

State, Church, Nation - A European Perspective

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I

What place may religion have in our public space? In our definition of the State? In our educational systems? In defining our public identity? It is, in part a question of and for democracy: Imagine a State with a majority of practicing Christians among its citizens. May they use the legislative and administrative institutions of the State to make their's a Christian State – whatever that might mean? Would that not run up against our most cherished constitutional principles of freedom, notably freedom of religion and freedom from religion?

The impact of the French and American revolutions on our political and constitutional cultures is so enduring and powerful that we tend to take the American 'separationist' and French *Laique* as normative, as setting the yardstick for any thinking of this issue. And thus, the most "natural" answer to the question would be A Christian State? No!

There is, interestingly a paucity, in the discussion of these issues, of normative comparative analysis. By normative comparative analysis I mean a comparative analysis of systems in liberal societies which offer an alternative to the Franco/American model. You would almost think that the latter is typical whereas they are, even among Western Democracies the exception rather than the rule. The fact that it is exceptional does not mean that normatively it is not compelling or more compelling than the alternatives. But that must be an informed judgment call.

Back to our initial question: Whenever an issue of religion is raised, one usually finds a turn to alternatives arrangements of Church and State to demonstrate alternatives to the Franco/American model: The German “Cooperative” Model; the British or Danish or Maltese Establishment models, the Greek or Polish Endorsement models etc.

This is a disservice that the literature performs for in doing so it conflates the relational aspect of Church and State with the issue of identity.

Allow me to explain – by making three “moves”.

First Move –State and Nation. The very framing of the issue as Church – State is itself a creature of the French and American Revolutions which load the dice – for it conflates State and Nation – and the reason it can do this so ‘nonchalantly’ is because both France and the USA conflate nationality with citizenship in an uncomplicated –but, let us emphasize, also in an empirically speaking exceptional – way.

More commonly, the emergence of the modern State is tied to the emergence of the modern nation-state (or a new self-understanding of old States) and the concept of self-determination. The Self of the State is the nation.

German unification, that conflation of the territory of what became modern Germany from dozens of little or big principalities – the Bismarck enterprise – was also *co-terminus* in inventing, creating and then consolidating the notion of a unified German people. The Italian State, the *Risorgimento* – was not only a territorial fusion on the Italian peninsula, it was also the belief that there was something that transcended the previous separateness – the Italian nation. Older States came to understand themselves in similar fashion. And so it was after WWI, after WWII with de-colonization and as recently as the fall of the Soviet empire.

Second Move: Religion. There is much more to religion – notably the Abrahamic religions - than Religion i.e. than religious sensibility properly speaking. They all have or have had a huge impact on our cultural asset, not least our political cultural asset – and consequently on our identitarian asset. Some times their cultural asset is directly manifest through literature, poetry, the plastic arts, music. Some times it is indirect in shaping our sensibility to the very human condition in profound ways. Given the historical prevalence of the Judaeo-Christian tradition in the West – it is impossible to understand political culture – even secular political culture, even the cultural identity of the most *laïque* of persons – without this asset being in the background. The famous or infamous speech of Nicolas Sarkozy about the Christian roots of France was not an evangelizing appeal or referent – it was a reference to the Cultural dimension of Christianity which is indispensable to an understanding and, in his view, self-understanding of secular France. The

famous WWII (1942) essay of Benedetto Croce -- PERCHÉ NON POSSIAMO NON DIRCI «CRISTIANI I»-- has always been understood in a similar sense.

Third Move: Religion and Nation. In the emergence of the nation in the modern nation state or the new national self understanding of older States, religion, in this thick cultural sense, could and did become an important and at times constitutive element in the self understanding of persons as a collective people. In short, in the cultural make up of the nation, religion may play a huge part even for those who have abandoned its deistic content.

In, for example, the emergence of the modern Ireland as an independent State through its struggle for independence from Protestant Britain, Catholicism was among the most salient elements in national self-understanding. The preamble to the Irish Constitution till this day has a flowery reference to explicit Catholic imagery with the Holy Trinity being defined as the source of truth, beauty and justice. This, of course, in an Ireland which recognized - in the same Constitution - the full and equal citizenship of Protestants, Jews and, naturally, atheists. To have full fledged Jewish citizens who could, say, vote for and be elected to the Parliament and serve in the highest offices of the State as full and equal citizens was not considered in contradiction with a Constitutional self understanding of the Holy Trinity as being the source of all truth, beauty and justice – and was not regarded as contradictory, or insulting, by the many who did not share that vision.

