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DOI: [https://doi.org/10.34625/issn.2183-2705\(36\)2024.ic-9](https://doi.org/10.34625/issn.2183-2705(36)2024.ic-9)

Secção I

Investigação Científica*

* Os artigos presentes nesta secção foram sujeitos a processo de revisão segundo o método *blind peer review* / The articles in this section have undergone a blind peer review process.

Proselytism and the Good Society: Why the Right to Share Religious Beliefs Should be Protected as a Fundamental Right

O Proselitismo e a Criação de uma Sociedade Justa: Porque o Direito de Partilhar as Próprias Crenças Religiosas Deveria ser Protegido enquanto Direito Fundamental

Davide ARGIOLAS¹

ABSTRACT: This article aims to analyse the reasons why the right to proselytism, as well as the correlative freedom to change religion, should be considered fundamental rights in the light of the United Nation system of Human Rights. The main idea is that these freedoms have always been considered contentious and, thus, have not received in International Law the legal protection they deserve, despite all the benefits they bring about, both for individuals and the society in general.

KEYWORDS: proselytism; religious freedom; free speech; right to change religion; fundamental rights.

RESUMO: O presente artigo pretende analisar as razões pelas quais o direito ao proselitismo, assim como o correlativo direito a mudar de religião, merecem ser considerados direitos fundamentais à luz do sistema de direitos humanos das Nações Unidas. A ideia principal do artigo é que estas liberdades têm sempre sido consideradas controversas e, por este motivo, não têm recebido a nível do Direito Internacional a proteção jurídica que merecem, apesar dos benefícios que acarretam tanto ao nível individual quanto ao coletivo.

PALAVRAS-CHAVE: proselitismo; liberdade religiosa; liberdade de expressão; direito de mudar de religião; direitos fundamentais.

Introduction

The title of this paper draws its inspiration from the renowned Robert Shiller book *Finance and the Good Society*. In this work, the 2013 Nobel Laureate in Economics argues that Finance, despite being justly viewed by many as a source of economic instability and social exploitation (particularly in the afterwards of the painful subprime crisis), still deserves our admiration for all its accomplishments,

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improving the life of millions of people and the economy in general. In this paper, a very similar rationale is applied to proselytism, *i.e.*, the right to share religious beliefs and to advocate their truth in order to lead someone to a conversion.

This freedom is frequently subjected to legal restrictions, to the point of being considered the most controversial right falling under the banner of religious freedoms². Ironically, these restrictions are normally justified by different, sometimes even contradictory, ideological arguments: in theocratic regimes, proselytism is depicted as a way of perverting the truth; in countries with official or State supported religions, as a “sheep stealing” that jeopardizes social order, religious tradition and national cohesion; in Western countries, it is sometimes accused of being a threat to individual autonomy and self-determination, or even, when exercised by new religious movements, an actual form of brainwashing; when carried out in poor communities or directed to vulnerable individuals, proselytism is viewed as a cunning *captatio benevolentiae* deploying material benefits to force people to embrace a religion they do not sincerely believe in; when targeting indigenous peoples, proselytist efforts are considered a sort of neo-colonialism or an instrument to destroy indigenous cultural integrity (ethnocides); and in authoritarian secularist regimes, proselytism can only be forbidden or severely restricted, given the general hostility against religion itself and the paranoid suspicion missionaries are nothing but disguised spies. Finally, the argument that proselytism stirs religious competitiveness and, consequently, leads to actual violence receives transversal approval by its detractors.

Undoubtedly, some of these accusations are not completely unjustified. Just to give two examples, religious proselytism and coerced conversions *did* contribute for the historical annihilation of indigenous cultures in Latin America; and some recruitment practices by new religious movements *does* deserve special attention, particularly when directed towards minors.

Nonetheless, the thesis developed in this article is that proselytism deserves, at least *prima facie*, the title of fundamental right and should receive the corresponding legal protection, due to its aptitude to foster individual and

² MACHADO, Jónatas E. M. *Liberdade Religiosa numa Comunidade Constitucional Inclusiva*. Coimbra: Coimbra Editora, 1996, p. 225; SANTOS JUNIOR, Aloísio Cristovam. Proselitismo religioso no ambiente do trabalho: a busca por um justo equilíbrio entre a mordaza e o discurso abusivo. *Espaço Jurídico Journal of Law*. July/December 2020, vol. 21, nº 2, p. 524. Available from: <https://periodicos.unoesc.edu.br/espacojuridico/article/view/20080/15793>

collective well-being for several reasons. Accordingly, legal restrictions to this right should be accepted only when complying with the highly demanding legal standards generally applied to fundamental rights, similar to those enshrined in article 18(3) and article 19(3) of the International Covenant on Civil and Political Rights (ICCPR), which require: a) a legislative provision; b) the respect for the proportionality principle; c) a balancing with conflicting rights or public interests³.

To demonstrate this thesis, this article will start by defining proselytism, both in linguistic and substantial terms. Afterwards, it will be shown how proselytism is – or is not – recognised in international law (although relevant, national constitutional provisions will not be addressed for reasons of space), as well as the reasons why this recognition has historically been reluctant. In the third part, the focus will shift to the analysis of the arguments in favour of the right to proselytism as a fundamental right. Finally, some conclusive remarks will be presented.

1. Defining proselytism

The bad reputation of proselytism begins in the semantic realm, to the extent that, as it has been sagaciously observed, proselytism has become one of those words «that require a qualificative adjective to get indulgence»⁴, such as *proper* or *non-aggressive*.

