



Ciências Sociais Unisinos

ISSN: 1519-7050

periodicos@unisinos.br

Universidade do Vale do Rio dos Sinos
Brasil

Follmann, Jose Ivo; Gabatz, Celso
Secular state and freedom of religion in Brazil: The Brazil-Holy See Concordat and the
"General Law of Religions"
Ciências Sociais Unisinos, vol. 53, núm. 2, mayo-agosto, 2017, pp. 225-233
Universidade do Vale do Rio dos Sinos
São Leopoldo, Brasil

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Secular state and freedom of religion in Brazil: The Brazil-Holy See Concordat and the "General Law of Religions"

Estado Laico e Liberdade Religiosa no Brasil: A Concordata entre
o Brasil e a Santa Sé e a "Lei Geral das Religiões"

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Abstract

This article aims to explore some issues about laicity and religious freedom, the concordat signed between the Brazilian State and the Vatican, and the controversies arising from the proposal of the General Law of Religions. At the same time, it affirms the existence of multiple and divergent senses of laicity, allows observation of different agents in the search for marking, setting, updating, correcting and regulating its application by the State. Catholic and Evangelical activism has generated a lot of contradictory effects. There is a resurgence of religious disputes with consequences in the public sphere, especially in the political arena.

Keywords: Concordat, General Law of Religions, Religious Freedom, laicité.

Resumo

Este artigo tem o objetivo de aprofundar algumas questões acerca da laicidade e da liberdade religiosa, a concordata firmada entre o Estado Brasileiro e o Vaticano e as controvérsias decorrentes da proposta da Lei Geral das Religiões. Ao mesmo tempo em que afirma a existência de múltiplos e divergentes sentidos da laicidade, permite observar os diferentes agentes na busca por demarcar, definir, atualizar, corrigir e regular sua aplicação pelo Estado. O ativismo católico e evangélico tem gerado efeitos bastante contraditórios. Há um recrudescimento das disputas religiosas com desdobramentos na esfera pública, especialmente na arena política.

Palavras-chave: Concordata, Lei Geral das Religiões, liberdade religiosa, laicidade.

Initial considerations

Contemporary society has been characterized by the coexistence of several lifestyles, worldviews, beliefs and values that every human being can share, without, however, be conditioned by their parameters. It is possible to identify a religiosity based on multiple parameters of secularization in different social

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spheres. With a sharp process of rationalization and secularization a breach of institutional religious monopoly occurred (Luhmann, 2007). This, just like with other social spheres, ends up being forced to demonstrate its legitimacy in relation to other constituted systems.

The secular character of the State³, which allows it to distinguish and separate itself from religions, offers to the public sphere and to the social order the possibility of human plurality and diversity coexisting. It also allows everyone, individually, the prospect of choosing whether to be a believer or nonbeliever and to associate or not to a particular religious institution (Mafra, 2002). And, by deciding by believing or having the entreaty for the same, it is the laicity of the State that guarantees, to each one, the very possibility of freedom to choose in what and how to believe, or not believe, while being a fully citizen in the search for and in the effort of constructing equality.

The right to freedom of belief⁴ inherited in each one is so basic that any threat, including the one that turns to the very possibility of its existence, becomes a threat to the integrity of one's identity, of a group, and the society itself. The reality represented by a multiplicity of meanings will end up leading to new possibilities of organization of social relations, multiplying and differentiating new fields of symbolic domination and explaining ways in which the subject will consolidate his/her identity (Giumbelli, 2004).

Reflection on and social developments relating to the secular character of the State are topics of great importance, particularly for Brazil. The Federal Constitution of 1988 establishes what State laicity is, defining and structuring its relation with religious institutions. In their private environment, religions and denominations thereof cannot regulate the public sphere, being limited to making recommendations to their members (Moraes, 2006).

The big difference between a State based on religious versus secular order is that, in the latter, humans are challenged to fulfill human relations from respectful actions and with the purpose of consolidating the prerogatives of otherness, understanding, and citizen equality (Arendt, 1998). In the fusion of the private sphere with the public one, which the religious State makes, there will be an appeal to the supernatural or to that believable "absolute transcendent" if desired, but limited to a portion of the population.