Let me bring these ‘three moves’ to a sharp conclusion: Religion is not something that emerges when we discuss the relationship between State and Church. It can predate the State and be part of the identity of the very nation of which the State is an expression. Religion may belong to the fundamental notion of collective Self-Determination. It makes the equations difficult, since if we affirm freedom of religion at the individual level as an indispensable part of the patrimony of Fundamental Human Rights, it would seem that there is a similarly situated, but differently reasoned, collective right of freedom of religion. The collective right is not simply a bringing of democracy to fundamental right, aggregating the individual freedom of each member of the collectivity. It is a collective right in and of itself, with its own independent ontology. Indeed, it is THE most fundamental of collective rights, since it is the right which enables us to define the collectivity as a subject to which attach rights. Self determination is the equivalent in the collective realm to the right to dignity in the individual realm – primordial and axiomatic. Scrubbing out religion from the collective and public space may compromise that primordial “right” of self-determination.

II

Let us keep this in mind and turn to the contemporary debate about the place of religion in European public space – a debate which has assumed sharper edges with the advent of large and vibrant religious Muslim societies in Europe of today in the face of a Christianity which has been continuously losing ground in an ever-secular Europe, with a corresponding decline in the role of Christian culture in the self-understanding of the European nations

and nation states. There was, as you will recall a huge discussion on the possible reference to “Christian Roots” as part of the Identikit of the European Union in the Preamble to its defunct “Constitution” and now questions arise in national contexts with the debate, for example, on the appropriateness of a crucifix in public schools—which has been litigated before the German Constitutional Court, is under legislative consideration in several countries, and was the subject of consideration and decision by the Grand Chamber of the ECHR in March of this year, following the November 2009 *Lautsi* decision by the Second Chamber. It is hard to recall in recent times ECHR litigation which has attracted as much public and media attention. Relate the discussion on the cross to that on the burqa and you have your finger on the constitutional pulse in and of Europe.

I want to offer a somewhat novel, surely contestable, way of framing the issues as they manifest themselves today.

III

To say that religion and/or religious symbology may find themselves at the very identity of the collective subject, and that hence to scrub out religion from the public space risks compromising the right to self determination, is not an Answer, it is not a Solution, it should be regarded as part of the definition of the problem. For the problem may be defined, in part, as the tension between collective and individual rights. Nota bene: Not the classic paradigm where the exercise of collective power expressing majoritarian preferences clashes with individual liberties; but, instead, a clash of rights with, arguably, equal normative value.

Why is there a clash? We habitually talk of the commitment to religious freedom, both positive and negative: Freedom of religion and freedom from religion, which European states are constitutionally, and under the Convention system, to guarantee their citizens and residents. This is taken as axiomatic: Freedom of religion contains freedom FROM religion. This is part of the *jurisprudence constante* of the ECHR. But, it is worth problematizing this axiom. Note that this issue is distinct from the question of the neutral state. Freedom from religion operates within the laique and non-laique states.

We must first note, that ubiquitously, liberal democratic constitutions provide specifically for freedom of religion and do not collapse it into freedom of conscience. But why and how does the recognition of a freedom of religion, produce a constitutionally equal right to freedom from religion? It seems intuitively correct, but how is it to be explained and justified? It is a critical question, because it is in the name of this fundamental human right to freedom from religion that the rights-based rationale for excluding or limiting religious symbology in the public place is made. The desire of a majority to mark their identity, or even simply to give expression to their religious faith by, say, placing a cross in the middle of the public piazza, is contested by those who claim that such is a violation of their right to freedom from religion. In such an act of erecting a cross, their freedom from religion would arguably be compromised by forcing them to walk under the cross when traversing the public piazza, and by the fact that their tax money will have been spent on a religious artefact given expression to a religious faith (which they do not share) and thus make them complicit in it.

But before addressing the delicate question when, if at all, does a collective action such as the above actually compromise the individual right to freedom from religion, it is important, I respectfully suggest, to try and account for the usually uncontested norm of freedom from religion. I do not believe it is such an easy thing to do, for, how is one to explain and justify that, with some exceptions, of all world-views, weltanschauungen, it is only religion from which we need “protection” and in relation to which we enjoy a ‘freedom from.’ Imagine, say, that the majority in question was not Christian but Socialist or Communist, or ecologists, or vegetarians, or feminists. Imagine they wanted to erect in the Piazza big Hammer and Sickle, and further wanted to spend money on socialist or ecological or feminist causes – all taxpayers money, the money of the State. There is no Freedom from Socialism, or freedom from Feminism, or Capitalism which one could appeal to. Such a decision, entirely banal, is part of democracy, except if the symbol is the cross.

