SEÇÃO TEMÁTICA

Religious establishment according to a substantive ethics of political justice

Religiosidade oficial de acordo com uma ética substantiva de justiça política

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Abstract: Contemporary political theorists often disagree on whether or not religious establishment is justified in liberal states, even when its existence does not constitute a hindrance to the basic rights of citizens. In this article, I contend that religious establishment does not raise issues of democratic legitimacy, by showing that political frameworks of justice are entangled with substantive conceptions of the good and ethical forms of life. Then, drawing on Jürgen Habermas's latest works on the relationship between religion and the public sphere, and Maeve Cooke's readings thereof, I argue that religious symbols can contribute to the creation of meaningful imaginaries that inform moral norms and principles of justice. After this, I recall Axel Honneth's conception of "struggles for recognition", demonstrating that the recognition of specific collective traits, including religious, is necessary to provide citizens with a sense of worth and esteem.

Keywords: Religious establishment.Political liberalism. Jürgen Habermas. Maeve Cooke. Axel Honneth.

Resumo: É comum que alguns teóricos políticos contemporâneos discordem acerca da legitimidade do confessionalismo oficial, ou da promoção de símbolos religiosos pelos estados liberais democráticos, mesmo quando essas políticas não constituem um obstáculo para os direitos básicos dos cidadãos. Neste artigo, afirmo que a promoção de aspectos da fé religiosa não levanta questões de legitimidade democrática, mostrando que as concepções políticas de justiça estão emaranhadas com visões substantivas de bem, e as formas de vida a elas associadas. Seguindo essa linha, eu me baseio nos últimos trabalhos de Jürgen Habermas sobre a relação entre religião e esfera pública, e nas leituras de Maeve Cooke sobre o tema, para defender que os símbolos religiosos podem contribuir na criação de imaginários significativos que, por sua vez, informam normas morais e princípios de justiça. Depois disso, eu recordo a visão de Axel Honneth sobre as "lutas por reconhecimento", para demonstrar que o reconhecimento de traços coletivos específicos, incluindo religiosos, é necessário para proporcionar aos cidadãos um senso de valor e estima.

Palavras-chave: Religiosidade oficial. Liberalismo político. Jürgen Habermas. Maeve Cooke. Axel Honneth.

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Introduction

Is religious establishment compatible with liberal forms of political democracy? This question emerges as a result of a long-standing theoretical and political debate concerning the boundaries between religion and state. For Cécile Laborde (2011), even though adequate support is provided for religious freedom and basic rights, modest forms of establishment, such as those found in England and Scotland, tend to alienate minority faiths and non-religious persons by portraying members of these groups as second-class citizens[1]. In her view, a republican approach that acknowledges the link between civic status and political participation – therefore relying on neutralist forms of symbolic recognition – is best equipped to meet liberal requirements of distributive justice.

Also speaking from a political liberal perspective, Sune Lægaard concedes that some forms of religious establishment, whereby a religious tradition or church enjoys constitutional recognition, can be legitimate in liberal states as long as they do not involve: "a) assignment of governmental powers to the religion in a way violating political equality; b) state endorsement of the doctrinal content of the religion in question; or c) policies or legislation that either can only be justified on religious grounds or directly enforce religious rules" (Lægaard, 2013, p. 154). Although more accommodative than Laborde's arguments against religious establishment, Lægaard shares with the former a common concern for the neutrality of political principles of justice and the foundations of the liberal state. In line with Rawls' conception of public reason, both reject the possibility of legal norms being shaped by comprehensive religious doctrines, as the justification of laws and public policies must rely on generally-accessible reasons and be confined to issues of constitutional essentials and basic rights.

While modest establishment can be broadly defined in terms of the existence of special constitutional links with one or more organised religions – as in England and Scotland – it also comprises those cases in which the state endorses religious symbols and values in its legal framework, official acts, and common spaces – as in countries such as Italy and Germany. In this article, I set out to demonstrate that Laborde's radical opposition to modest establishment, even in its symbolic form, and Lægaard's disapproval of "doctrinal establishment" results from a liberal political perception that misconceives public reason by dismissing the potential of substantive religious and ethical views to justify generally-accessible normative claims. Once the understanding of public reason is expanded, it is possible to assess the validity of the idea of liberal neutrality, as well as the legitimacy of modest forms of religious establishment.

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1   Laborde considers two models of Church-State relations in liberal societies: the first is Modest Separation, whereby the state offers adequate support for religious freedom and basic rights, without providing funds or aid to religious organisations; the second is Modest Establishment, whereby the same basic rights are guaranteed, but the state cooperates with religious institutions, including with public funds, and endorses their rituals or symbols (Laborde, 2011, pp. 67-70).

Assessing liberal neutrality

The concept of liberal neutrality may entail different meanings depending on the matter about which the state is supposed to be neutral. In a Rawlsian context, public institutions, legal norms and basic principles of justice should be neutral when it comes to comprehensive doctrines and substantive conceptions of the good life. Yet, there are different neutralist approaches within political liberalism. For Alexa Zellentin (2012), liberal neutrality should be understood in terms of respect and fairness, which require a procedural account of justificatory reasons, but with some regard for outcomes (impact) and opportunities. She argues that justificatory neutrality is not sufficient to bring about fairness in terms of the distribution of rights and goods, and that liberal justice should also take into account contextual elements that may impact on the way citizens gain access to the means necessary for self-realisation.