If a given religion is taken as the "best" or "most correct" compared to others that are present in society, and whatever the arguments used, the members of such religion shall auto-

matically enjoy privileges and distinction which will create an environment of exclusion to the others (Lorea, 2008). If the argument of statistical majority, which is so often used as the basis for the claim of privilege, prevails, democracy is placed at great risk, since it would be subjugated to certain data which could not justify the individual being despised in his/her human condition, he/she being equal to others and coparticipant of the plurality in which human dignity is fulfilled (Sarmiento, 2006).

If by law someone can believe (or not believe) in what and how one wishes as the secular State advocates, in a contradictory way, how would determined privileges for the members of certain groups through the discrimination among citizens of similar duty, right, and value be justified? Building equality based on equal rights means building awareness of the right to have rights, freedom of conscience, and belief.

The paths of the secularism of the Brazilian state

Throughout the colonial (1500-1822) and imperial (1822-1889) periods, Catholicism was the legally accepted religion in Brazil. Although the Constitution of 1824 had made some progress in relation to the sects of non-Catholic traditions, especially Protestants, reiterating that they could express their beliefs in their own languages and in their households, it was only with the first Republican Constitution in 1891 that the separation of Church and State, with the end of the Catholic monopoly, took place. It also guaranteed religious freedom to all religious denominations, the end of the ecclesiastical patronage system, the secularization of the State apparatus, and the recognition of marriages (Birmann, 2003).

It did not mean, however, the removal of certain privileges for the Catholic Church. The Catholic lobby in the 1891 Constituent was able to prevent the approval of the law of the deadhand, by which it was intended to deprive the Church of material possessions. Likewise, religious orders and congregations continued acting. Yet, subversions remained and, in certain locations, documents could only be obtained from the hands of religious leaders (Mainwaring, 1989). Even with the constitutional separation with regards to the State, "the Church still occupied considerable space in health, education, leisure, and culture" (Mariano, 2001, p. 146).

According to the jurist Fabio Carvalho Leite, the Constitution of the first Republic "defined the foundations of the

³ To distinguish laicity from secularization, this article uses an important Canadian government report synthesized in a work coordinated by Therrien *et al.* (2005).

⁴ "The process of affirmation of religious freedom that comes from a distant time and, in particular in the medieval period, had its appearance highlighted in the Letter of Agreement between King Alfonso I of Aragon and the Moors of Tudela in 1119, which ensured the freedom of transit of the Moors and the observance of their religious customs. An appearance that occurred in anticipation of tolerance that only would be stronger more than 400 years later. More common, however, were the conflicts between secular and religious power, which projected to the legal field frequent efforts to define the influence of each of the commands" (Sampaio, 2004, p. 142).

relationship between the State and religion reproduced in later texts" (Leite, 2014, p. 207). This had the result that "minority religions wished for a more robust religious freedom in order to seek protection for their rites, beliefs, and objections. In practice, the scope assigned to religious freedom was unsatisfactory" (Leite, 2014, p. 207-208).

Even if the Republican Criminal Code had consecrated religious freedom and consolidated the separation between the Church and the State, it classified as crimes the practices of Spiritism, magic, fortune telling, and shamanism.

There was not [...], in relation to the freedom of worship, the possibility of ensuring official space for beliefs and religions that were doctrinal and practical at the same time, that is, they had one foot in theoretical-scientific modernity and in the search for logical principles and assumptions (demonstrable causes and effects), and the other in the empiricism of traditions legitimized by repeated meaning-assignments to disconnected Cartesian events (Schritzmeyer, 2004, p. 138).

According to the recurrent thought in that period, African, indigenous, and spiritualist traditions were part of a universe marked by irrationality, underdevelopment, and delay. It was, therefore, a quite diverse understanding of what was envisioned in the context of Christian faith, especially, in the Catholic tradition and in the churches connected with historic Protestantism, believed to be linked with modernity, with the rational world, progress, and European standards (Montero, 2009).

It is relevant to point out that the constitutional doctrine of first Republic did not identify a safe position regarding the limits to freedom of worship or beliefs. In fact, the somewhat vague and superficial considerations regarding the topic turned out to be pretty characteristic of legal approaches and also a dilemma for the affirmation of religious freedom in the country.