One can try and draw distinctions. Religion is, one could argue, a matter of conscience, in a way that other world views are not. But this is a difficult distinction to sustain, and the version that one can sustain does very little work to justify freedom from religion. First, it could be considered hugely arrogant to presume that somehow a religious world view cuts deeper, is more spiritual, implicates more ‘conscience’ than other world view. To many, socialism or liberalism etc are rich and deep world views, in the eyes of many of their adherents, a pond no less deep than the wells of religion. Would a statue of Marx necessarily mean less to the Marxist, than a cross to the Christian? And would the offense that a cross give the atheist, any graver than the offense a statute of, say, Stalin would give others? Second, if the

explanation of why one is justified in positing freedom from religion and not freedom from socialism, is rooted a particular assault on conscience that religion represents, then one must, of course, limit the freedom of religion only to those situations where it can be shown that conscience is compromised – but then we are again back to the generic freedom of conscience and would have difficulty in explaining why a specific freedom from religion, and why it cannot and should not be subsumed under freedom of conscience.

The irony, in my view, rests in the fact that the most persuasive argument why freedom of religion, uniquely, also must mean freedom from religion is a religious rationale: Freedom of religion, religiously speaking, must mean the freedom to say No to God (freedom from religion) since if such a freedom did not exist, internally (in the individual conscience) and externally, in society protected by law, the act of saying Yes to God would lose all religious meaning. In other words, you cannot guarantee freedom of religion if you do not guarantee freedom from religion, since coerced religion, turns out to negate the possibility of freedom of religion.

This brings us back to our point of departure – and our original insight that religion in the public sphere is not simply the aggregate preference of individual citizens but can be part of the artefact that defines the collective entity such as the nation.

In fact, I would suggest, the European constitutional landscape posits two rather than one “Freedom of Religion.” In addition to the classical *individual* Freedom of and from Religion, in its very structure Europe represents a second *collective, identitarian*, Freedom, conceptually stemming from self-determination, namely the freedom of nations/states to include in their self-definition, in their self-understanding and in their national and statal symbology, a more or less robust entanglement of religion and religious symbols. (Right ‘off the bat’ let me say that there is no small measure of hypocrisy in the oft-heard insistence that Turkey must be *laïque*. Turkey yes and Denmark no?)

Consider France and the United Kingdom, good examples because both are founding members of the European Convention of Human Rights and, with the usual imperfections, are both considered robust liberal democracies in good standing.

France, in its very Constitution, defines itself as *laïque*—usually understood as a political doctrine which does not allow the State any endorsement or support of religion and would, say, consider the display of religious symbols by the State or the funding of religious schools, as, well, anathema. At an *individual* level, *laïcité* does not necessarily mean individual atheism or agnosticism. I know many persons, and so do you, who are religious in a profound and capacious way, but uphold *laïcité*. They do so because they believe that, independently of their personal conviction, it is wrong for the State to get entangled with religion. This precision is important since it helps highlight the fact that *laïcité* is a political doctrine about the best way to regulate the relationship between the State and Religion. The origins of, and

justification for, *laïcité* can be historical (the specificities, for example, of the *Ancien Régime* and the subsequent French Revolution) but also theoretical—rooted in both principled and pragmatic consideration of, say, how best the State may ensure peaceful coexistence among religious factions.

Laïcité is to be contrasted with an opposing doctrine, which is also very common in Europe and which has no accepted name. “Theocracy”, even the most ardent supporters of French style *laïcité*, would not be an appropriate label to describe a state like the modern UK or Denmark. For convenience let us refer to ‘non-*laïque*’ states. Like France, like everyone else, the non-*laïque* are both committed to, and obligated by, an imperative of assuring individual freedom of and from religion, but see no wrong in a religious, or religiously rooted, self-understanding of nation and state, and in a public space more or less replete with state-endorsed religious symbology. In England, part of the UK, the Monarch is both the Head of State but also the Titular head of the Anglican Faith and its institutional manifestation in the Church of England: the “Established Church” of the Nation and State. Many state functions have a religious character: clergy sit (or sat) *ex-ufficio* as part of the legislature, the flag carries the Cross (of St. George) and the national anthem is a Prayer to God.