Zellentin (2012, pp. 15-24) develops her argument through an analysis of the headscarf affair in Germany, where the Constitutional Court overrode a school board's decision, in Baden-Württemberg, to reject the application of a Muslim woman for a teacher position because she wanted to wear the Islamic veil. According to the school authorities, the use of the hijab would constitute a violation of the principle of neutrality, signalling an intention not to integrate in the secular German state. After a series of appeals, the federal court decided that wearing the headscarf could not be considered a sign of lack of respect for state neutrality since there was no authoritative understanding of what neutrality entails. Zellentin's contention is that an isolated application of neutrality in terms of outcomes, opportunities or justification would result in contradictory policies and offer no significant solution to the contest. In fact, in the model proposed by neutrality of outcomes, one would not be able to determine whether the default position is to wear or not to wear the hijab. Hence, both sides could raise allegations of unfair treatment regarding the decision to allow or ban the headscarf, as well as allegations of a hindrance to their conceptions of good life. With the neutrality of opportunities model, both groups would be allowed to promote their conceptions of the good, hence endorsing the demand by Muslim women to display their beliefs, while also legitimating the claim of secular citizens that the use of the headscarves by teachers would unfairly expose the children to the values of a religion whose contents they repudiate. Finally, while justificatory neutrality could help setting out rules for procedures on political deliberation, when faced with the question of whether freedom of religion requires the general allowing of religious symbols in the public sphere or a cultural and religious free zone, it would have little to offer in terms of a potential solution to the conflict.

The alternative Zellentin proposes is based on the notion of respect and fairness. This view involves both a procedural, justificatory approach to different conceptions of the good, as well as an outcome-oriented perspective of political equality. According to Zellentin's conception of neutrality, liberal justice should account for those empirical elements that form the background against which fairness in the distribution of rights and goods can be applied. For instance, she points out that in Germany, where clerical habits and nun garments have been allowed in public for a long time, banning the

Islamic headscarf would send a message that the state is hostile towards Muslims and immigrants. The same does not apply to France, where "there has not been the kind of accommodation for any religious interests that was – and still is – common in Germany". Therefore, "banning teachers from wearing headscarves cannot be easily interpreted as a specifically anti-Islamic measure in this context" (Zellentin, 2012, pp. 38-39).

The conception of liberal neutrality articulated by Zellentin aims to overcome the limitations of those other perspectives that focus on the procedural character of political justice, disregarding contextual elements that impact on the distribution of goods in society. While this view plausibly points towards the relationship between historical conjunctures and political justice, it fails to acknowledge that the former actually inform the substance of the latter. Leaving aside theoretical nuances in the literature of French republicanism, if Zellentin is right in affirming that in France "laicism is an important public norm and the separation between the public sphere and religion has always been more rigorous (than in Germany)" (Zellentin, 2012, p. 38), this may also be related to a deeply-held view, in that society, that the state should enforce liberal values by discouraging communitarian attachments that prevent political emancipation. In Germany, on the other hand, there is still a general perception that liberal norms draw their force from religious conceptions of good life. As Gerhard Robbers (2010, p. 75) points out, the reference to God in the preamble of the German Basic Law illustrates this link by acknowledging the existence of a transcendental reality, which in turn denotes that the state is not total, and its constitution not all-encompassing. This recognition points towards a more accommodative liberal perspective that departs from a strict conception of public reason framed along Rawlsian lines. The constitutional prerogatives that allow religious institutions to provide faith instruction with public funds in state schools in Germany also reinforce this view. It follows, thus, that neutrality is an unattainable goal, since political norms stem both from historical self-perceptions as well as from truth claims about the nature of reason and the ultimate order of things[2].

Pursuing this discussion further, it is worth examining Alan Patten's defence of the idea of liberal neutrality, which shares some of Zellentin's concerns with procedural respect and fairness, but focusing on a particular idea of equal treatment. Patten starts by identifying two distinct conceptions of liberal neutrality, the flaws of which he points out, in order to articulate his own framework. First, there is neutrality of intention, which permit the state to support some conceptions of the good with a view to neutral goals (e.g.: the endorsement of a religious establishment for the sake of political stability). Second, there is neutrality of effects, which demands compensatory policies so that all conceptions of the good can equally flourish. With regard to the former, Patten contends that to promote certain conceptions of the good to the detriment of

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2   The French republican thinker Regis Debray (1995, pp. 115-121), distinguishes liberal from republican democracies, affirming that, while in the former the state is subject to the communitarian interests of its individual members, in the latter it is the individual who should give up communitarian attachments in order to become a citizen. Debray believes that the republican model is the one that best embodies the elements of an enlightened reason, which limits the justification of law to immanent standards of rationality. What is at stake, here, is a truth claim about the possibility of accessing religious/metaphysical reasons, which is denied by French republicans, but not necessarily by German liberals.

others violates the requirements of liberal fairness, even when state goals are legitimately neutral. For the latter, he points out the contradictions that a conception of neutrality in terms of outcomes may entail: it would be difficult, for instance, to implement policies that seek to establish a fair distribution of material resources and at the same time guarantee that the lifestyle of individuals with expensive tastes can flourish at the same pace as others. Since even liberal measures would bring about non-neutral effects, the state should focus on inputs and avoid interference in the outcomes of public policies.

To illustrate his own notion of neutrality of treatment, Alan Patten discusses a hypothetical case in which cricket and softball players seek self-realisation through the practice of their preferred modality of sport. The government, then, is concerned with providing both groups with fair conditions of flourishing and, therefore, allows them to make use of a field that belongs to the local public authority. Applying neutrality of treatment, the state lets cricket and softball players have access to the field under equal conditions, without hindering or helping one group to the detriment of the other. Since, though, the distribution of preferences in that society is heavily tilted towards softball, this means that, for cricket players, their lifestyle has limited prospects of success. In fact, given the low number of cricket enthusiasts, it may be possible that they will never get a game together. For Patten, neutrality of treatment is achieved in this example, since the state's policy, focused on inputs, is no less accommodative of cricket than it is of softball, and the success of the latter is due to other factors that are beyond the competence of the state (Patten, 2012, pp. 249-272).

This perspective, however, overestimates the capacity of the state to accommodate competing lifestyles and conceptions of good life. To stick with Patten's example, one needs only to realise that whereas the same field may meet both the cricket and softball criteria for size and form, it would probably not address the field specifications for other modalities – say golf, for instance – marginalising those sports in that society. The same applies for those modalities that require a different infrastructure – e.g. skateboarding, cycling, swimming etc. In practice, it is usual for public authorities to work with local communities in order to provide recreation facilities that take into account cultural preferences and mainstream practices.