³ This defence of the right to proselytism is more urgent today than ever, as evidenced by the increasing restrictions on this freedom, as well as on religious freedom in general, around the world in recent years. The most recent annual report by the Pew Research Center exposes a gloomy scenario regarding the decade from 2007 to 2017. In particular, it highlights the increase in government restrictions on religious practice and social hostilities involving religion. Restrictions on proselytism are on the increase in Europe: e.g., local governments in Spain have imposed restrictions on proselytism by minority groups, particularly Latter-Day Saints and Jehovah's Witnesses. However, the most severe restriction on this freedom can still be found in other geographic areas, particularly in the Middle East. For example: in Saudi Arabia, it is illegal to promote atheistic ideologies, to challenge the fundamentals of Islam, to carry out proselytist activities by minorities groups, and for a Muslim to convert to another religion; in Central Asia restrictions have been common as well: e.g., Turkmenistan refuses to issue visas to foreigners suspected of entering the country to promote missionary activities, and, in addition, it impedes religious literature from being imported (see PEW RESEARCH CENTER, *A Closer Look at How Religious Restrictions Have Risen Around the World* [Online]. 2019. Available from: <https://www.pewresearch.org/religion/2019/07/15/a-closer-look-at-how-religious-restrictions-have-risen-around-the-world/> For a thorough and updated (2023) analysis on anti-conversion laws all around the world, see UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM. *Anti-conversion Laws Compendium* [online]. Washington: 2023. Available from: <https://www.uscirf.gov/sites/default/files/2023-12/2023%20%20Anti-Conversion%20Laws%20Compendium.pdf>

⁴ FLORIA, Juan G. Navarro, LO PRETE, Octavio. *Proselitismo y libertad religiosa: una visión desde América Latina*. *Anuario de Derecho Eclesiástico del Estado*. 2011, n° 27, p. 61. Available

Actually, in ancient times the term *prosélytos* had no negative value attached. It simply was a Greek translation of the Hebrew word *ger* (especially used in the Greek translation of the Old Testament known as *The Septuagint*), used to refer a gentile who converted to Judaism and started to integrate a Jewish community, sharing the same rights and obligations⁵. In the subsequent Christian times, the term even gained a positive meaning, referring to the *kerigma* (proclamation) of the Good News about Jesus Christ as the Son of God. However, the word gradually began to acquire a negative connotation, due to the fierce and bloody disputes between Christian denominations during the European wars of religion, and its association with the imperialist policies carried out throughout the world by several Western countries⁶.

Nowadays, even religious groups reject the word proselytism. In particular, many Christian denominations rather use the term *evangelism*: in their opinion, the first word would suggest an aggressive spreading of a religious message, while the latter would be a genuine witness of the Christian faith⁷. Similarly, Muslims would rather use the term *Da'wah*⁸.

In this paper, it is argued that it is time to rescue a good word from a bad reputation: being neutral and devoid of any specific religious connotations, the term *proselytism* should be preferred in academic literature to others options, such as *evangelization* or *mission*. Additionally, the term should be understood with no negative value attached; and the frequent addition of the adjective *proper* (to distinguish it from *abusive*, *aggressive* or *coercive* proselytism) should be viewed as unnecessary. As the Medieval Latin phrase goes, *excusatio non petita, accusatio manifesta*.

from: https://www.boe.es/biblioteca_juridica/anuarios_derecho/abrir_pdf.php?id=ANU-E-2011-10005900096

⁵ OCÁRIZ, Fernando. Evangelización, Proselitismo y Ecumenismo. *Scripta Theologica*. 2006, vol. 2, nº 38, p. 622. Available from: <https://dadun.unav.edu/bitstream/10171/44329/1/11555-40271-1-PB.pdf>

⁶ IANNACONE, Luca. Diritto di proselitismo e libertà religiosa: Note in margine al volume “El Derecho de Proselitismo Religioso en el Marco de la Libertad Religiosa” di Maria José Ciaurriz’. *Archivio Giuridico Filippo Serafini*. 2005, vol. 205, nº 1, p. 110.

⁷ FERRARI, Silvio. Proselytism and human rights. In: WITTE, JR. John; GREEN, M. Christian. *Christianity and Human Rights: An Introduction*. New York: Cambridge University Press, 2010, p. 253.

⁸ See BICKERY, Paul. *The Problem of Proselytism* [online]. London: Theos, 2015, p. 23. Available from: <https://www.theosthinktank.co.uk/cmsfiles/archive/files/Problem%20of%20Proselytism%20web%20version.pdf>

In substantial terms, proselytism means, in general, any activity by which someone (the proselytiser) spreads their religious convictions, trying to persuade its recipients (the potential proselytes) to convert. Although proselytism normally is carried out through verbal communication, it often involves also a wide range of related activities (e.g., educational services or charity work), which have a proselytist purpose only indirectly⁹. To some extent, even the mere display of religious symbols and garments can be considered as a tacit proselytist activity; and indirect proselytizing effect can be ascribed also to simple social interactions and verbal religious expressions, such as invoking God's blessing or offering to pray on behalf of someone¹⁰.

To fully understand this freedom, it is necessary to highlight its ties to the right to have, not have, and, particularly, change religion. The relationship between these two freedoms is almost symbiotic, to the point that, as stated by John Witte Jr., «The corollary of the problem of conversion is the problem of proselytism»¹¹.

Finally, it is important to outline the concept of *improper proselytism*, i.e., practices that cannot be considered, even *prima facie*, legitimate forms of proselytism. Although the subject is vast and goes beyond the scope of this article, it is worth mentioning the jurisprudence of the European Court of Human Rights (ECtHR), which, in *Kokkinakis v. Greece*¹², excluded from the realm of proselytism the offering of material or social advantages to attract new converts, undue pressure on people in distress or in need, the use of violence or brainwashing, and, in general, any activity incompatible with respect for the freedom of thought, conscience and religion of others; in *Larissis and Others v.*

⁹ THE OSLO COALITION ON FREEDOM OF RELIGION AND BELIEF, *Missionary activities and human rights: recommended ground rules for missionary activities*. November 2009. Available from: https://www.kirken.no/globalassets/kirken.no/migrering/km_7_1_6_12_oslokoalisjonen.pdf

¹⁰ See HAMBLER, Andrew. Is there 'no place in the work context' for religious proselytism? *Industrial Law Journal*, June 2022, vol. 51, n° 2, p. 349. The Author defines invoking God's blessing and offering to pray for someone as «actions short of proselytism».

¹¹ WITTE JR., John. The Rights and Limits of Proselytism in the New Religious World Order. In: BANCHOFF, Thomas. *Religious Pluralism, Globalization and World Politics*. New York/Oxford: Oxford University Press, 2008, p. 110.

¹² See EUROPEAN COURT OF HUMAN RIGHTS. CASE OF KOKKINAKIS v. GREECE (Application n° 14307/88). Available from: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-57827;%22%5D%7D>.

Greece¹³, the Court added abuse of power (*in casu*, in the military context) as an implicit limitation on proselytism¹⁴.

2. The recognition of proselytism in international law

While the right to religious freedom is recognised in international and regional human rights instruments, the right to disseminate religious beliefs has received explicit acknowledgement only in a regional human rights instrument – the American Convention on Human Rights (ACHR), whose article 12(1) reads as follows: «Everyone has the right to freedom of conscience and of religion. This right includes freedom to maintain or to change one's religion or beliefs, and freedom to profess or *disseminate one's religion or beliefs*, either individually or together with others, in public or in private» (emphasis added).