In somewhat of a mirror image of what I wrote above, I know, and so do you, many persons in England who are very convinced atheists and yet see no harm in the ‘non-*laïque*’ state, also able to invoke considerations of principle and pragmatism: Has the UK been more riddled with religious strife than, say, France? It would seem that at least until recently, Catholics,

Jews and Muslims were at peace with, say, a photo of the Monarch on the wall of a classroom or, more significantly, the English (or British) population at large has been at peace with a Catholic, or Jewish or Muslim or Church of England classroom funded from the general tax receipts of a population which is mostly secular, just as their French counterparts would be uncomfortable with the above.

It is not my purpose to claim normative parity for these two positions—a proposition which makes many people become very hot under the collar. But I will make two claims in relation to them. First, both the France and the UK (English) models are considered constitutionally legitimate in Europe. The UK (or Denmark, or Malta, or Greece and many others with different recipes from the ‘non-laïque’ cookbook) is not, simply by being what it is, in violation of the Convention or in violation of the common constitutional traditions of Europe. Second, and more controversially, I do assert that the claim that laïcité embodies a principle of neutrality—requires a very narrow (and self-serving) definition of what we mean by neutrality. Sure, a laïque state, à la France, is neutral as between different *religious* factions in the French public space. But it is not neutral in a broader political sense. What may hang on a French classroom wall will depend on the political colour of French democracy at any given time: A bust of Voltaire? *S’il Vous Plait*. Marx? *Pourquoi Pas?* The noble Battle Cry of the French Revolution—*Liberté, Égalité, Fraternité*—is, in fact, to be found on countless schools across the country. The only things that may not be displayed, independently of the contemporary colour of voter preference, is a cross, or a mezuzah or a crescent. Kids may come to school with any manner of emblems such as the famous peace triangle, but not with you-know-what.

I want to insist on the issue of neutrality, since the attachment to the notion that an empty wall is a position of neutrality by the State seems to many axiomatic, an axiom which, at a minimum one has to destabilize.

One way to think of the neutrality issue is through an educational prism. It is clear that a cross on the wall of a classroom does send a message – at a minimum that the State is not inimical to religion, and to a certain specific religion, and at worse that those young minds who do not believe in the cross or have other religious convictions are in some respect ‘deficient.’ This educational danger has to be countermanded by the content of the educational program of the school, which has to find ways, convincing ways to validate the non-religious choice and to validate the dignity of the non – Christians as full members of the polity.

But, albeit in a different way, there is a similar educational impact to a classroom and a school yard where children are allowed to come wearing the icons and symbols of every social movement, except religious ones. And a wall in the school which may exhibit and validate any *Weltanschauung*, but the religious one. It is ingenious or disingenuous to maintain that there is no normative patina to the unique exclusion from the public space of this one world view.

There is not contestation in Europe about the principle of freedom of and from religion (though many debates about its application). But there is a deep contestation about the most suitable way to regulate the symbolic and iconographic entanglement of Church and State. The *laïque* position is

surely not “neutral” about that contestation: It is as much a polar position as is the ‘non-laïque’ position. It does not simply choose a side. It is a side. It is theoretically autistic or disingenuous to claim neutrality for a term which defines one pole in a bipolar dispute.

This argument brings about yet a third very important underlying distinction which is rarely articulated, but which was very visible in *Lautsi*, since, in my view, it undergirded the impassioned plea by the lawyers of the redoubtable Ms. Lautsi and, in my most humble and respectful opinion, also undergirded the decision of the Chamber currently on appeal before the Grand Chamber. There are those who truly believe that laïcité is a primordial condition—sine-qua-non for a good liberal democracy and that, at least implicitly, the non-laïque position is sub-optimal at best and aberrational at worst. Consequently, it is morally imperative for good democrats and liberal pluralists to attempt to clip the wings of religious manifestations of the non-laïque state as far as possible—a principled and consistent position.

IV

There are others (myself included) who hold the view that, even more in today’s world than before, the European version of the non-laïque state is hugely important in the lesson of tolerance it forces on such states and its citizens towards those who do not share the “official” religions and in the example it gives the rest of the world of a principled mediation between a collective self-understanding rooted in a religious sensibility, or religious

history, or religiously-inspired values and the imperative exigencies of liberal democracy. That there is something inspiring and optimistic by the fact that even though the Queen is the Titular Head of the Church of England, the many Catholics, Muslims and Jews, not to mention the majority of atheists and agnostics, can genuinely consider her as “their Queen” too, and equal citizens of England and the UK. I think there is intrinsic value of incalculable worth in the European pluralism which validates both a France and UK as acceptable models in which the individual right to and from religion may take place.