My point is, though, that it is not only, descriptively, that state inputs are constrained by material and physical resources. At the normative level, liberal countries are supposed to provide minorities with fair conditions for flourishing, which may indeed entail affirmative measures of inclusiveness. However, those limitations imply that, even when inclusive policies are acknowledged as a normative requirement, state inputs cannot remain completely neutral towards the opportunities for success of social activities and lifestyles, since public resources are necessarily shaped by specific forms of intellectual and material life, which in turn impact on the reproduction of collective practices. Public authorities cannot, for instance, provide shapeless sport fields to be used by any athlete or practitioner, regardless of their preferred styles. But in making sport facilities available according to the proportion of modalities played, they are also contributing to the maintenance of their society's current distribution of preferences, to the extent that citizens will be more significantly exposed, introduced and habituated to those activities and lifestyles. Thus, in order to assist minority groups with policies

that aim at counterweighting the influence of the social environment, the state can proceed with two different strategies: 1) removing all public sports facilities and relegating the task of promoting such activities to the private enterprise; or 2) positively interfere with the distribution of preferences in society by helping or hindering certain modalities of sports. The first alternative would bring great harm to society as a whole, as the practice of sports is associated with a wide range of public goods, from which all citizens can benefit (health, social inclusion, self-esteem, mutual respect, etc.). On the other hand, if public incentives to those practices always assume a specific, material or intellectual form (in this case, some modalities of sport, which might also be intertwined with particular philosophies, doctrines and values), then, in order to promote sport activities, the state will actually have to support particular preferences for the sake of extrinsic goods. This results from the fact that, in a realistic context, state inputs are never devoid of reference to some historical form of life, or collective practice.

It follows, therefore, that the only way to provide fair opportunities for minority lifestyles or conceptions of the good to flourish would be through affirmative actions designed to re-orientate the distribution of preferences. But in so doing, the state would have to justify such interference through an outcome-based perspective of the goods that a society should promote. In Britain, for instance, where football or rugby are significantly popular, more incentives could be given by the state to sports such as cricket or badminton, which are more familiar to minority Asian communities, with a view to fostering social integration. Or else, given the predominance of some practices, lifestyles and preferences in the national community, the state might have good reasons to actively cooperate with some sport associations with a view to pursuing a shift of mentality that makes football or rugby more attractive to those groups. This, however, can only be achieved through persuasive discourses aimed at convincing other individuals of the goods associated with the practice of those sports. In Scotland, indeed, a research report on sports and ethnic inclusion showed that Asian and Muslim minorities have lower rates of participation than the rest of society, which is largely due to a misperception about the value of sport practices. Indeed, those are often regarded as mere recreational activities, of little worth for adults. In addition, Muslim women tend to feel misrepresented by the dress code of mainstream sports. The report, thus, suggests that the government should work with ethnic and religious authorities in order to bring about a new awareness of the benefits of sports (Porter, 2001: 14-20). It is my contention, though, that in acknowledging the value of sports, the political community should, for instance, persuade those Asian communities, cited in the report, to change their ways of life, helping them realising that there is something about those practices that a life focused on work cannot provide. Furthermore, public authorities cannot confine themselves to the provision of sport facilities for Muslim women that want to play with their burqas on. If social integration is one of the main goals of states' incentives for sport activities, and if the covering of women bodies raise issues of gender equality for non-Muslim communities, then the government should support only those practices that are in conformity with the deliberative-democratic consensus about the good, while working with dissident groups with a view to encouraging them to re-evaluate their ways of life.

This study helps to shed light on the debate about political neutrality, as it reveals the links between national culture and social goods, while pointing to the necessity for the state to promote the latter through positive measures. Rather than neutrality, though, this requires public authorities to recognise established social practices, which are interwoven into collective lifestyles and conceptions of the good, while working with practitioners and non-practitioners so as to facilitate shifts in mentality that might allow for a general appreciation of those activities. Such an inclusive, outcome-oriented framework has greater potential than Patten's conception of neutrality of treatment in terms of fairness, as it acknowledges the association between political justice and particular forms of life.

Not so differently, national political symbols may embody distinctive elements of a particular people's or society's historical development, which can preclude self-identification for every citizen. For instance, republicans in England might feel alienated in seeing references to the Crown and whenever their fellow citizens sing "God Save the Queen". What is more, the very establishment of a monarchical state is founded upon a particular conception of the relationship between tradition and political identity that is essentially controverted. In this sense, from its very constitution, democratic states sustain a legal and symbolic framework that reflect specific moral claims and values. Though republican activists are allowed to voice their opinions and try to persuade others to their cause, full recognition depends on substantive shifts in social perceptions that, at a later stage, may result in formal constitutional changes.

This analysis of Zellentin and Patten's accounts of liberal neutrality helps to bring to light the situated character of justice, whose normative contents draw on particular developments associated with each community's historical conjuncture, as well as specific truth claims that shape political agreements. In this sense, to support and provide incentives to sports practices and associations is to recognise the truth-value of the goods they are associated with, even though self-identification with those particular ways of life might not be extensive to all members of the society. Similarly, when official authorities support and fund religious activities, they acknowledge that some faith communities promote goods that are worthy of public endorsement. Following this reasoning, the presence of a president, or prime-minister, at a grand event such as the opening of the Word Cup, carry the same political connotations as the attendance of those public figures at a religious celebration.

Furthermore, when it comes to the distinction between state secularism and religious establishment, it is noteworthy that while French *laïcité* emerged at a certain point of history as a result of contextual struggles involving the clergy and the bourgeoisie, it can only be justified through the belief that public morality and civic justice prescind from transcendental reasons. On the other hand, a more comprehensive conception of public reason that does not deny the potential of metaphysical contents to define public norms, has prevailed throughout the evolution of the German state. In neither of these cases, can justice be said to lie in a neutral standpoint between historical traditions, truth claims and conceptions of good life. Yet, even though public goods are ultimately linked with a view of human flourishing, the question that remains is whether or not moral truths can be articulated in a universalistic manner. I shall now turn to this issue.