All the other international and regional charters of human rights – be they binding treaties or merely soft law instruments – have been hesitant in consecrating the right to proselytism; or, at best, have confined themselves to general and ambiguous provisions. The drafting history of the ICCPR shows that, from the inception, the inclusion of proselytism in article 18 thereof was anything but consensual. An early formulation that referred the right «to endeavour to persuade other persons of full age and sound mind of the truth of his beliefs» was deleted in 1947, as the issue was considered too divisive by many states¹⁵. For this reason, both the Universal Declaration of Human Rights (UDHR), the ICCPR and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion and Belief (DECLARATION), only recognises, in nearly identical terms, the right to manifest one's religion in worship, observance, practice and teaching, individually or collectively, in private or in public. No clear mention to proselytism is present.

¹³ See EUROPEAN COURT OF HUMAN RIGHTS. CASE OF LARISSIS AND OTHERS V. GREECE (*Application n° 140/1996/759/958–960*). Available from: <https://hudoc.echr.coe.int/eng#%7B%22sort%22:%22kdate%20Descending%22%22itemid%22:%22001-58139%22%7D>

¹⁴ See HAMBLER, Andrew, *supra*, p. 354.

¹⁵ DANCHIN, Peter G. Of prophets and proselytes: freedom of religion and the conflict in international law. *Harvard International Law Journal*. Summer 2008, vol. 49, n° 2, pp. 258-259. Among the fiercest opponents to a right to proselytism was Saudi Arabia, which did not even support the final draft of Article 18.º, which maintains the freedom to change religion (see LINDKVIST, Linde. *Religious Freedom and the Universal Declaration of Human Rights*. Cambridge: Cambridge University Press, 2017, pp. 61-104).

That said, this voluntary omission does not equal to a ban on proselytism in international law. Firstly, proselytism is itself a manifestation of religious freedom, being for some denominations one of the most important ones. This point was stressed by the United Nations Human Rights Committee (UNHRC) in its General Comment n. 22 on Article 18 of the ICCPR. Therein, it is affirmed that, among the acts that encompass the freedom to manifest religion or belief in worship, observance, practice and teaching, lies «the freedom to prepare and distribute religious texts or publications»¹⁶.

Secondly, article 6 of the DECLARATION lists a series of rights that, while not referring proselytism openly, seems to describe it, namely: the right to write, issue and disseminate relevant publications on religious issues (article 6(d)), and the right to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels (article 6(i))¹⁷.

It has sometimes been discussed whether the right to proselytism can be legitimately included in the right to teach a religion or belief. This interpretation has received formal approval by the European Court of Human Rights (ECtHR) in the landmark case on proselytism, *Kokkinakis vs. Greece*, wherein the Strasbourg court asserted that the right to manifest one's religion «includes in principle the right to try to convince one's neighbour, for example through "teaching"»¹⁸.

The same legal reluctance affecting proselytism can be found, though mitigated, in the provisions on the right to change religion. Article 18(1) of the ICCPR, e.g., states that everyone shall have the freedom to have or to adopt a religion or belief of his choice; article 18(2) reinforces this provision explaining that no coercion which would impair the freedom to have or to adopt a religion or belief shall be allowed. Article 1 of the DECLARATION contains very similar,

¹⁶ UN HUMAN RIGHTS COMMITTEE. CCPR General Comment N° 22: Article 18 (Freedom of Thought, Conscience or Religion). 1993. Available from: <https://www.refworld.org/legal/general/hrc/1993/en/13375>

¹⁷ FLORIA, Juan G. Navarro, LO PRETE, Octavio, *supra*, p. 80.

¹⁸ EUROPEAN COURT OF HUMAN RIGHTS. CASE OF KOKKINAKIS v. GREECE, *supra*. On the other hand, it has been argued that this understanding could restrict the modalities of proselytism: as the DECLARATION recognises the right to teach «in places suitable for these purposes», this could be read as a prohibition of domiciliary proselytism (see GONZALEZ, Gérard. Prosélytisme: Droit International. In: MESSNER, Francis. *Dictionnaire: Droit des Religions*. Paris: CNRS Éditions, 2010, p. 605).

almost identical, provisions. While these provisions do not mention the right to change one's religion, the UNHRC specified, in the aforementioned General Comment, that the freedom to have or adopt a religion «necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views»¹⁹. More assertive and explicit is the UDHR, whose article 18 recognises in a clear manner the freedom to change religion or belief.

It is also worth mentioning the Cairo Declaration on Human Rights on Islam, approved in 1990 under the umbrella of the Organization of Islamic Cooperation. In fact, this document is not a legal text, but a religious one. It was conceived as an Islamic response to the UN human rights system, deemed too secular and mostly based on Western values. Article 10 considers Islam «the religion of true unspoiled nature», and, immediately after, it adds: «It is prohibited any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism». While the reference to pressure and poverty can suggest this article is confined to abusive proselytism²⁰, the initial reference to Islam as the only true religion and the quotations of the Sharia throughout the text seem to suggest a total ban on proselytist activities, at least when Muslims are the targets. Anyway, the 2020 version (called The Cairo Declaration of the Organization of Islamic Cooperation on Human Rights) removed the polemical article 10, and article 20(2) (Right to Freedom of Thought, Conscience and Religion) adopted a more mainstream discourse about religious freedom (it uses the classic formula *right to have or to adopt a religion or belief of one's choice*), although without any overt reference to proselytism or the right to change religion²¹.

Finally, it must be observed that the right to proselytism and conversion in international law is not restricted to the provisions regarding religious freedom. Actually, the right to change religion can also be subsumed to freedom of opinion. In particular, article 19(1) of the ICCPR guarantees to everyone the right to hold

¹⁹ UN HUMAN RIGHTS COMMITTEE, *supra*.

²⁰ GONZALEZ, Gérard, *supra*, p. 605.