This, then, is how I would frame the issues against which the spate of cases and debates currently present in the European public space must take place. All too often these debates are reduced to the oft-difficult line drawing exercises between freedom of and from religion and their counterbalancing by other societal mores.

A word, then, about Europe. The European Union constitutional framework is meant to reflect the common constitutional traditions of the Member States. How would one achieve that when one has a France and a Britain? A Malta and a Sweden? The solution I proposed is the so-called Polish solution, the elegant way in which the contemporary Polish constitution catered for a society in which equal respect is owed to the religious and the non religious. Both are recognized. Europe could recognize both.

What is the conceptual and normative theoretical case for the transcendent European constitutionalism which accepts this myriad of arrangements ranging from the French, through the Dutch to the English?

I would list the following considerations which must be taken step by step.

First, national identity is considered of moral value in and of itself, and if religion – as faith and/or culture -- is bound up with the make up of that collective identity, it partakes of that moral value. It partakes of that moral value for several reasons: First, because the collective self-determination is an expression of individual liberty and self-determination. Why should we Irish, separate and different from the British in many ways, of which our predominant faith is one important element, not be able to be our own people, in our own State etc. (What are the political and legal limits to the right of independence of national minorities within a State must be the subject of another paper). Is it not odd, the argument would go, that under freedom of religion I may be entitled to give expression to my faith at the individual level, but, even if theoretically every single one of my fellow citizens feels exactly like me, we may not give any expression of such in the public square, in the symbology of our State – which flows from the definition of the State as *laïque* as in France? The denial of that position is indeed deeply rooted in the heritage of the French Revolution which defined religion as a private matter, even though the Abrahamic religions do not understand themselves as confined to the private sphere. But clearly, the British, or Danish, or Irish, or Greek, or Maltese, or Polish etc. did not follow in the French footsteps even though partaking in the same heritage.

It is for this reason that I do not like the vocabulary of “Margin of Appreciation” used by the Grand Chamber in resolving the Lautsi case in favor of Italy. (I like the result, but not that aspect of the reasoning). ‘Margin of Appreciation’ is premised on the notion that the Individual and his or her rights are at the center, and that competing values are peripheral, on the margin. I do not accept that. I think that the good life is one in which the rights of the individual are balance by duties and responsibilities towards others. I also would claim that the Community, society, human relations are an indispensable component of the very human condition, so that the right of collective self-determination, how a society understands itself collectively is hugely important and has to be carefully balanced. From this perspective, one could say, ironically and polemically, that it is the European Court which is operating within the margin of Appreciation. The vocabulary is so entrenched that it would be futile to call for its abandonment, but its philosophical and jurisprudential limitations should be acknowledged.

Does this mean that the nation must be “pure”? Must Britain reject or exclude or repress, as it once did, Catholics or Jews or Muslims or seculars who hate all forms of religion? Why would the European Convention of Human Rights one foundation of which is clearly the heritage of the French Revolution with its Declaration of the Rights of Man accept the British model as an authentic expression of its transcendent liberal values?

The answer is, of course not. Europe is crisscrossed with States which include various minorities, including religious minorities, linguistic minorities and, indeed, national minorities. We now can identify the third grand principle which is part of the transcendent European constitutionalism.

Formalized already at the end of WWI Europe accepts the legitimacy of a conceptual distinction between nationality and citizens. All citizens are equal in law, but this need not obliterate national distinctions – as even a cursory look at States such as, the UK, Spain, Italy, Belgium, to mention but a few, attest. Various regimes to accommodate this distinction are in place as these same states again attest: Devolution in the UK, autonomy in Spain, bi-communalism in Belgium, differentiated regionalism in Italy with a special status for the German speaking Alto Adige etc.