Accessing religious reasons through dialogical experiences of social-engagement

Even after demonstrating the connections between the good, embodied in social practices and forms of life, and principles of distributive justice, it might still be argued that, in allowing for an asymmetrical recognition of particular ways of life, religious establishment infringes the requisite universalism of political justice. The idea that the contents of normative conceptions of justice should comprise only those moral claims that every individual, irrespective of their social position and cultural background, can assent to is fundamental for liberal notions of autonomy and freedom. In this section, I show that, even though the character of justice is context-transcendental, in deliberating about its contents, participants cannot understand each other's moral claims and, therefore, cannot asses their validity unless they come to share a set of codes, vocabularies and standards of rationality. As a consequence, each political community's conception of justice necessarily draws on specific cultural resources that inform the life of its members in a substantive manner.

It is commonplace in the literature of political liberalism that legal coercion is only legitimate when justified by reasons that everyone can access and engage with. However, whereas John Rawls interpreted this requirement in terms of aprioristic restrictions to the sort of arguments that citizens can advance in public deliberation – excluding motivations associated with comprehensive doctrines and particular ethical values – Jürgen Habermas acknowledges that individuals cannot know which moral claims have universal potential at the beginning of deliberative processes. Rather than a monological conception of normative validation, Habermas's Communicative Theory allows for a dialogical view of the possibilities for political agreement in moral disputes. Accordingly, participants in deliberative discourses are expected to take account of each other's background knowledge for the evaluation of normative claims.

Habermas's assertion, that the contents of political justice emerge from a perspective of real-life argumentation, makes his theoretical project more equipped to bring about moral agreement than its Rawlsian counterpart, as it takes into consideration the variety of linguistic pre-understandings that inform discursive procedures. Drawing on Wittgenstein, Austin, and Humboldt, Habermas contends that meanings are to be sought not in an objective relation between sentences and the world, but in the use of these sentences as regulated by social conventions. Moral consensus, therefore, depends on a pragmatic perspective of dialogue whereby participants can make sense of each other's worldviews through shared lifeworld practices, while redefining their linguistic schemes through actions orientated to mutual understanding:

> Lifeworld and communicative action thus relate to one another in a complementary fashion. As a consequence, communicative rationality is embodied just as much by the structures of the undiffracted intersubjectivity of a pre-understanding guaranteed in the lifeworld as it is by the structure of the diffracted intesubjectivity of possible understandings to be achieved by each respective actor him/herself. Given that the concrete forms of life reproduce themselves via the agency of validity-oriented action, those substantive a prioris of the linguistically-constituted views of the world inherent in a particular form of life are subjected to an incessant test; they have to prove

themselves in inner-worldly practice and they change in the wake of inner-worldly processes of learning (Habermas, 1991, p. 224).

Thus, two consequences follow from Habermas's association with a Pragmatic Theory of Meaning (PTM): First, moral claims, though aiming at universal validity, can only be accessed from within particular linguistic schemes. In contrast with Rawls's monological idealism, Habermas contends that, in order to understand and assess the validity of political norms, citizens have to engage in a continuous learning process, which calls for the dialogical expansion of communal frameworks of meanings. What stands out as a corollary from this perspective is the intrinsic relationship between the context from which normative disruptions emerge and the solutions made available by each community's language resources.

Second, given Habermas's very stance on PTM, and regarding the conditions for moral learning, it is hard to make sense of his translation proviso for religious discourses, which prevents legal norms form being shaped by metaphysical contents. Indeed, in *Religion in the Public Sphere* (2006), Habermas does acknowledge the potential of religious vocabularies to provide new moral insights in democratic dialogues (Habermas, 2006, p. 10). Furthermore, he distances himself from Rawls in contending that political autonomy is violated when religious citizens are precluded from advancing faith-based arguments. Nonetheless, in making a distinction between a wild public sphere – the realm of opinion formation – and the formal public – the domain of the courts, legislature and administration – Habermas limits the possibilities for citizens of faith to exercise their political autonomy, to the extent that religious utterances are to be confined to the former. It is not clear, though, why only a secular language is allowed in the formal domain, given that the learning process comprises the redefinition of social vocabularies. As Maeve Cooke (2007, p. 230) correctly highlights, in making general accessibility, through a secular language, a condition for the legitimation of public norms, "he (Habermas) fails to allow for modification of perspectives in ways that are unanticipated by any of the parties concerned, and for the emergence of new perspectives that are different to those held by any of the parties at the outset of discussion".

What I want to stress, here, is that Habermas's PTM affords a much richer perspective of the possibilities of substantive shifts in perceptions, through the transformation of each participant's conceptual schemes, than what is denoted by his most recent stance on the translation proviso. As he has once remarked, the expansion of cognitive horizons in learning processes entails not the abstraction of discursive meanings from their lifeworld contexts, but the dialogical reticulation of shared linguistic frameworks that conditions mutual understanding:

> […] consensus achieved through communication depends both on the idealizing supposition that an identity in linguistic meanings already prevails and also on the power of negation and the autonomy of unique, non-substitutable subjects – from whom intersubjective consent to criticizable validity claims has to be obtained anew in each case (Habermas, 1991, p. 217).

Here, the Gadamerian conception of a fusion of horizons, which entails the coming together of different conceptual schemes into a new language community, is useful to

distinguish my own take of Habermas's PTM from the formalism of his contemporary liberal positions. The notion of a situated world of practices that are brought into existence through a framework of meanings informed by local vocabularies, which are in turn gradually expanded through the development of new historical experiences, supports my claim that the justification of moral reasons depends on the creation of a common linguistic horizon, with its respective codes, symbols and canons of rationality. In Gadamer's words:

> [...] Reaching an understanding on the subject matter of a conversation necessarily means that a common language must first be worked out in the conversation. This is not an external matter of simply adjusting our tools; nor is it even right to say that the partners adapt themselves to one another but, rather, in a successful conversation they both come under the influence of the truth of the object and are thus bound to one another in a new community (Gadamer, 1975, p. 371).