The result of this state of affairs was the consolidation of a doctrine that was limited to recognizing that religious freedom would not be an absolute right, not bothering, however, to establish, in safe degrees, its potential limits. And, in the case of other issues involving State and religion [...], there was a sometimes extremely idiosyncratic doctrine, carefree in guiding the legal interpretation from methodological criteria (Leite, 2014, p. 248).

In the Constitution of 1934, based on intense Catholic reclamation, the principle of "mutual collaboration" between State and religion was introduced (Giumbelli, 2002). A close relationship between the Catholic Church and the so-called New State, ruled by Getúlio Vargas⁵ was consolidated. During that period, the Catholic Church managed to move in such a way on the

resumption of its privileged relationship with the State that it achieved the status of a "quasi-official" religion (Mariano, 2001, p. 145).

For other religious denominations, for example Spiritism and, more notably for religions of African tradition, the New State period was also marked by heavy police crackdowns. With a discourse that assumed Afro Brazilian religious sites sheltered Communists, the repressive State justified its truculence (Steil, 2001). Discrimination and harassment were joined to the government ideology in an era marked by political decisions to establish the ideology of 'whitening' and modernizing the country (Skidmore, 1998).

The changes arising from State intervention in the economy, abolition of political parties, and the consolidation of a dictatorial political regime made the Constitution of 1937, even though it had the protection of religious freedom as its standard, did not limit the attempts of public authorities to criminalize minority religious expression (Bonavides and Andrade, 1991).

The Constitution of 1946 sought to overcome some crises from prior periods. It was in effect in an extremely troubled moment of the Brazilian reality – the death of Getúlio Vargas (1954), resignation of Jânio Quadros (1961), and deposition of João Goulart (1964). In this sense,

[...] freedom of thinking about the world was guaranteed, but, on the other hand, freedom for acting in this world was controlled, because, at the same time people were betting on a Brazil able to modernize itself, they noted that it was still a backward country. The same citizens needed, simultaneously in the eyes of the law, to get out of underdevelopment, educate themselves, and be closely accompanied on their first flights into the skies of modernity. In particular, the magical-religious cults and healing practices that maintained connections with the colonial or imperial past were considered synonymous with under development and, consequently, outbreaks of cultural retardation to be excised (Schritzmeyer, 2004, p. 138).

The system introduced by the Constitution of 1946 did not survive the *coup d'état* orchestrated by the Armed Forces and conservative sectors of civil society. The years of dictatorship were marked by persecution, torture and violence against opponents of the regime, in addition to serious violations of international treaties on human rights. It is important to highlight the official position of the Catholic Episcopal hierarchy when the dictatorship was established.

Driven by their atavistic anti-communism, their traditional connection to the State, and their institutional interests, the Catholic Bishops officially expressed their support for the military coup of 1964. The manifesto issued by the National

⁵ "In an unheard-of way, the Constitution of 1934 admitted the existence of religious assistance in military expeditions, hospitals, prisons, and other official institutions [...]. It brought the existence of private cemeteries, even under the administration of religious institutions [...], admitted civil effects to religious marriage, and the possibility of religious education [...] taught according to the principles of the religious confession of the pupil in public schools" (Rodrigues, 2014, p. 90-91).

Conference of Brazilian Bishops (CNBB), two months after the coup, thanked the military and 'thanked God' because they had helped the distressed 'Brazilian people' and defended the 'supreme interests of the Nation' and prevented 'the implementation of the Bolshevik regime in our Land'. The military liberation of the Brazilian people and the nation from the 'Communist threat', in their view, had been constituted nothing less than its own 'Divine Protection', which, in this episode, 'was felt in an acute way and which could not be mistaken' (Mariano, 2001, p. 152).

Even though the Constitution of 1967 ensured the free exercise of religious worship, such a right was never a full reality in the country in the years of the military regime. Some religions continued to suffer harsh persecution, which was largely justified by the religious exclusivism of the Catholic Church. In the background, the Constitution of 1967 could be considered a formality, since the country was governed and normatively instructed by institutional acts e decrees that guaranteed the absolute power of the military forces (Rodrigues, 2014, p. 119).