²¹ KAYAOGLU, Turan. *The Organization of Islamic Cooperation's Declaration on Human Rights: Promises and Pitfalls*. Brooking Doha Center Publications. 2020 Available from: <https://www.brookings.edu/wp-content/uploads/2020/09/The-Organization-of-Islamic-Cooperations-declaration-on-human-rights-promises-and-pitfalls.pdf>

opinions without interference. In its General Comment n. 32, the UNHRC stated some important points, namely: a) this right permits no exception or restriction; b) this right includes the right to change an opinion, irrespective of the reason and the time of the change; c) all forms of opinion are protected, and that includes political, scientific, historic, moral or *religious* opinions. A similar discourse can be made regarding the right to proselytism: whereas it is usually conceived as a component of religious freedom, it can also be subsumed to freedom of expression, as article 19(2) of the ICCPR recognizes the «freedom to seek, receive and impart information and ideas *of all kinds*» (emphasis added). Once more, the UNHRC General Comment n. 34 is extremely elucidative: in addition to political discourse, canvassing or teaching, just to name a few, freedom of expression includes religious discourse²².

Freedom of assembly, recognised in Article 21 of ICCPR, is another freedom that contributes for the full recognition of the right to proselytism. In fact, when a person is proselytised, it often happens in a gathering for religious purposes, be it spontaneous or a planned activity²³.

3. What makes the right to proselytism fundamental

This part will expose the most compelling arguments in favour of the conceptualisation of proselytism as a fundamental right in light of the human rights system built under the aegis of the UN.

It goes without saying, such an evaluation cannot but be contentious, as particular theories of fundamental rights are passible to answer differently to the question, *what makes a right fundamental?* Regarding proselytism, this conundrum can be particularly challenging, as religious freedom in general differs significantly from country to country, depending on the specific cultural, religious and political context.

While this may be true, excessive relativism must also be avoided, lest to consider human rights only a matter of different ideological narratives and cultural discrepancies. As a matter of fact, the attacks on the universality of the UN human

²² UN HUMAN RIGHTS COMMITTEE. General Comment N° 34. Article 19: Freedoms of Opinion and Expression. Available from: <https://www.justiceinitiative.org/publications/un-human-rights-committee-general-comment-no-34>

²³ CHENEY, Ryan. The right to be proselytized under international law. *Brigham Young University Law Review*. 2023, vol. 49, n° 1, p. 250. Available from: <https://digitalcommons.law.byu.edu/lawreview/vol49/iss1/10/>

rights system are mostly supported by post-modernists and post-structuralist theories that emphasise cultural differences to justify what, from the UDHR point of view, would simply be a violation of fundamental rights and human dignity. And even though this defence may have some merit, cultural differences are often used by authoritarian regimes as «as a means of legitimising existing power practices»²⁴.

In attempting to strike a balance between absolute universalism and acritical relativism, this article adopts the theory Jack Donnelly defines as «relative universality of human rights», which, in short, can be defined as a universal system of human rights that leaves «considerable space for national, regional, cultural particularity and other forms of diversity and relativity»²⁵.

Interestingly, the Author applies this concept to the case of religious freedom. He recognises that the particularities and traditions of Islamic countries, such as the prohibition of apostasy, must be approached with, at least, «a certain *prima facie* tolerance». In practical terms, this implies that an Islamic country is under no obligation of respecting a strict religious neutrality, like its Western counterparts. Furthermore, it could potentially deny certain benefits or impose modest disabilities on apostates. However, it must grant people the right to choose freely their religion and, under no circumstances, have recourse to violent coercion in this matter. Summing up on this point, the Author says: «Executing apostates [...] certainly exceeds the bounds of permissible variation. Violently imposing a specific conception of freedom of religion inappropriately denies basic personal autonomy. Whatever the internal justification, this so excessively

²⁴ ALKİŞ, Mehmet. Rethinking the Debate on Universalism Versus Cultural Relativism Regarding Human Rights: The Case of China. *Insan & Toplum: The Journal of Humanity and Society*. 2024, vol. 14, n° 1, pp. 46-59. For example, Charles Mok criticizes the *Human Rights Action Plan of China (2021-2025)*, in which this country defends a human rights system that prioritizes the «livelihood security of the people», while still offering little protection for individual freedoms (see MOK, Frank. How China defines human rights. *Friedrich Maumann Foundation for Freedom* [online]. 2021. Available from: <https://www.freiheit.org/southeast-and-east-asia/how-china-defines-human-rights>.) Lucie Lu explains that the adoption of different narratives on human rights by China, and even its appeal to countries in the Global South, is made possible thanks to the huge Chinese financial power, which partly shields China from harsh criticism from the international community (see LU, Lucie. Be my friendly reviewers: *how China shapes its reviews in UN human rights regime, IGCC working paper* [online] 2024, n° 6, pp. 1-45. Available from: <https://ucigcc.org/publication/be-my-friendly-reviewers-how-china-shapes-its-un-human-rights-reviews/>

²⁵ DONNELLY, Jack. The relative universality of human rights. *Human Rights Quarterly*, May 2007, vol. 29, n° 2, pp. 281-282.

infringes international legal and overlapping consensus that it is not entitled to international toleration»²⁶.

Following this rationale, in this article it is defended that national cultural and religious differences must be taken into account in the legal discourse on proselytism and conversion. In particular, it recognises that the idea of a free marketplace of religious ideas is essentially a liberal and, specifically, an American construct. At the same time, however, it is strongly defended that the UN human rights system (including religious freedom), far from being a Western construct, must today be regarded as a universal *ethical lowest common denominator*, and has been acquiring, over the last decades, such a broad acceptance that it can be regarded nowadays as a «moral lingua franca»²⁷.

The next pages will try to demonstrate that the right to proselytism is anchored in human dignity and the common good, and it is not just a mere product of liberal democracies. Compared to regimes wherein proselytism is legally restricted, religiously free societies have objective and, to a certain extent, even empirically verifiable advantages.

3.1. The importance of proselytism in the major religious traditions

Law and Religion scholars usually defend that any legal provision in this field should be built on the religious realm itself, as religion is essentially an extra-legal concept, a pre-existent reality that the Law should recognise, protect and, if absolutely necessary, limit for the sake of public interest and other peoples' rights. As affirmed by Pulido Adragão, «although the State feels obliged to regulate the social dimension of the religion phenomenon in the *civitas*, it does it knowing it has no competence in religious matters»²⁸.

This premise is connected to the first reason why the right to proselytism should be recognised as a fundamental right: the importance of this practice for many of the major world religions.

²⁶ DONNELLY, Jack, *supra*, pp. 301-302.

²⁷ PERRY, Michael J. Christianity and human rights. In: WITTE, JR., John; ALEXANDER, Frank S. *Christianity and Law: An Introduction*. Cambridge: Cambridge University Press, 2008, p. 237.