The constitutive role of language for individuals in search of mutual understanding goes beyond the enunciation of utterances in argumentative procedures, comprising also the reconstruction of communal worldviews through practical reason. On this point, it is important to highlight the role of individual and collective narratives for bringing about an effective understanding of the issues, concepts and social cosmologies that inform different moral claims, since the determination of their truth-value depends on real possibilities of practical learning. As Maeve Cooke points out, personal experiences and symbolic meanings can be essential for the process of truth-disclosure. Particularly, when it comes to religious citizens, she stresses that it is often the case that the force of their moral claims can only be attested through the exposure of the rational actor to the aesthetic elements of their belief systems. Drawing on Paul Ricoeur, she argues that exemplary figures and story-telling can be crucial for the process of semantic renewal and truth-disclosure:

> [...] I want to emphasize that the exemplary power of figures and actions is always mediated by contexts of interpretation. Even the most seemingly immediate experience of truth is mediated by the subjectivity of the person experiencing it. This subjectivity is in turn influenced by the historical and socio-cultural context inhabited by the person in question, and by the linguistic practices of that context. We could say: truth is always mediated truth, even when its operative mode is disclosure: even disclosed truth is articulated truth (Cooke, 2016, p. 703).

Cooke's rehabilitation of an existential account of the communicative process does not entail a subjectivist conception of truth-validity. On the contrary, she aligns herself with Habermas for the promotion of a universal project of moral learning, whereby citizens' normative claims are held accountable in dialogical procedures of validation. However, she acknowledges that even though individuals' ethical perceptions have the potential to articulate universal truth claims, it is not always possible for the rational actor to access the force of those reasons from outside a shared horizon of lifeworld experiences. In trying to convince someone that she should become a vegetarian, Cooke (2016, p. 707) notes, it might be the case that "no amount of reasoning will work until the person in question has come to see the world in a way that makes her receptive to the reasons for being a vegetarian (perhaps as a result of an existentially significant experience such as a visit to an abattoir)".

Likewise, normative understandings that shape constitutional arrangements and legal norms in democratic states draw on common narratives of historical development, from which aesthetic and symbolic meanings are disclosed and, lately, incorporated within ethical frameworks of reason. Think, for instance, of South Africa's post-apartheid society and the efforts of the Truth and Reconciliation Commission to articulate an ideal of justice that could bring black and white communities together. Explaining the rationality upon which the commission was based, Archbishop Desmond Tutu outlines some of the reasons that led the government to reject a retributive account of justice. He observes that the notion of Ubuntu, with its particular conception of the interdependence of human beings, provided the background against which a new moral consensus emerged. Ubuntu, Tutu (1999, pp. 26-28) contends, "a central feature of the African Weltanschauung (or world-view)" was what "constrained so many to choose to forgive rather than to demand retribution". Importantly, though, it was only in light of shared experiences of violence and retribution that the significance of Ubuntu and the value of forgiveness emerged, within that society, as a true condition for human flourishing[3].

As with the ideal of reconciliation brought forward by the conception of Ubuntu in South Africa, which is not so different from Christian notions of charity and solidarity in Western societies, the potential of religious images to convey moral perceptions in communicative acts can only be fully explored through the exposure of participants to the experiential, aesthetic and cognitive elements with which those meanings are associated. As a consequence, the appeal of normative principles and truth contents, articulated in the course of existential processes of language reconstruction, stands in dialectical relation to both the particularity of each form of life and the universalistic potential of their moral claims. At any rate, public recognition of Ubuntu can remind South Africa's old and new generations of the importance of forgiveness for the maintenance of peace between black and white communities, just like, in European public spaces, the displaying of a crucifix might help citizens to re-access part of the narrativist framework that informs their political values.

Symbolic establishment as political recognition

There is still another reason why democratic states should support symbolic manifestations of religious and cultural belongings, which has to do with contemporary debates on identity politics. In *The Struggles for Recognition* (1995), Axel Honneth highlights three ways by which individual embeddedness in interdependent networks of social

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3   Currently, Ubuntu informs a significant part of the country's customary law and educational policies (Department of Education, "Curriculum 2005," Life Orientation, sec. 4) while its constitution recognises the contribution of religious communities to the process of national formation through the accommodation of religious practices in public institutions. In 1995, The Constitutional Court banned the death penalty, stressing that, even though retribution is one of the objects of punishment, South Africa's constitution is founded on the need to overcome the divisions and strife of the past: "to be consistent with the value of Ubuntu, ours should be a society that 'wishes to prevent crime... [not] to kill criminals simply to get even with them'". Cf. S v Makwanyane and Another (CCT3/94), para. 131.

relationships conditions moral autonomy. On the first level, individuals participate in intimate relationships of mutual affection, which constitute the foundation of children's moral development; on the second level, legal recognition allows for universal respect, in terms of political and social rights; finally, recognition of particular traits and ways of life provides individuals with assurances that their particular achievements are also valued. Honneth's framework of political recognition draws on the Hegelian idea that "the subjective autonomy of the individual increases with each stage of mutual regard" (Honneth, 1995, p. 94). Since for Hegel the experience of one's own subjectivity depends on a relational attitude of alterity, Honneth contends that the constitution of individual selves involves a moment of "being oneself in another", through mutual recognition, followed by the re-affirmation of subjective boundaries[4]. In his words: "it is only this symbiotically-nourished bond, which emerges through mutually desired demarcation, that produces the degree of basic individual self-confidence indispensable for autonomous participation in public life" (Honneth, 1995, p. 107). With this view, Honneth gives a new significance to the idea of political recognition, emphasising the intersubjective dimension of moral autonomy, while noting that – in seeking each other's appreciation and esteem – fundamentally different subjects engage in real "struggles for recognition", especially regarding the worth of particular traits (Honneth, 1995, p. 121).

