jónatas Machado, *A liberdade religiosa numa comunidade constitucional inclusive* [*Religious Freedom in an inclusive Constitutional Community*], p. 14 et seq.

<sup>21</sup> José Ortega y Gasset, *A rebelião das massas* [*The Rebellion of the Masses*], p. 108).

<sup>22</sup> See John RAWLS, *Political Liberalism*, pp. 4-34.

<sup>23</sup> *Ibid.*, pp. 3 and 4.

<sup>24</sup> *Ibid.*, p. 4.

value.”<sup>25</sup> Constitutional democracy does not acknowledge anti-social behavior that is incompatible with peaceful association, such as a religion that practices human sacrifice. This then is the restriction on individual liberties. The state should permit all religious practices, except those that involve acts that are anti-social and hostile to the human being himself. It is not permitted to kill, rob, or commit fraud in the name of religion.

According to John Rawls, the restriction of the freedom of conscience on account of security and public order is the logical consequence of contractualism. This does not, however, imply that public interests are on a higher plane in relation to religious or moral interests. The government is not authorized to suppress convictions because they conflict with affairs of state.<sup>26</sup> It may restrict the right of religion only in the case of incompatibility with public order (peaceful association).

Religious pluralism is wholesome. It presents no threat. Furthermore, social harmony does not depend on the elimination of differences nor on the union, unification, or homogenization of the religious diversity in the society.<sup>27</sup> On the other hand, religious ecumenism, if promoted by the state in pursuit of its own uniform morality, may represent a threat to religious freedom. Nothing prevents individuals and religious organizations from promoting the pursuit of religious unity. The right to religious freedom should achieve this ecumenical guidance, but pretended ecumenical unity should not be imposed on everyone, or through the coercive force of government legislation.

In his review of the book *Autobiographical Reflections* by Eric Voegelin, Ellis Sandoz said that “the idea of ecumenism is one more way for man to achieve *libido dominandi* over his fellow man without worrying about the moral consequences of his actions.”<sup>28</sup>

Upon acknowledging the fact of pluralism as an insurmountable element of contemporary and democratic society, tolerance should be promoted in the sense of respecting religious freedom, regardless of existing divergences. It would be a mistake to encourage tolerance based only on what the various religious professions have in common. An intolerant person is one who does not acknowledge the religious freedom of others. It is the duty of all citizens to promote peace and tolerance. Religious freedom and tolerance contribute to the reduction of social conflict. Thus, atheists and theists could never establish mutual tolerance. It is not always possible to find common ground in religious matters; however, atheists, agnostics, and religious people do not have to agree about their convictions in order to respect each other, nor to work together for everyone’s freedom of conscience.

## **6. Autonomy of the individual conscience or autonomy of the collective consensus?**

To Karl Loewenstein, the most effective restriction among all restrictions imposed on the state is the legal recognition of certain spheres of self-determination which Leviathan (the state) may not penetrate.<sup>29</sup> Therefore, there is a field in which the individual has had complete and absolute autonomy. In others words, there is a field in which exists full

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<sup>25</sup> Ibid., p. 5.

<sup>26</sup> John Rawls, *Uma teoria da justiça* [*A Theory of Justice*], p. 230.

<sup>27</sup> Regarding the absence of attempting religious unification and seeking a world religion, see Lee Penn, *False Dawn: the United Religions Initiative, Globalism, and the Quest for a One-world Religion*.

<sup>28</sup> Ellis Sandoz, In: Voegelin. *Autobiographical Reflections*, p. 157, note n° 2.

<sup>29</sup> Karl Loewenstein, *Teoría de la Constitución* [*The Theory of the Constitution*], p. 390.

autonomy of the individual conscience. Not even the law may invade this field. Encircling this sphere of action, there is another area in which the citizen's freedom submits to the law (heteronomy). Here, there is autonomy of the collective conscience or autonomy of the collective consensus.

- **Autonomy.** It's the freedom that an individual has of self-determination. According to liberal thought, as already established, the individual has the right of choosing: to do or not to do; to act or not to act; or to have or not to have a religious belief. Accordingly, the freedoms of conscience, belief, and worship are made inviolable, for instance, in Article 5, VI, of the Brazilian Federal Constitution of 1988.

“Article 5. All persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property, on the following terms:

(...)

VI - freedom of conscience and of belief is inviolable, the free exercise of religious cults being ensured and, under the terms of the law, the protection of places of worship and their rites being guaranteed;”

- **Heteronomy.** To a certain extent, the idea of heteronomy is connected to the notion of the democratic state of law, which subjugates all citizens through law. Accordingly, verticality is in force: everyone is forced to obey the laws promulgated by the legislative power. In addition to safeguarding the Constitution, constitutional restrictions also protect the citizen, since any infra-constitutional laws may not annul or restrict fundamental human rights. Infra-constitutional law may not empty the vital contents of fundamental rights. When this happens, such laws may lose their force by being declared unconstitutional, in the Brazilian system, by the Supreme Court.

According to Baron Montesquieu, “freedom is the right to do what the laws allow.”<sup>30</sup> Therefore, the Article 5, § II, of the Brazilian Federal Constitution of 1988 proclaims that “no one shall be forced to do or not to do anything, except by virtue of the law.” Only the law may restrict human liberty, but it is worth remembering that the law may restrict only those actions that are harmful to society. The law may not be used as an instrument of oppression or discrimination, which is why they are subject to abstract constitutional control.