With the military regime losing ground and the gradual democratic opening, as well as the election of a civilian president, the path to the consolidation of a new Constitution was visible. The Magna Carta of 1988 represented the possibility of building a new State and a new society with a view to effective popular participation and respect for pluralism and freedom. The Constitution of 1988 inaugurated the paradigm of the Democratic Rule of Law (Brasil, 1988).

With regard to religious freedom there was the adoption of the principle of a secular State and that supported respect for diversity, although it made reference to God in the preamble⁶. In this respect the jurist Fabio Carvalho Leite asserts:

[...] we inherited [...] a doctrine which, although it recognized the constraints of a preamble in constitutional interpretation, has always made a point to go on about the importance of the reference to the divinity, drawing consequences in most cases of an undisguised idiosyncrasy. As a result of this ambiguous and ill-defined doctrinal position [...] the quotation of this preamble phrase in the process of constitutional interpretation in cases that directly or tangentially involve religion has been frequent (Leite, 2014, p. 309).

For the purposes of understanding, the mention of God, although inducing discussions and numerous interpretations, ends up being devoid of a precise legal meaning. Manifestations by invoking divine protection find some meaning in the symbolic aspect. Religious belief, by definition, will always be found in personal scope, it may include the collective, but it cannot assign such premise to the State. The recognition that the majority

of the Brazilian people are religious, Christian, and Catholic, is a sociological but not legal finding (Ávila, 2004).

A more refined analysis of the Brazilian constitutional history would be able to look into the fact that the problems related to religious freedom and the relationship between State and Religion deviate little from the norm, but their interpretation is almost always in a particular direction and limited by infra-constitutional ambiguities.

Some questions about religious freedom

The consecration of religious freedom as a basic civil law related to freedom of expression, in the Western world, finds great prominence in the works of John Locke, for whom the "problem of intolerance" resulted from the confusion between civil and religious domains. In his work *A Letter Concerning Toleration*, 1689, Locke established the foundation for the principle of the State laicity by asking "how far the duty of toleration extends, and what is required from everyone by it?" (Locke, 1964, p. 17) and that "nobody [has]... any just title to invade the civil rights and worldly goods of each other upon pretence of religion" (Locke, 1964, p. 18). In this way, it was proposed that the political power of the State should only intervene in the functioning or regulate the sects when they turn out to be contrary to the rights of people or the operation of the society.

Rui Barbosa considered religious freedom as the most important social freedom. "Of all the social freedoms, none is so congenial to man, and so noble and so fruitful, and so civilizing, and so peaceful, and so born of the Gospel, as religious freedom" (Barbosa, 1877, p. 419).

Religious freedom as a fundamental right supposes the complexity of subjective and objective as well as collective and individual aspects of negative and positive dimensions, linking itself to public and private entities with manifestations of belief and worship, and of institutional and procedural order. For being a fundamental right it should be interpreted under the prism of freedom and not under the theological approach of a 'truth' (Weingartner, 2007, p. 61).

It is important to stress, as we have noted previously, that Brazilian constitutional doctrine does not offer safe guidance regarding religious freedom. In general, the analysis assumes a formalist character, limited by the generic presentation of an idea without highlighting the importance of the right (Leite, 2014).

Discussing religious freedom in Brazil passes through some issues such as questioning the presence of religious symbols in public spaces, the presence of religious education in public

⁶ "We, the representatives of the Brazilian people, gathered in a National Constituent Assembly to establish a democratic State to ensure the exercise of social and individual rights, liberty, security, well-being, development, equality, and justice as supreme values of a fraternal, pluralist, and unprejudiced society, founded on social harmony and engaged, in domestic and international order, with a peaceful resolution of disputes, promulgate, under the protection of God, the following CONSTITUTION of the FEDERATIVE REPUBLIC OF BRAZIL" (Brasil, 1988).

schools, religious holidays and observance of 'religious days', denominational religious assistance within public institutions, tax immunity, cooperation between churches and State, and the political influence of some religious groups in the deliberative power.

Elsa Galdino (2006) states that Brazil has established a hierarchical and unequal conception about the construction of a secular public space that has allowed the formation of a public arena, in which the rules of access to the goods made available by the State are not managed in a universal and egalitarian way to all faiths. Such situation has generated a kind of dissonance between the impersonal and universal rules imposed by the public sphere and the hierarchical, uneven, and personalist principles present in the public Brazilian sphere and space (Cunha and Lopes, 2013).