Honneth's argument here is echoed by the multiculturalist critique of liberal conceptions of political rights that do not take account of collective demands for political affirmation. As Tariq Modood underscores, the civil rights movement in the United States inaugurated a new era in the history of Western liberalism, bringing about notions of racial pride along with demands for equal rights and rehabilitating the symbolic dimension of the politics of identity. Modood (2007, p. 68) goes on to stress that this perspective "breaches the liberal public–private identity distinction which prohibits the recognition of particular group identities", thereby challenging secularist views that promote a strict separation between religion and the state. As religious minorities may also face hostility for diverging from mainstream canons of social normativity in democratic societies, Modood contends that the particular needs of faith communities should also be accounted for by official authorities, especially through affirmative measures that allow for the public manifestation of religious beliefs. Whereas Will Kymlicka denounces the fallacy of a neutralist state that – in dismissing multicultural demands for ethnic accommodation – privileges majority languages and cultural lifestyles, Modood points to the link between religious belonging and political identity, calling for affirmative policies in favour of minority faiths. Thus, as with a multinational state, recognition for non-mainstream religious groups requires positive equalisation, in the form of a "Multi-Establishment" system, whereby a variety of religions can enjoy similar political

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4   Honneth focuses mainly on psychoanalytical studies that show that the lack of love, especially in the first years of children's development, can seriously damage individuals' emotional and intellectual capacities, depriving them from the conditions of independent moral reasoning, as well as making them overly dependent on other people's affections (Honneth, 1995, pp. 104-106).

benefits and a sense of public worth (Modood, 2007, p. 28)[5]. In practical terms, this perspective may entail the extension of government funds to minority faith schools and cultural associations; the inclusion of their main celebrative dates to the list of official holidays; the constitution of partnerships between religious authorities and state broadcasting channels for the dissemination of faith values; and legal support for the exposition of different religious symbols in public places[6].

Yet, it is important to notice that, according to Honneth, even though every individual is entitled to the same basic rights and legal guarantees, the recognition of particular character traits involves a substantive evaluation of the attributes of different ethical forms of life. But in assessing their value, in light of specific contributions to the common life of the political community, citizens cannot help bringing in their own particular interpretations of what is valued in terms of the good life. Hence, to the extent that, in modern democratic conditions, a society's value-horizon is always subject to change, the individual search for social esteem is also a struggle for the recognition of the contribution of her/his particular achievements: "in modern societies, relations of social esteem are subject to a permanent struggle, in which different groups attempt, by means of symbolic force and with reference to general goals, to raise the value of the abilities associated with their way of life" (Honneth, 1995, p. 125).

Needless to say, when religious groups seek to redefine mainstream societal goals in favour of their minority lifestyles, they are also engaged in a struggle for recognition. Most importantly, such attempts at establishing the legitimacy of their ethical ways of life may be not only confined to proving the value of their particular traits. In some cases, it might also involve new normative propositions and understandings about the contents of political justice. In Western countries, for instance, some Islamic communities have been raising demands for the recognition of polygamy, as an alternative form of marriage[7]. Since such a claim clashes with mainstream historically-constituted values, especially concerning the equal dignity of men and women, those groups sympathetic to polygamic conceptions of family life must struggle to demonstrate that this arrangement does not impinge on women's sense of worth. And while special recognition of the value of Ubuntu emerges as the outcome of a historical struggle for the redefinition

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5   Some studies actually suggest that minority faith communities tend to demand shared privileges, rather than disestablishment, while pursuing equal recognition (Commission on the Future of Multi-Ethnic Britain, 2012; Joel S. Fetzer and Christopher J. Soper, 2006).

6   As an illustration, it is interesting to note that, since 2004, Irish policies on Intercultural Education have been stressing the importance of the physical environment to promote racial and ethnic equality in terms of esteem. The guidelines for school planning state that pictures, toys and art materials should reflect the diversity of cultures in the country. They even recommend the use of minority languages, besides Irish and English, in notices and signs (NCCA, 2004, pp. 38-41). Multi-denominational schools in Ireland usually follow the same orientation in the organisation of religious education classes.

7   Bhikhu Parekh speaks of "operative social values" to point out that there will always be a tension between mainstream normative agreements and minority moral claims. For the case of polygamic marriage, as demanded by some Muslim groups, or the tradition of "arranged marriage", common amongst Asian communities, Parekh notes that the operative values of gender equality and individual autonomy, in Western countries, prevail against other ethical conceptions of human flourishing. However, it is not a deontological conception of political justice that guides Parekh's rejection of these minority claims. Instead, he stresses that, so far, the reasons for prioritising the value of equality, in the former case, and liberty, in the latter are more compelling than the arguments presented for the defence of alternative views of marriage (Parekh, 2000, pp. 267-292).

of South Africa's national values, cultural forms of life that are orientated according to a retributive conception of morality might not receive the same appreciation. Thus, even though in democratic societies every citizen is entitled to a certain degree of social esteem, especially in view of their potential to articulate new moral perceptions and normative reasons, distinct measures of political recognition may be granted for different cultural and religious groups, as a result of lifeworld processes of ethical valuation.

Ethical justice and religious establishment

I would like to return now to Laborde and Lægaard's criticism of religious establishment and analyse their arguments in light of this substantive account of deliberative ethics. As I have mentioned before, Laborde believes that even modest forms of symbolic establishment undermine possibilities for democratic participation, by sending a message to non-adepts of the main religion that they are not full members of the political community. She believes that religious symbols "fall under the purview of public reason and are problematic for the aim of including all citizens within the state" (Laborde, 2011, p. 85). Lægaard, on the other hand, contends that religious establishment is not permissible only when it entails the endorsement of religious doctrines and the assignment of political power to religious groups. Both of them agree that religious reasons cannot be invoked for the justification of legal norms, assuming that only secular arguments are generally accessible.

As I have pointed out above, Laborde and Lægaard draw on a liberal conception of public reason that defines political justice in terms of universalisable principles, but this understanding fails to recognise that public norms derive from discursive procedures, articulated from within each participant's domain of social experiences, which informs justice contents with substantive ethical meanings. Even though public normative agreements are constantly being challenged and redefined through a never-ending process of moral learning, citizens largely depend on some form of communal engagement – in lifeworld practices, narratives and social institutions – in order to understand each other's claims. Faith traditions can, therefore, promote actual shifts in moral perceptions with their images, stories and teleological views of human flourishing, which – in particular contexts of ethical struggle – may lead to a new comprehension of the character of justice.