²⁸ ADRAGÃO, Paulo Pulido. *Levar a Sério a Liberdade Religiosa: Uma Refundação Crítica dos Estudos sobre Direito das Relações Igreja-Estado*. Coimbra: Almedina, 2012, pp. 21 e 22 (the author quotes LOMBARDÍA, Pedro. *Prologo*. In: CIAURRIZ, María José. *La Libertad Religiosa en el Derecho Español (La Ley Orgánica de Libertad Religiosa)*. Madrid: Tecnos, 1984, p. 18).

Of course, the emphasis, modalities and boundaries to proselytist activities vary significantly from religion to religion; and, within some faiths, there can be a substantial difference between active proselytism (spreading beliefs in order to convert others) and passive proselytism (being the target of proselytist activities and freely convert). As stated by Silvio Ferrari in an analysis confined to the Abrahamic religions, these differences stem from different theological premises, namely: a) the way religious membership is regarded; b) the view on apostasy; c) the existence of a universal or a particular vocation²⁹. Combining these criteria, it is possible to sketch out these distinctions: there are religions that neither support nor forbid passive and active proselytism (Hebraism); religions that support active proselytism, but forbid passive proselytism (Islam), or, at best, looks it unfavourably (some Christian denominations, such as the Orthodox Church and, to a certain extent, the Catholic Church); and, finally, religions that enthusiastically support active proselytism and accept the passive one as unavoidable collateral damage (mainly protestant and evangelical Christian denominations).

In short, even though it can differ significantly, nearly all world religions have, or historically had³⁰, some proselytist impetus. Anti-proselytising laws reflect an amputated vision of religion, excluding a practice that for millions of people is a non-negotiable tenet of faith. For millions of Christians, *e.g.*, the spread of the Good News is a responsibility given by Jesus Christ himself (the so-called *Great Commission*), with even eschatological implications associated. Forbidding or largely limiting proselytism equals to an unacceptable restriction of the religious freedom of these believers or to confronting them with an unnecessary moral dilemma between loyalty to God and loyalty to Caesar.

3.2. The legal right to be a target of proselytist activities

According to Ryan Cheney, current literature about proselytism mostly focus on the proselytiser side, ignoring the targets of proselytism (the *proselytisees*, to

²⁹ FERRARI, Silvio, *supra*, pp. 254-257.

³⁰ For example, although nowadays Hebraism is not a religion with a universal vocation, in classical antiquity Hellenistic Judaism was intensely committed to make converts (see BROYDE, Michael J. Proselytism and Jewish Law. In: WITTE, JR, John; MARTIN, Richard C., *Sharing the Book: Religious Perspectives on the Rights and Wrongs of Proselytism*. Maryknoll: Orbis Book, 1999, pp. 45-60; NOVAK, David. Proselytism in Judaism. In: WITTE, JR, John; MARTIN, Richard C., *supra*, pp. 17-44; FLORIA, Juan G. Navarro, LO PRETE, Octavio, *supra*, p. 61).

use the wording of the author). On the other hand, studies that deal with the proselytisees rights normally emphasise only the possible violations of rights they can be victims of (interference with their privacy and their right to peacefully enjoy their religion, offence to their religious feelings, etc.)³¹.

While these views are not inherently wrong, all of them have a conceptual blind spot: they are all based on the conviction that the targets of proselytist activities inevitably conceive being proselytised as an interference in their autonomy or as an attack to their rights or religious feelings. Given this fallacious premise, they end up ignoring the equally important positive freedoms of the proselytizees, such as, «the right to hear or decline to hear a religious message, the right to learn new religious information, and the right to adopt new religious beliefs and religions»³². Put it in other words, they ignore what Ryan Cheney calls *the right to be proselytised*.

The same author argues that, while international law does not refer it explicitly, the ICCPR guarantees a series of freedoms that, as a whole, establish a legal right to be proselytized, namely: Article 19(2), («...freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice»), and Article 18(1) («freedom of thought, conscience and religion... freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching»), as interpreted by the aforementioned General Comment n. 22.

Article 19(2) is particularly important for defending the existence of a right to be proselytized. Just as nobody questions that freedom of expression entails both the right to impart and the right to receive information, similarly the right to proselytism should be seen as both an active and a passive positive freedom. The disregard towards the interest of people to receive information on religious

³¹ CHENEY, Ryan, *supra*, pp. 241-242. For example, applying Isaiah Berlin's distinction between positive and negative freedom, Moshe Hirsch distinguishes between «the freedom of the proselytizers to conduct proselytizing activities and the freedom of the potential proselyte not to be interfered with by such activities» (HIRSCH, Moshe. The freedom of proselytism under the fundamental agreement and international law. *Catholic University Law Review*. Winter 1998, vol. 2, n° 2, p. 409).

³² CHENEY, Ryan, *supra*, p. 243.

issues stems from a bias against proselytism, which, without empirical basis, purports this activity as something necessarily aggressive or deceptive³³.

3.3. The correlation between proselytism and the right to convert

The distinction between the *forum internum* and the *forum externum* is an almost universally accepted theoretical distinction regarding the dimensions of religious freedom. In short, the first is concerned with the private sphere, the inner religious world of a person; or, according to the language of the ICCPR, their right to have (and, logically, not have) or to adopt a religion. Freedom of thought and conscience must also be included in the *forum internum*. The latter, instead, is related to the refractions of religion within the public sphere, and it is legally expressed by the freedom to manifest one's religion.

It is equally accepted that, as the *forum internum* is restricted to the mind and the self, it should enjoy full protection, as public authorities have no right (and oftentimes even the material possibility) to interfere with the conscience of the peoples. For example, Peter G. Danchin explains that the state «is absolutely prohibited from proscribing membership of certain religions under law, from coercing individuals to reveal their religion without consent, or from using threats, physical force, or penal sanctions to compel individuals to adhere to or recant certain religious beliefs»³⁴. Any attempt by public authorities to meddle with these inner aspects would make the State an Orwellian Big Brother, eager to annihilate independent thought.

Unsurprisingly, the *forum externum* is normally subjected to broader restrictions, given its intersubjective nature and its aptitude to violate other people's rights and public interests. Put it in other words, while feelings, ideas and convictions should be shielded from all forms of coercion, acting upon them may be subjected to restrictions. This understanding is enshrined in the ICCPR: the freedom to manifest one's religion and the freedom of expression can be subjected to the restrictions set out, respectively, in article 18(3) and in article

³³ Of course, this does mean the right to be proselytized is an absolute freedom; restrictions can be valid if they comply with the criteria of international law. On this subject, see CHENEY, Ryan, *supra*, pp. 254-267.