The lack of a universal principle and of equal and uniform treatment covering all religious systems impeded the full recognition of the rights of certain religious configurations, promoting individualized and unequal access by certain religions to Brazilian public spaces, as if one religious system was more legitimate than another.

Even though, with the proclamation of the Republic, an agenda has been proposed which proposed the distinction between civil and religious spheres in a separation between Church and State, with freedom and religious tolerance as founding values, it did not fail to be impregnated by religious discussions, worrying for a long time about regulating the rights and the spaces of religions. Despite the movement for the secularization of the Brazilian State, "at no time or place are religions no longer a 'State issue'" (Montero and Almeida, 2000, p. 326).

It is relevant to point out that the contemporary world has been marked by the loss of credibility of the great religious systems, allowing the fragmentation and the breaking of its homogeneity. Possibilities of expression without following the contours demarcated by the institution are multiple. According to Paulo Barreira Rivera, a vast horizon of possibilities is forged where:

In contemporary society there is no more stable religious field, and long-term commitments are no longer standard. Various types of religious options and multiple religious products are offered daily in temples and in the media. Exclusive religion is a thing of the past. The sacred presents itself in multiple forms, little hegemonic and, above all, in constant motion (Rivera, 2003 p. 438).

One of the issues relevant to this discussion is from what references could it be possible to understand more clearly the profound changes that have taken place in the Brazilian religious field? Similarly, what is the point of impact on uses and appropriations of public space by a historically consolidated religiosity? What is the role played by religion in the midst of the transformations of modern society?

It is necessary to note that this supposed neutrality of the State in relation to religion, based on the separation between temporal and spiritual powers, as it seems, has much more to do with an ideal, a rhetorical principle, than with everyday reality. As Ricardo Mariano says:

Despite the secularization of the State, there is no way to not note that there are no concrete historical examples of countries, for all the more politically liberal they might be, that successfully neutralized State action in the religious economy (Mariano, 2001, p. 118).

The growing religious pluralism in Brazil has sparked strategies and paths in order to transform and consolidate the relationship of religious groups with the public sphere. Driven by their growing religious and demographic power, large Pentecostal and Neo-Pentecostal churches, for example, began to use mass media to implement policy in recent decades.

Religious competitors and opponents of the demands of a secular State did not resign themselves merely to defend and promote their institutional interests, their values, their conduct, and their morality in parliaments and in the media. With their religious, political and media activism, they have acquired greater power and begun to exert greater influence on issues of their interest (Fischmann, 2008).

Currently, many of the persecutions to the religions of African and indigenous tradition and Spiritism, are performed by Pentecostal and Neo-Pentecostal churches. The attack is always moved by orthodox and fundamentalist principles that aim to eliminate certain practices of faith, convert individuals and establish a new social and religious order. In this way,

Pastors, evangelists, and believers departed for the attack. They came out of the trenches and put the artillery of the troops of the Lord of Armies to attack the so-called representatives of the Devil's Lands. As a result, press reports mention the proliferation of [...] invasions of African temples and centers, forced imposition of the Bible, physical assaults on supporters of Afro-Brazilian and Spiritist cults, and even practices of false imprisonment (Mariano, 2007, p. 137).

It is important to highlight that the Neo-Evangelical expansion in recent decades is an important element to understand the new contours of contemporary religious sensibilities under the perspective of religious freedom (Catroga, 2006). The multiplication of spaces of religious activity, the spectacle of the masses, and the continuing penetration of religious agents at all levels of the State, eventually created new demands about the persuasive force of the image of Brazil as a Catholic nation, besides conferring new instruments of power and influence in the formation of public opinion and modifying the perception of what corresponds to the collective interest.

From the concordat to the general law of religions

It was from the initiative of D. Ivo Lorscheider, at a meeting of the National Conference of Bishops of Brazil (CNBB) in 1991 there was a request from the Holy See for a proposal for a bilateral agreement with the Brazilian State with the objective

of regulating the legal status of the Catholic Church in Brazil.⁷ With the agreement, the Vatican hoped "to guide Church and State and Church and the political community for the good of people and for the resolution of problems that could subsist" (Rocha, 2009).