Since each society's conception of justice reflects their historical level of moral knowledge, as afforded by the learning process, it follows that states' normative frameworks cannot but also reflect particular narratives of ethical struggle. Accordingly, the outcomes of deliberative procedures of normative validation will be shaped by a set of lifeworld meanings brought forward by members of different political communities, resulting in distinct normative standards and constitutional arrangements for each of them. Some countries may endorse libertarian accounts of public morality, while others emphasise egalitarian notions of economic distribution. Some may be extremely protective of the rights of the unborn, while others prioritise women's privacy rights and autonomy. As with the choice between forgiveness and retribution in South Africa, citizens resort to shared experiences (deprivation, want, solidarity, happiness) in order

to assess culturally-defined values, such as collective responsibility and individual freedom, and make their political decisions on these matters. To the extent that what emerges from such acts of deliberation is a general consensus that promotes a set of moral conceptions to the detriment of alternative claims, democratic norms are indeed the expression of particular ethical perceptions. An egalitarian account of justice that encourages collectivism and solidarity through its symbolic apparatus is, therefore, just as exclusivist towards libertarian citizens as Ubuntu in South Africa is exclusivist towards the proponents of retributive justice. But once it is established that such fundamental disagreements are necessary for the process of moral learning, it should be granted that there will always be tension between the universalist potential of normative claims – which outruns justification and calls for the expansion of conceptual horizons – and the situatedness of existing institutional and legal norms – shaped by communities' contingent resources of moral knowledge.

In light of this framework of ethical justice, it possible to determine whether or not symbolic forms of establishment, in democratic states, can be justified. In order to do so, I would like to refer to the case *Lautsi v. Italy* (2011), in which the European Court of Human Rights (ECHR) dealt with the issue of the presence of crucifixes in Italian public schools, in light of the rights of pupils to freedom of conscience. Lægaard mentions this case only to stress that the displaying of crucifixes can be legitimate if this form of symbolic establishment does not entail state endorsement of religious contents, nor impacts on the distribution of political power (Lægaard, 2013, pp. 141-150). On this point, he agrees with the Court which stated that the crucifix is a "passive" symbol, lacking a proselytising purpose. In fact, in its final decision, the Grand Chamber stressed that the aim of perpetuating a particular cultural or religious tradition by any European state falls within the margin of appreciation given to each country. With regard to public education, the Court pointed out that even though nothing prevents the integration of religious contents to school curricula, they should allow for a proselytising-free environment, whereby information and knowledge are provided in a "objective, critical and pluralistic manner" (Lautsi v. Italy, 2011, § 62). Within this context, it would not be illegitimate for a particular state to prioritise some religious traditions over others, if that faith has a prominent role in its historical development (Lautsi v. Italy, 2011, § 67-68).

Importantly, though, the Court differentiates between a quantitative and qualitative approach to traditional symbolism, especially in terms of its educative dimension. This idea becomes clear when the judges contend that, even though the presence of crucifixes in Italian schools gives preponderant visibility to the country's majority religion, it does not, by itself, constitute an act of indoctrination. The Court then cites two other cases that deal with religious education contents in Norwegian and Turkish public schools. In the case *Folgerø and others v. Norway* (2007), the Court held that the fact that Christianity represented a greater part of the curriculum in the country could not be viewed as a "departure from the principles of pluralism and objectivity amounting to indoctrination", given the place of Christianity in the country's national history (Folgerø v. Norway, 2007, § 89). Nonetheless, the judges deemed some parts of the curriculum as inappropriate, for conveying religious contents in a substantive manner. Indeed, they

found that in some of its guidelines – e.g. the teaching of Christian ethics according to Luther's catechism, the promotion of "understanding and respect for Christian and humanist values", the requirement for pupils "to learn the Ten Commandments by heart and be acquainted with the ethical ideals underlying the Sermon of the Mount" – the curriculum took a qualitative moral stance to religious doctrines (Folgerø v. Norway, 2007, § 93). In *Hasan and Eylem Zengin v. Turkey* (2008), the Court expressed a similar view, this time because the teaching of the Sunni version of Islam, including its rites and common prayers, disregarded other popular religious traditions in Turkey, in particular Alevism, a different branch of the Muslim faith that has roots in Turkish society. Again, the judges highlighted that the priority given to the knowledge of Islam is not, by itself, a departure from the principles of pluralism and objectivity, although the transmission of its contents almost solely in a Sunni form, combined with worship requirements, may violate the conscience rights of pupils.

In both cases, therefore, the Court sought to distinguish between a quantitative and qualitative approach to curricular policies, contending that the transmission of faith contents should be confined to the informative dimension of the educative process, so that it remains "objective, critical and pluralistic" in character. With this perception, the Court largely endorses a political liberal account of justice that limits the scope of public reason to impartial contents, thereby denying the potential of religious images to substantively inform normative conceptions. As I have shown in the previous sections, in some countries, faith traditions play a special role as a source of moral knowledge, providing citizens with a set of teleological motives that guide their action towards common goals. Whereas, in South Africa, justice as forgiveness emerges as a meaningful ethical perception in view of a cosmological narrative about the conditions for human flourishing, egalitarian notions of distributive justice may also draw on the resources of religious worldviews to promote a collective sense of solidarity. For Habermas, indeed, it is mainly in view of the failure by Enlightenment thinking to overcome the fragmentation of communal lifestyles that secular citizens should be willing to learn from religious traditions: "practical reason fails to fulfill its own vocation when it no longer has sufficient strength to awaken, and to keep awake, in the minds of secular subjects, an awareness of the violations of solidarity throughout the world, an awareness of what is missing, of what cries out to heaven" (Habermas, 2010, p. 19). With its eschatological imageries, religion can thus contribute to renewing modern democracies' stock of normative reasons, by bringing about solidaristic impulses for social cooperation.