³⁴ DANCHIN, Peter G. Of prophets and proselytes: Freedom of religion and the conflict of rights in international law. *Harvard International Law Journal*. 2008, vol. 49, n° 2, pp. 260-261. Available from: https://digitalcommons.law.umaryland.edu/fac_pubs/505/

19(3), while the right to have or to adopt a religion or belief, as well as the right to opinion, are shielded from all coercion.

Though theoretically clear, this mind-action dichotomy is, in fact, more fragile than it may seem at first sight, and this uncertainty is often reflected in domestic and international case law³⁵.

This distinction is particularly flimsy when applied to proselytism. As argued before, the right to adopt or change one's religion is inextricably connected to the right to proselytism. Actually, the decision to change one's religion often presupposes the material possibility to get to know different religious creeds; besides, the ultimate purpose of any proselytist activity is leading someone else to a conversion. Any ban on proselytism reduces the quantity of information on religious issues, leading, at least indirectly, to a restriction to the freedom to change religion³⁶.

This link was properly emphasised by the ECtHR, in the aforementioned *Kokkinakis vs Greece*. Herein, the Strasbourg court stated that, failing the right to try to convince one's neighbour about religious beliefs, the freedom to change religion protected by Article 9 of the European Convention on Human Rights (ECHR), «would be likely to remain a dead letter»³⁷.

This means that restrictions on the right to proselytism are not confined to the *forum externum*, but ultimately result in restrictions to the *forum internum* of the potential proselytes, who would lose their right to access information on religious matters. In other words, restrictions on proselytism have a boomerang effect on freedoms that, according to the ICCPR, cannot be subjected to legal restrictions³⁸.

3.4. Proselytism as a countermeasure to State paternalism in religious issues

Anti-conversion laws like those enacted in several Indian States in recent years are based on two tacit assumptions: that the converts may have not chosen

³⁵ DANCHIN, Peter G, *supra*, pp. 261-262.

³⁶ See HAMBLER, Andrew, *supra*, p. 352.

³⁷ EUROPEAN COURT OF HUMAN RIGHTS. CASE OF KOKKINAKIS v. GREECE, *supra*. The Bible itself stresses this connexion, when, in the *Epistle to the Romans*, the Apostle Paul puts these logical questions: «And how shall they believe in Him of whom they have not heard? And how shall they hear without a preacher?» (*Epistle to the Romans*, 10:14).

³⁸ In slightly different terms, CHENEY, Ryan, *supra*, p. 255

freely to change their beliefs; that the potential proselytes, especially if they are women and, in the Indian case, of lower castes, are necessarily “easy preys” that can be lured into changing their religion³⁹. A similar rationale was also the basis for the condemnation, by all the Greek court levels, of Minos Kokkinakis and his wife, a Jehovah’s Witnesses couple accused by the Greek authorities to have tried to convert a lady at her home taking advantage of her supposed naiveté⁴⁰.

Laws of this kind reflect a paternalist approach by the State. In general, State paternalism may be defined as an intervention by public authorities in the citizens’ spheres with the purpose of promoting, refraining or forbidding some activities for the benefit of the citizens involved, the group they belong to, or the society as a whole. What can make this intervention problematic in legal and ethical terms is the fact States often act against the individuals’ will, on the assumption it has a better knowledge of what is best for them or for the common good⁴¹. While this assumption is generally accepted (for example, when road safety or public health is at stake), the intervention in religious issues is, to use a euphemism, controversial.

This religious paternalism may have different reasons: in some Islamic regimes, *e.g.*, it stems from the absence of a clear difference between the secular and the religious dimensions. As affirmed by Jorge Miranda, in these countries «it is impossible to separate the temporal from the spiritual, the legal from the moral, political communities from religious ones, human rights from divine law. It is not just a matter of organizing [State’s] power, but also of increasing the virtue»⁴². Flowing from this premise, public authorities consider themselves entitled to promote determined religious views, and hindering or banning others via, *e.g.*, restrictions on proselytism. However, even assuming this worldview is correct, it is highly debatable that some public authorities have the right solutions in such a private, personal, subjective and non-objectively verifiable realm such

³⁹ JENKINS, Laura Dudley. Legal limits on Religious conversions in India. *Law and Contemporary Problems*. 2008, vol. 71, p. 109. Available from: <https://scholarship.law.duke.edu/lcp/vol71/iss2/9>

⁴⁰ For a thorough analysis of this case, see BIAZI, Chiara Antonia Sofia Mafrica. O conceito de proselitismo na jurisprudência da Corte Europeia dos Direitos Humanos: os casos Kokkinakis c. Grécia e Larissis e outros c. Grécia. *Revista Direito em Debate*. 2013, vol. 21, nº 37, pp. 162-189 Available from: <https://revistas.unijui.edu.br/index.php/revistadireitoemdebate/article/view/300>

⁴¹ BERLE, Ian. *Face Recognition Technology: Compulsory Visibility and Its Impact on Privacy and the Confidentiality of Personal Identifiable Images*. Springer Science and Business Media, 2020, p. 125.

⁴² MIRANDA, Jorge. *Manual de Direito Constitucional. Tomo IV: Direitos Fundamentais*. Coimbra: Coimbra Editora, 2008, p. 47.

as religion. If it is true, as some scholars defend, that religious freedom should be regarded as the most important one as it is the only one with possible eternal implications⁴³, then individual choice should not be replaced by self-proclaimed all-knowing public authorities.

But, as previously seen, in the case of India or Greece, State paternalism in religious issues may occur even in more secular regimes. In these cases, the justification for paternalist measures against proselytism is the protection of allegedly naïve individuals against subtle coercion in religious issues. Once again, this intervention is commonly based on bias against some groups (e.g., women or low-income population). Furthermore, it assumes that proselytism is inherently a form of capturing somebody's conscience against their will, not admitting that, in general, individuals – whatever their economic condition, gender or level of education – are able to make voluntary and pondered choices about their convictions and beliefs⁴⁴.

This fallacious premise against proselytism is especially present in the occasional attempts to hinder or forbid proselytist activities among indigenous peoples. These restrictions on proselytism are allegedly based on the need to protect indigenous tribes from predatory activities and to preserve their cultural integrity. While the condition of indigenous peoples deserves serious consideration and has been deteriorating in last years in some countries such as

⁴³ See, e.g., LOPRIENO, Donatella. *La Libertà Religiosa*. Milano: Giuffrè Editore, 2009, p. 74.