After submitting it to analyses, legal opinions, and various adaptations made by teams of diverse ministries and State bodies, the Brazilian government sent a counterproposal to the Apostolic Nuncio in Brasília in March 2007. There were several restrictions on the deal. It was believed that it was inconsistent with the principle of separation between the Church and the State (Câmara, 2009).

Lula and the Brazilian government were divided regarding the Concordat. According to Cunha (2009, p. 267), the division opposes, on one hand, the "supporters of a secular democracy" and, on the other hand, the defenders of a "real", "positive", "authentic" laicity. This division at the base of the government, would have overruled the "confessional, Catholic, and Vaticanist side". Such a decision would have been induced by President Lula's friendship with the Cardinal D. Cláudio Hummes who had been bishop of São Bernardo do Campo when Lula presided over the Steelworkers Union. The prelate had provided support to strikes of workers' movements and protected leaders persecuted by political police. Hummes had been one of the enthusiasts and great articulator of the agreement. At that time, he was also summoned by Pope Benedict XVI to be the Prefect of the Congregation for the Clergy in Rome three days after the re-election of Lula (Globo, 2006).

On November 13th 2008, the bilateral agreement between the Federative Republic of Brazil and the Holy See concerning the Legal Status of the Catholic Church in Brazil was solemnly signed, during an official hearing held in the Vatican Library between President Lula and Pope Benedict XVI. It is important to note that the agreement had been written in secret by representatives and staff of the Brazilian government and the Vatican for more than two years. Its contents became public only on the occasion of the official signing.

D. Geraldo Lyrio Rocha, at that time president of the Brazilian Bishops, talked about the "importance of a secular State" and religious freedom for all, noting that the bilateral agree-

ment did not constitute a "privilege of the Catholic Church", but "an acquired right" by the Holy See as an international organization. He suggested that "the other religions could plead their own agreements with the government" and that "the resistance has party, religious and ideological motivations. Reading the agreement in an impartial way, examining article by article, the parliamentarians will realize that nothing brings harm to the Brazilian State" (Rocha, 2009). In the same manner, D. Odilo Scherer, secretary of the CNBB, reiterated that the agreement just made "the relationship between the Church and State more clear", consolidating "clear rules recognized by the State about how the Church wants to be in society and before the State" (Scherer, 2009).

The current thinking among the opponents was that the Concordat was a serious setback by the fact that no other religious group would have legal instruments to allow the signing of a similar international agreement and, also, that it constituted a threat to the secularism of the State. He cited article 19 of the Brazilian Constitution where it is expressly prohibited to the Union, the States and the Municipalities to

Establish religious services or churches, subsidize them, embarrass their functioning or keep them or their representatives in dependency or allied relationships, subject to, in the form of law, collaboration of public interest (Brasil, 1988).

In general terms, opponents of the agreement reported numerous barriers to laicity, democracy, freedom, tolerance, and religious pluralism.

The agreement contained 20 articles, which dealt with, among other topics, the legal personality of ecclesiastical institutions, tax immunity and tax issues of Catholic ecclesiastical institutions, labor rights of priests, religious teaching in public schools, links between priests and entities, statute of marriage, visas for foreign religious people, historic, artistic and cultural heritage, and religious assistance in prisons and hospitals⁸.

Some articles have faced fierce public outcry, mainly in relation to religious education, observed under the confessional prism and in blatant disregard to the National Educational Bases and Guidelines Law (LDB) and the Magna Carta

⁷ It is important to note that the Second Vatican Council (1962/1965) had set aside the prospect of a Concordat policy because of its "preferential orientation for the poor." However, the conservative inflection of the pontificate of John Paul II repositioned this action as a priority of the geopolitical articulation. By 1989, the Brazilian government and the Vatican had already signed a specific Concordat which sought to guarantee religious assistance to the Armed Forces. The direction of such assistance is imposed by a religious person and a military person, with the dignity of an Archbishop, bound to the General Staff of the Armed Forces. The assistance itself is held in barracks, bases, and ships by chaplains paid by the Brazilian State as an active duty military officer (Cunha, 2009, p. 265).