Assuming that faith narratives can shape societies' normative standards in a particular and differentiated manner, it follows that state schools should strive to teach religious contents in a way that allows pupils to actually access the force of their moral reasons. In fact, as many of those religious teachings are intertwined with democratic notions of social justice, a substantive ethical appreciation of religious vocabularies and values may be crucial to the habituation of citizens into commonly accepted norms and political virtues. In the examples above, it is through learning from Ubuntu or the Gospel as a teleological orientation of life that citizens gain an understanding of the importance of forgiveness and solidarity. Here, it is noteworthy that philosophers of education such as Michael Grimmitt and Ninian Smart contributed to bringing about

a new conception of religious education that, going beyond its informational aspects, motivates pupils to engage in ethical questions of meaning and truth[8]. What democracy requires, therefore, is not objectivism towards the contents of faith traditions, but fair opportunities for dialogical engagement. When it comes to public schooling, pupils from minority religious backgrounds should be able to explore their own cultural roots and share meaningful experiences of spiritual life. Nevertheless, to what extent those doctrines, values and virtues will be considered worthy of public esteem depends on those intersubjective procedures of ethical valuation that Honneth defined as "struggles for recognition".

Symbolic religious establishment is thus legitimate when it expresses the links between the ethical contents of faith traditions and public moral norms. That was indeed the understanding of the Administrative Court of Veneto in the Lautsi case, when the issue firstly arose in Italy. In its decision, the Court highlights that through the "emphasis placed on love for one's neighbour, and even more through the explicit predominance given to charity over faith itself, (Christianity) contains in substance those ideas of tolerance, equality and liberty which form the basis of the modern secular State, and of the Italian State in particular" (Tribunale Amministrativo Regionale Veneto, 2005, § 11.1). With this statement, the Court brought to light a common belief amongst Italian people that Christianity did in fact provide concrete, social conditions for their country's political conception of justice to emerge. While this view can be challenged by secular citizens and minority faith communities, state support for Christian symbols, *per se*, does not constitute a violation of democratic principles in this context.

On the other hand, secularism may itself constitute a substantive ethical view, as it was pointed out during the hearings in Strasbourg. Speaking for the third-party intervening states, Joseph Weiler underscored that laïcité, as defined according to the French model, is not perceived by citizens as a neutral category, as it may send a message that religion is not necessary for the state. As a consequence, to require religious schools to be private, for instance, "is a political position, respectable, but certainly not 'neutral'" (Weiler, 2010). Even in the Folgerø and Hasan cases, thus, the Court fails to realise that the very integration of religious teaching – of any sort – with other curriculum subjects already amounts to a qualitative stance regarding the importance of religion to the public sphere, in terms of the virtues of citizenship and the relationship between national identity and religion. In contrast, in secular countries, where religious education is not an essential part of the curriculum, citizens may be under the impression that religion is less significant, or even irrelevant to political matters and civic relations. Recalling my critique of Zellentin's notion of justificatory neutrality, what stands out here is the connection between ethical values and public education, since the place

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8   Michael Grimmitt contended that religious education should involve learning about and from religion. In other words, after being introduced to the descriptive aspects of religious phenomena, pupils should be able to evaluate religious moral and spiritual contents in light of their own experiences (Grimmitt, 1987). In the same vein, Ninian Smart drew attention to what he called the "parahistorical" dimension of religion, which is its capacity to raise existential questions of meaning (Smart, 1968). British educational policies on Religious Education have been significantly influenced by these perspectives, and – even though the Education Reform Act of 1988 still acknowledges Christianity as the main religious tradition of Britain – the accommodation of minority faiths have been greatly promoted throughout English and Welsh community schools.

of religious reasons in public schools depends on particular views about their rational substance and public role. In this sense, religious establishment can becceptable in modern democracies, whenever there is a widespread understanding that faith contents substantively inform particular normative standards.

However, the argument that establishment should not entail assignment of governmental powers to religious institutions in a way that violates political equality cannot be completely dismissed. Because the state should provide conditions for dissenting voices to come out – especially those ones that challenge prevailing normative agreements – it must ensure that dialogical procedures of deliberation are carried out in a democratic fashion. On this point, instead of disestablishment, Tariq Modood's proposal for a positive equalisation – which is nonetheless constrained by social "struggles for recognition" – may offer more opportunities to minority faiths for voicing their demands and expressing their identities. Hence, in those countries where the established religion enjoys political privileges – as in England, with the allocation of official positions for members of the clergy – the state can adopt affirmative policies, using proportionality, for instance, or creating formal channels of communication with leaders of minority faiths. This approach precludes the designation of public functions to religious leaders irrespective of popular support, preventing illegitimate attempts by Church authorities to influence political decisions and the process of law-making. Recently, Norway has made a move in this direction through a constitutional revision that gave both the State and its national Church autonomy in terms of self-government. Here, it is still important to highlight that the decline in Church attendance and denominational belief – which may impact on institutional representative power – will not necessarily lead to the secularisation of legal norms, as citizens may still uphold religious values informally, and endorse their normative contents in public deliberative processes.

Conclusion

In this article, I have criticised some liberal accounts of political justice in order to demonstrate that religious establishment may still have a place in democratic societies. My aim was to show that states' normative standards and frameworks of reason draw on particular understandings about the good of social practices, the assessment of which depends on real-life experiences of meaning-construction. Since just principles are informed by substantive ethical perceptions, religious narratives play a major role in providing for social goals with notions such as charity, forgiveness, and solidarity. Modest and symbolic forms of religious-establishment, in this sense, allow for the recognition of the truth-value of these conceptions, as well as the contribution of particular faith communities in articulating their meanings, without precluding democratic criticism, or the reconfiguration of power structures in deliberative bodies.

The ethical character of political justice determines that the state, with its legal norms and institutions, is always shaped by specific cultural values. Even though normative conceptions may be made available for outsiders through intersubjective procedures of dialogue, participants can only gain access to their full significance within communal contexts of social practice. A citizen born in a welfarist state is thus more likely to develop solidaristic virtues than the one born in a libertarian type of democracy. What

is more, she/he will be able to understand and appreciate its egalitarian ethics from a real-life perspective. The same holds for societies where religion plays a substantial role in civic relations, as opposed to those where secularism prevails. Nevertheless, as moral learning requires citizens' expansion of conceptual horizons, the state has a duty to provide minority groups with opportunities for self-affirmation, especially through the promotion of multicultural educative policies, and the creation of representative channels of communication. Importantly, though, while the state accommodates a variety of ethical expressions, political recognition may come in different ways, according to the outcomes of historical struggles for social recognition.

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