⁴⁴ This statement does not imply that conversion is always a rational or intellectual process. As a matter of fact, social scientists explain that, in addition to *intellectual conversion*, there are other modalities, namely: a) the *mystical conversion*, a rare phenomenon that can be described as an individual theophany, independent of any pressure from the religious group; b) the *experimental conversion*, in which the conversion occurs after attending a religious community in order to get to know it better; c) the *affective conversion*, which occurs as a result of strong sentimental ties with someone who belongs to a religious community; d) the *revivalist conversion*, a phenomenon associated mainly with Pentecostal revivalism, characterized, on the one hand, by a deeply emotional response to evangelistic appeals, and, on the other hand, by a certain ephemerality; e) the *coerced conversion*, a very rare phenomenon akin to the long-debated concept of brainwashing (see LOFLAND, John; SKONOVD, Norman. Conversion Motifs. *Journal for the Scientific Study of Religion*. Dec. 1982, vol. 20, n° 4, pp. 373-385). The position defended in this article is that, whatever the modality of conversion at stake (with the exception of the coerced one), it is fallacious to presume that the converts are incapable of making voluntary choices, however dramatic or emotional they may be. Actually, this position is strengthened by recent studies carried out in the field of sociology and psychology: whereas traditional explanations of conversion argued that its causes were mostly external and irresistible, the contemporary theories stress the active role of the converts in this process, as «self-directed participants» who continuously interact with external forces, such as the recruiters, the religious group or the spiritual forces whose presence the converts allegedly perceive (see SNOOK, Daniel W.; WILLIAMS, Michael J.; Horgan, John G. Issues in the Sociology and Psychology of religious conversion. *Pastoral Psychology*. 2019, vol. 68, pp. 224 and 230.).

Brazil⁴⁵, these prohibitions seem to replicate the old colonial mentality according to which indigenous peoples are necessarily unable to make autonomous decisions, due to their poverty and vulnerability. This premise leads to ignoring indigenous peoples' right to self-determination, established by article 33(1) of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)⁴⁶; and, ultimately, results in policies that demean indigenous peoples and deprive them of intellectual maturity⁴⁷. As it has been observed, instead of conferring cultural rights, these measures result in imposing cultural duties, ignoring individual freedoms⁴⁸.

Paternalist state policies could gain some legitimacy when proselytism is carried out in debatable ways. For example, conversions into new religious movements are sometimes ascribed to the employment of subtle and dangerous techniques of persuasion and mental manipulation – the so-called *brainwashing*⁴⁹. In these cases, state intervention against proselytism would not lessen individuals' autonomy, but actually increase it, freeing people from an unsolicited bondage to their will.

However, the concept of brainwashing itself is far from being consensual. In fact, while some psychologists and psychiatrists have warned about the dangerous persuasion techniques employed by some new religious movements⁵⁰, many authors are sceptical about the very existence of

⁴⁵ About the increase in violence against indigenous tribes in Brazil in the last years, see CONSELHO INDIGENISTA MISSIONÁRIO. *Relatório – Violência contra os Povos Indígenas no Brasil. Dados de 2022*. Available from: <https://cimi.org.br/wp-content/uploads/2023/07/relatorio-violencia-povos-indigenas-2022-cimi.pdf>

⁴⁶ Though not mandatory, the UNDRIP has been the greatest development in decades in the area of indigenous rights protection. On this SUBJECT, see XANTHAKI, Alexandra. Indigenous rights in international law over the last 10 years and future developments. *Melbourne Journal of International Law*. 2009, vol. 10, n° 1, pp. 27-37. Available from: https://law.unimelb.edu.au/_data/assets/pdf_file/0009/1686060/Xanthaki.pdf

⁴⁷ ALVES, Rodrigo Vitorino Souza. Diversidade Cultural e o direito à autodeterminação dos povos indígenas. *Revista Jurídica da Presidência*. 2014, vol. 16, n° 110, p. 740. Available from: <https://revistajuridica.presidencia.gov.br/index.php/saj/article/view/54/45>

⁴⁸ KYMLICKA, Will. *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press, 2009, pp. 100-103.

⁴⁹ Others names are sometimes used as synonyms of brainwashing, such as *coercive persuasion*, *thought reform* or *mind control* (see DAVIS, Dena S. Joining a “Cult”: Religious Choice or Psychological Aberration? *Journal of Law and Health*. 1996, vol. 11, n° 11, pp. 145-146. Available from: <https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1238&context=jlh>

⁵⁰ See, for example, SINGER, Margaret Thaler. *Cults in Our Midst: The Continuing Fighting Against Their Hidden Menace*. San Francisco: Jossey Bass, 2003 (originally published in 1995).

brainwashing. Massimo Introvigne explains that mostly sociologists contest the existence of coerced conversions, arguing instead that the brainwashing accusations are an instrument to undermine religions perceived as exotic and dangerous; as an additional argument, they point to the scarce efficacy of these techniques, given the small percentage of converts and the frequent exits of the faithful from these religious groups⁵¹.

According to Kathleen Taylor, the brainwashing narrative was very successful in the United States as it worked as an easy way to rationalise out abnormal behaviours that could not be easily explained. For example, in the 50s it helped to explicate why some American soldiers captured by the enemy in the Korean War had become fervent supporters of the Communism. Since the 70s, the same reasoning has been applied to young Americans who started to integrate religious groups most people saw as dangerous cults⁵².

In light of this vagueness, States policies should avoid criminalising brainwashing *per se*. Rather they should just apply general norms, forbidding any proselytist methods that would be considered criminally or civilly illegal, like those employing physical coercion, seclusion and threats.

Finally, it must be observed that the accusations of proselytism as being deceptive are often exaggerated and stem from a bias against religion itself. As explained by H. E. Baber, society generally accepts non-rational methods of persuasion that, to a certain extent, are manipulative. Examples of these are charities featuring pictures of starving children to solicit donations or shocking anti-smoking advertisements. In all these cases, the key-issue seems to be the comparison between the price to pay for using non-rational methods of persuasion and the desirability of the end that can be obtained through those methods⁵³. Of course, people convinced that religions are inherently false or devoid of any value simply would not be willing to pay this price.

⁵¹ INTROVIGNE, Massimo. El Hecho de la Conversión Religiosa. In: ALONSO, Juan; ALVIAR, José. *Conversión Cristiana y Evangelización*. Pamplona: EUNSA, 2011, pp. 28-29.