⁸ In terms generic to an understanding of the content of the agreement, "the provisions on the public exercise of activities (art.2); legal personality (art. 3); protection of places of worship, liturgy, symbols, images and cult objects (art. 7), training seminars (art. 10), secret of the Holy Office (art. 13), tax immunity (art. 15); the nature of the working relationship (art. 16); and entry of foreigners for pastoral activities (art. 17) deserve to be highlighted. On the other hand, there are measures that provide assent to the Catholic religion to extend its presence in other areas of society: diplomatic representation (art. 1); social assistance (art. 5); historic, artistic and cultural heritage (art. 6); spiritual assistance (art. 7); educational institutions (art. 10); religious education in public schools (art. 11); civil effect of religious marriage (art. 12); and urban planning (art. 14)" (Giumbelli, 2011, p. 122).

(Cunha, 2009). In particular, article 14 was accused of infringing on State secularism by requiring the commitment of the State to ensure legal devices in the plans of the municipalities to provide public lands for religious purposes. The text of the Concordat, after leading to various discussions in congressional committees, remained approved.

The most 'radical' Evangelical attack raised against the Catholic agreement was engineered by the pastor and leader of the Victory in Christ Association, Silas Malafaia. For him, the Concordat would hurt the principle of laicity, including the breaking of national equality. It was a "real blank check for the Catholic Church. A shame!" (Malafaia, 2009) that would stimulate other religious groups and their clerical and political leaders to plead space, ensure guarantees, and emphasize rights.

Challenges through official pronouncements of religious bodies, civil society, ecumenical leaders, law scholars, and supporters, also led to the proposal of a General Law of Religions (5,598 PL/2009) presented by the pastor of the Universal Church of the Kingdom of God and Congressman George Hilton (PP/MG). Its content copied, to a great extent, the content of the Catholic Concordat, but also made it extensive to other religious denominations.

[...] the Concordat between the Federative Republic of Brazil and the Holy See concerning the Legal Statute of the Catholic Church in Brazil [...] brings a series of guarantees of benefits for the Roman Catholic Church with most of which we fully agree.

And it is precisely because we understand the Principle of Constitutional Equality of religions in our country, by which all confessions of faith, regardless the number of members or followers or the economic and property power shall be equal before the law, we present this proposal that shall not only benefit the Roman Church, but will also give the same opportunities to other religions – African tradition, Evangelical, Protestant, Islamic, Buddhist, Hindu, among so many others that find in the tolerance of the Brazilian homeland a space to spread their faith and belief in favor of millions of people who are benefited by them.

[...] In this way, is that, on the same level of the Concordat signed by President Luiz Inácio Lula da Silva in the Vatican in 2008 that we present this Bill, which, to consecrate and understand the laicity of the State as the Principle of Equality, can be called the General Law of Religions (Hilton, 2009).

The researcher Roseli Fischmann (2009) referred to the General Law of Religions as an "attempting to repair an uncorrectable error" and of creating "another one". She asserted that, "if approved", the Concordat and the General Law "would annihilate the public field, turning it into a cluster of groups who defend religious interests, would generate inevitable conflicts in the competition for funding and tax exemptions; and would bring Brazil closer to conflicts which are seen in countries where religion invades the public sphere."

According to the researcher Émerson Giumbelli (2011), the text of the General Law of Religions used some peculiar expressions. For example, "religious institutions", "religious denominations", "religious organizations", "religious beliefs", and "religious companies". This extensive use of the text of the Concordat copied in the text of the General Law of Religions would allow us to have two distinctive readings

On one hand, it proves the power of the Catholic Church in establishing the terms by which the forms of autonomy and diffusion of religion in Brazil are regulated. On the other hand, it confirms the role of Evangelicals, who were able to react to the claims of the Catholic Church and to establish a proposal of a legal framework which is more general and of higher revelatory power – as one can note, considering the reactions [...] to the project of General Law that its application is even more uncertain and more surreptitious than the Concordat (Giumbelli, 2011, p. 124-125).

In the clash with the Catholic Church regarding the Concordat, the Pentecostal conversion to laicity was eventually reduced, from the proposal of the General Law of Religions, to the fight for isonomic State treatment of different religious groups.