John Garvey believes that “the best reason for protecting religious freedom rests upon the assumptions that religion is a good thing”.<sup>31</sup> I disagree totally with this anti-liberal point of view. In my opinion, the best reasons for protecting religious freedom rests upon the autonomy of the individual conscience or, in other words, on the individual right of choice. No doubt that the liberal viewpoint is much better and can provide more liberty to believers and also to the non-believers. It's not an agnostic conception of religious freedom. On the other hands, anti-liberal point of view does not allow the autonomy of the individual conscience or the individual right of choice. According to this conception, the autonomy of the collective consensus or the autonomy of the collective conscience must be above to the

<sup>30</sup> Secondat (Montesquieu), *Do espirito das leis* [*On the Spirit of the Law*], p. 179.

<sup>31</sup> John Garvey, *What are freedoms for?*, p. 49.

individual right of choice. It's so interesting to notice that word heresy means to choose. Here, it's reasonable to establish a connection between the anti-liberal viewpoint and either totalitarian ideologies or theocratic systems.

One could ask if in the democratic system the majority will should always prevail. It's not true at all. Actually, both autonomy of individual conscience and autonomy of the collective consensus must coexist. The majority will should not always prevail. It would be a dictatorship of the majority that must be avoided, mainly on the field of religious conscience. Both American and Brazilian constitutions set up limitation to the autonomy of the collective consensus on religious matter.

According to the First Amendment of the American Constitution, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

As a liberal document, American Constitution doesn't allow the establishment of any religion by the government, state or legislative power. In other words, the First Amendment establishes the autonomy of the individual conscience and at the same time forbids the autonomy of the collective consensus on the field of religion conscience. However, no doubt that the law can restrict religious liberty exercise in case of threatens against the public order. Anybody may commit, for instance, a murder or a pedophilic abuse in the name of religious freedom, because there are not absolute rights. So, marriage under the legal age is also legally prohibited in the western countries.

A complete autonomy of de collective consensus on religious matter is impracticable if the state is democratic and liberal. In the other hands, it is absolutely possible under totalitarian government force. Nowadays, both North Korea and Republic Islamic of Iran keep different kinds of autonomy of the collective consensus, atheistic in the first case and theocratic in the other one.

Last century, the worst genocides were performed by totalitarian regimes like communist or fascist. It is reasonable to admit that those totalitarian regimes adopted some kind of full anti-liberal autonomy of the collective consensus, of course. It is obvious. Thus, those regimes became restrictive against the autonomy of the individual conscience. Consequently, Joseph Stalin, for instance, murdered 42,672 millions. In the name of the autonomy of the collective consensus and the elimination of the autonomy of the individual conscience, Mao Tse-tung ordered the death of at least 40 millions, included peasants and religious people.<sup>32</sup>

Finally, I would like to stress that the anti-liberal viewpoint can be linked with the ecumenism. It's clear for me that ecumenism is a type of autonomy of the collective consensus. Even though ecumenical intensions are under religious liberty protection, the government shouldn't support it. Thus the anti-liberal point of view can be so dangerous to the individual liberty. In other words, either ecumenism or the autonomy of the collective consensus, if promoted by the state in pursuit of its own uniform morality, represents a threat

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<sup>32</sup> About the 20<sup>th</sup> century genocides, see R. J Rummel, *Death by Government*, p. 8. See also Jung Chang and Jon Halliday. *Mao: The Unknown Story*, pp. 59-67.

to individual liberty. So, the anti-liberal viewpoint foundation of the religious liberty is a real threat as well.

## 7. Conclusion

There now exists around the world a marked tendency toward authoritarianism and a reduction in the number of countries that have full democracy. This truly presents a threat to religious freedom and other public freedoms. The future of religious freedom depends on the survival of liberal democracy, which is the substrate that permits the greatest possible freedom with the minimum amount of restriction necessary for peaceful social association.

Thus, we live in a world in which the future of religious freedom is uncertain, if not disturbing. So, one must ask: What is going to prevail in the future of the world: the model of minimum government or an omnipotent one? One of free initiative or total economic control by the government? One of democracy or totalitarianism? Of universal human rights or cultural relativism? Of autonomy of the individual conscience or of the autonomy of the collective conscience? Or, finally, of freedom or oppression?

The consequences of the adoption of the autonomy of the collective consensus or, in other words, the adoption of the anti-liberal conception of the religious liberty by the government would be terrible and may mean an open door for religious persecutions and even genocides or bloodiest megamurderers.

Whereas the consequences of the adoption of the anti-liberal conception of religious liberty (autonomy of the collective consensus), it's a constitutional duty, for ever one, to promote the principles and values of the political liberalism and the autonomy of the individual autonomy as well.

The future of religious freedom depends, in large part, on what happens to the future of democracy around the world. The western countries do not need changes. It is more important that all democratic nations preserve the best of what they have – the principles and values of the political liberalism that is also a Judaic Christian legacy, which are the true antidotes for tyranny and oppression. If the western countries cannot export democracy to Islamic world, at least they have the challenge to preserve the democracy with the goal to protect their own population before totalitarian treats or, in other words from the dangerous autonomy of the collective consensus.

The cultural relativism is an insurmountable obstacle to the adoption of the universality of the human rights by the Communist and Islamic countries. Those countries can't assimilate the occidental standard of democracy and human rights. It's obvious. In the other hands, the level of democracy and individual liberties are decreasing in the western countries. So, the focus should be target to the inner problem, inside the western countries. Maybe, the cause of such declination rests on the disdain of the principles of liberal democracy and western values.

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