⁵² TAYLOR, Kathleen. *Brainwashing: The Science of Thought Control*. Oxford/New York: Oxford University Press, 2004.

⁵³ See BABER, H. E. In defence of proselytizing. *Religious Studies*. 2000, vol. 36, nº 3, p. 340. The author is criticising Margaret Battin's accusations against evangelism expressed in her book *Ethics in the Sanctuary*.

3.5. Proselytism as a possible way to reduce religious violence and social turmoil

In a world increasingly marked by religious violence, as seen before, it is legitimate to ask: *is proselytism a catalyst for conflict and social unrest, or a solution to this problem?*

A 2007 study in the field of sociology showed that religious regulation (including social and state regulation) is the primary source of religious persecution; and, as this regulation is itself triggered by social pressures, it can lead to a vicious circle of regulation and persecution. The same study stated that the Samuel Huntington's model, which explains the conflicts as originated by the pressure along civilisation fault lines (including religious ones), has only indirect effects on religious persecution⁵⁴. Another study showed that the reduction of religious freedoms leads to an increase in internal civil and ethnic conflicts in general⁵⁵.

Robert Finke strengthens this idea using social contact theory – a theory developed in psychology and other social sciences, commonly known as the contact hypothesis, which suggests that contact between social groups, if conducted under certain conditions, can reduce bias and conflicts between them and lead to greater mutual acceptance. Religious restrictions – Robert Finke argues – violate the terms of these interactions. The outcome is that «interactions with other groups are often reduced and when they do occur they are neither cooperative nor equal». And he adds: «*when a religious group's interaction with other members of the society is restricted, the probability of religiously motivated prejudice, discrimination, and violence increase*». The Author concludes that, when he tested this thesis with Jaime Harris, they concluded that «government restrictions on religion do contribute to increased social isolation of the religious

⁵⁴ See GRIM, Brian; FINKE, Roger. Religious persecution in cross-national context: clashing civilizations or regulated religious economies? *American Sociological Review*, 2007, vol. 72, n° 3, 633-658. Available from: <<https://journals.sagepub.com/doi/epdf/10.1177/000312240707200407>>

⁵⁵ See FINKE, Roger; MARTIN, Robert R. *Religious Freedom and Conflict: A Review of the Evidence* [online]. Report prepared for the USAID Conflict Management and Mitigation. Available from: <https://www.thearda.com/ARDA/workingpapers/download/USAID%20Religion%20and%20Conflict%20Final%20Report%209-18-12.pdf>

groups and that social isolation does help to explain increased levels of violence»⁵⁶.

Admittedly, these studies do not show unequivocally that proselytism fosters social peace; moreover, aggressive forms of proselytism are unlikely to lead to cooperative or equal relations between religious groups. However, they quite convincingly demonstrate that religious regulation and restrictions lead to isolation and violence; and since proselytism is a manifestation of religious freedom, it deserves, at least *prima facie*, to be seen as a means of promoting more open and tolerant societies.

An argument contrary to this thesis could be found in a study by Jayanth Deshmukh on patterns of communal violence in India, in which he found that conversions are often the cause of inter-religious conflict. However, the author adds that religious conversions have been used by the hyper-nationalist Hindu authorities to stir up an anti-minority sentiment among the Hindu population⁵⁷. Therefore, conversion-triggered violence is more likely to be caused by political nationalism and inflamed nationalist rhetoric than by proselytism and conversions themselves.

In conclusion, given the paucity of data and sociological studies, caution is needed on this subject. Nevertheless, there is some evidence to support that non-aggressive proselytism can be a way of achieving peaceful and tolerant societies.

Conclusion

In this article, it is defended that the right to proselytism and to conversion must be protected as fundamental rights despite their partly deficient recognition in international and regional human rights instruments. Various arguments – ranging from the importance of these freedoms in some religions, to their ability to promote individual well-being and societal benefits – have been presented to justify this idea and foster an *overlapping consensus* on the issue, to use the famous John Rawls' expression.

⁵⁶ FINKE, Roger. Presidential address: origins and consequences of religious restrictions: a global overview. *Sociology of Religion*. Autumn 2013, vol. 74, n° 3, pp. 307-308. Available from: https://www.jstor.org/stable/pdf/24580084.pdf?refreqid=fastly-default%3Adf12333ba9969dc5a35eeb0e316a24b1&ab_segments=&initiator=&acceptTC=1

⁵⁷ See DESHMUKH, Jayanth. Terrorizing Muslims: communal violence and emergence of Hindutva in India. *Journal of Muslim Minority Affairs*, 2021, vol. 41, n° 2, p. 323. As argued by the Author, conversions in India are particularly common among the Dalit population, as a way to escape the discriminatory caste system.

However, as it has been explained, the recognition of proselytism does not necessarily mean the creation of a radically free marketplace of religious ideas, inspired by the concept created by the US Supreme Court justice Oliver Wendell Holmes in his dissenting opinion in *Abrams v. United States* (1919)⁵⁸. This is essentially a Western construct, inseparable from liberal democracy and the principle of separation of Church and State.

This article takes a less ambitious stance on this issue, as it does not deny the importance of religious and cultural identities all over the world. For this reason, it accepts that in some countries the right to proselytism or the legal regime of apostates may not have exactly the same amplitude usually allowed in a liberal democracy. Nevertheless, it also strongly defends that coercion in basic aspects of religion is contrary to the most fundamental and universal rights. As stated by Allen D. Hertzke, religious liberty *is not* a construct of the modern West, but an ancient idea, that traces its origins back to the Ancient World, present even in many sacred texts, and, ultimately, «a universal inherent right and aspiration»⁵⁹.

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⁵⁸ Inspired in the thought of John Stuart Mill and, before him, John Milton, the expression *free marketplace of ideas* pointed to an ideal space where truth would be subjected to the best of all possible tests: «the power of the thought to get itself accepted in the competition of the market». See *Abrams v. United States*, available from: <https://constitutioncenter.org/the-constitution/supreme-court-case-library/abrams-v-united-states>

⁵⁹ See HERTZKE, Allen D. Introduction: advancing religious freedom in the twenty-first century. In: HERTZKE, Allen. *The Future of Religious Freedom*. Oxford: Oxford university Press, 2013, pp. 4-5.

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Data de submissão do artigo: 31/07/2024

Data de aprovação do artigo: 09/11/2024

Edição e propriedade:

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