Lawmakers linked to the Evangelical Parliamentary Party negotiated with Catholic political bases and pressured their peers in the National Congress, aiming to defend their religious interests and of other minority groups. They have invoked the principle of laicity to plead an isonomic treatment and prevent State discrimination. Their defense of a secular State, in large measure, was opportunistic, circumstantial and instrumental. The goal was one of influencing the public sphere to oppose secularism and, at the same time, the Catholic power both in religious and political scopes (Ranquetat Jr., 2010).

One of the issues covered by the questions of legal leaders, educators, clergy, social activists, those linked to human rights, and minority activists was that some religious groups did not have legal instruments to conclude bilateral agreements with the Brazilian State, like, for example, religions of Afro-Brazilian and indigenous traditions (PNDH-3, 2010).

It is interesting to note that the Catholic Church, to which was given the initiative for proposing the Concordat, declares, through their spokespersons, that they did not claim any privilege in the State and the society. However, it is salutary to observe that this bilateral proposal stresses the guarantee of a privileged position of interest for a partisan instrument, an agreement. In the Brazilian context, this question consolidates a significant change since, historically, the Catholic Church has always sought its inclusion based on generic settings, counting in its favor with the dominant association between religion and Catholicism (Xavier *et al.*, 2009). What can be perceived now is the fact that several evangelical representatives also advocate a more generic regulation, such as the one advocated in the context of the General Law of Religions.

We are facing a prospect whose meaning and implications signify a huge challenge to understanding the overall framework

of relations among State, society and religion in Brazil (Negrão, 2008). It is appropriate to recall that the Concordat between Brazil and the Holy See was turned into law, whereas the project of the General Law of Religions, after an auspicious start, still awaits the possible endorsement of the Presidency of the Republic. Maybe the impact of the Concordat will not end with its approval; such approval would be, in fact, only a movement whose magnitude seems difficult to determine.

Final words

As it was remarked before, based on the proposed General Law of Religions, to fighting for an alleged isonomic State treatment of different religious groups, Evangelical parliamentarians knew how to negotiate with Catholic political bases in order to press and defend their religious interests and, consequently, those of other minority groups. Their defense of a secular State, in large scale, was opportunistic, circumstantial and instrumental (Ortiz, 2001). The goal was to influence the public sphere by opposing themselves to the State secularism and, at the same time, to the Catholic power both within religious and political contexts.

The existence of the Concordat and the possibility of the General Law of Religions would still need to be understood by placing Brazil in a broader framework. It means generally considering the actions of the Catholic Church in its attempts to consolidate and win positions within specific national groups. The plausibility of something like the Concordat between Brazil and the Holy See is provided not only by the fact that the Vatican enjoys, even though in a peculiar way, the prerogatives of a State headquarter, but also by the strong institutional and social penetration of the Catholic Church in Latin American countries.

Although the defense of laicity is an important legal and political instrument used by Evangelical segments in the defense of their freedom and of their institutional interests, their political priority has been to extend their occupation in public spaces and expand their own privileges (Martel, 2007). So much so that this activism has generated enough contradictory effects. Laicity is sought, Catholic hegemony is attacked, and a slate of privileges and still more space are in the state sphere is pursued.

The controversy surrounding the Catholic concordat and the General Law of Religions draws attention to the role of the State and, to a lesser extent, the political activism of religious groups in the configuration of the Brazilian religious field in public recognition of various religious organizations, in the regulation of religious occupation of public spaces, and in the granting of benefits to religious groups. Also, it sheds light on the existence of multiple senses of laicity in a country that allows its agents to fight for marking, subjugating and manipulating the secularity of the State through many borders.

In this process there are expressions and proposals, including ones for the intervention of groups (religious and secular) which, based on their ideals, values, and interests, are able to

clarify differences with regard to the tasks of the secular State, the rights of religious groups to occupy public spaces, to exert their influence in the public arena, and to search reciprocal relations with the State (Machado, 2013).

It must be recognized that a religious market, as in the case of Brazil, has impacted the escalation of religious disputes that oppose Catholic and Evangelical denominations with influence in the public sphere, especially in the political arena and in the electronic media. Therefore, Brazilian constitutional secularism, besides regulating the political action of secular religious groups at certain times, still does not have large legal or political devices to assist in the process of consolidating secularization and the consequent State laicity.

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Submetido: 18/11/2016

Aceito: 09/05/2017