What is the normative conceptual underpinning of this third principle? Why is it accepted, especially if the dominant culture is religiously defined as in, say, England? The answer, I would argue, is that allowing a religiously inspired identitarian asset to the State but insisting on strict non discrimination on grounds of religion provides one of the most fertile grounds for cultivating one of the most cherished liberal virtues – that of tolerance. It is the fact that England is formally Anglican in its symbology but practices full religious freedom – thus allowing Catholics and Jews not only to worship freely, but to be prime-minister or legislator or chief justice, to be full integrated citizens which educates to tolerance and in some respects is so inspiring. It is one reason why Britain has been so attractive to immigrations, why in modern Britain its Catholic citizens can be as patriotic as its protestant citizens. It is a State of all its citizens and at the same time it has a powerful identitarian asset and identity which has its roots, and some very live manifestations, in religion. On this paradigm, it is France which seems less pluralist and tolerant in insisting on a single unique French nationality/citizenship repressing different national identitarian communities.

Our contemporary political theory has forgotten the lessons of Aristotle, Aquinas and Maimonides who all insisted on a clear distinction between values (societal values) and personal virtues necessary to vindicate those values. You will not defend the Patria, or freedom, if your citizens are all cowards. If a constitutive liberal value is tolerance, it is not clear to me which of the two models, the French or the British, has a more salutary effect on the corresponding individual virtues. It is arguably a sharper lesson in tolerance to say: Though we are officially and formally Anglican, we will accept Catholics with absolutely no discrimination, than to say we are neutral and we will accept Protestant with no discrimination.

Moreover, that tolerance and inclusiveness becomes part of our self-understanding and self-identity. To be English both affirms a unique identity a feature of which is the willingness to accept others on equal terms in the positive assets of citizenship. As this translates into practice, it will, of course, have other cultural impacts on what it means to be English. English cuisine is not only Roast Beef and Yorkshire pudding but also Madras Curry. As different “others” are integrated the self itself will change, organically. And for the “other,” the interesting part of being English, is the fact that one is accepted as a full citizen, that one can partake in the cultural asset and British traditions -- despite one’s otherness. Interestingly, it has elicited huge loyalty.

Thirdly, there is an important external dimension. There is value not only in the British/Danish/Maltese etc model as such, but also in the overall European model which accepts as legitimate both a France and a Holland

and a Britain. Liberal democracies are interested in the spread of democracies beyond the old West – and there have been huge strides in recent years. But large swaths of the world are populated by religious peoples and societies for whom the Franco-American model is extremely unappealing. It seems to suggest that democracy means consigning religion to the private sphere as in France and America. That democracy means separationism. The Europe model accepts separationism. But it also accepts other models which are more tolerant and friendly to religious society provided the binding of the religious inspired identity in the identitarian asset of the state does not compromise freedom of religion and freedom from religion.

VI

There is one final little puzzle I want to address: It is surprising that transcendent European constitutionalism accepts the British, Danes etc model especially in this extreme form where there is an Established State religion given the rootedness of the Human Rights apparatus in the French Revolution, the Declaration of the Rights of Man and the move to privatize religion. There is of course a political explanation: Britain for example was a founding Member of the Council of Europe and among the principal drafters of the European Convention of Human Rights. But the fact that South Africa was a Charter Member of the UN did not *kosher* apartheid.

I think the reason for the European pluralism on this issue has deeper roots.

First, we may note that there is an inbuilt tension: The principle of Human Rights (which privatized religion) pushes towards the French Model. The principle of Self Determination pushes towards the British model. The European solution is a plausible attempt at pragmatic compromise. In some respects it splits the difference in an interesting way: It vindicates the notion of fundamental liberties by insisting at the level of the individual on strict freedom of and from religion and on non discrimination in the non identitarian aspects, but recognizing the self-determination by allowing a Britain and Denmark and Malta, and Greece and Germany and Poland.

Make no mistake – there will be difficult boundaries to navigate. A law which ensured Anglican ascendancy in elections? That would not survive. But the Monarch has to be Anglican? That is still extant law: It is part of being the Monarch though if Prince Charles, like Tony Blair converted to Catholicism, and petitioned the European Court --- we would have some legal fun.

Second, the tradition of Human Rights and the dignity of man does not only derive from the Enlightenment, Neo-Kantianism and the French Revolution. Europe's political culture, as brilliantly illustrated by the French Historian Remy Brague, has always drawn on two sources – Athens and Jerusalem – and their evolving incarnations. Even a modern Saint, St Jurgen (Habermas) has come to acknowledge the Christian foundation of our modern tradition of Human Rights. The constitutional pluralism is but a manifestation of that

rich, at times fractious, but ultimately fecund tension and synthesis of those two traditions.