

Article

The History of Canon Law as a Proper Mirror to Deepen Current Legal Conflicts

Domenico Bilotti

Department of Law, Economics and Sociology, Magna Graecia University of Catanzaro, 88100 Catanzaro, Italy; domenico_bilotti@unicz.it

Abstract: It is important to underline that the history of Canon Law has a specific significance, even considering the methodological opportunity to find and to reconsider documents, periods, and personalities in order to modify and to enhance already acquired hermeneutical data. A partially unexplored hypothesis, however, consists in the peculiar attitude of Canon Law in approaching themes coming from the current configuration of legal relationships because the ecclesial paradigm has represented a primary framework, not only in Western societies, for Christian cultures and a not necessarily hostile and antithetical model to the others. By selecting a restrained amount of critical case studies, this essay will consider juridical institutes related to the legitimacy of public authorities, the legal protection of dissent (but on the basis of limited circumstances), the Private law possibility to realize human interests in a pacific, mutual, contractual way.

Keywords: Roman Catholic Church; history of Canon Law; law and politics; politics and religion(s); ecumenical dialogue; interreligious dialogue; secular criminal law; secular private law



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1. Introduction

The history of law usually seems a theoretical tool able to rediscover important but not anymore in force legal institutes: a kind of study that finishes its purposes at its own distance from the current actuality. It might appear brutal, but in the common perception, the main approach to the historic contribution to legal understanding and interpretation is not disposable enough to engage legal, present controversies. Many aspects of the jurisprudence easily demonstrate quite the opposite: the relevance of a confrontation with historic data stands in the rare opportunity to underline the various solutions utilized in different contexts and in the possibility of a methodological enlargement that reaches critical points of the past by hermeneutically founded overviews at future situations. This could be considered a general petition for the useful side of the historical knowledge, based on the historiography, on the critique and on a massive use of citations, bibliographies, and legal verdicts, too. That kind of legal reasoning anyway maintains a higher profile in the Canon Law sphere because the ecclesiastical rules, resulting from a peculiar combination between the historical institutions of the Church and the theological element, impressed into the concept of the divine law (Hahn 2023, pp. 168–69), have a canal of constant communication to both Western and Eastern nowadays juridical systems. Our task will exactly be to suggest these endemic complementarities. The observational figurative space of this research primarily concerns the development of Canon Law since its evolving formal establishment in the second millennium of Christian history, but it is necessary to underline how the heritage of the first one, though less disposable in terms of authenticity or, at least,

amount of the juridical sources, is a not only symbolic part of the scientific debate (Hoeflich and Grabher 2008, pp. 5–6). Even in that case, the structure of the Church herself, and the growth of her own legal institutions, is full of opportunities to find comparisons with the parallel evolution of civil law: formally, this one was characterized by a Roman Law basement, but it was exposed to constant contact with customary elements from various territories and populations (Leapingwell 2022, pp. 2–19). The methodological choice to circumscribe our retrospective simply consists of an expository strategy to maintain focus on elements that, to this day, are more directly recognizable in in-effect legal systems.

2. Results

The most direct exemplification of this premise is certainly ascribable to the peculiar sources that represent the typical joint interest between the ecclesiastical administration and the public legislation: norms mutually agreed and simultaneously adopted by the two contracting parties (Caretti and Barbieri 2017, pp. 49–51). Instead of still conceiving themselves in a permanent opposition, with a winning side alternatively taken by the Church or the State, the Holy See and the established secular republics started to renew the potentiality of mutual regulations (Zagrebel'sky 2010). In applying them, the respective legal traditions are crucial: the Church has to accept the regulative authority of the national State, and this one—even to enforce what is jointly arranged—has to consider Canon Law notions as prerequisites to make the rules effective (among others, the ministry, the sacraments, the qualification of religious edifices, the forms of religious celebrations as the marriage). What we are trying to point out can easily be referred to the parabola of the concordats. That species of agreement had an extensive political role in a time characterized by the definitive affirmation of two distinguished authorities who agreed to have contractual relationships instead of an exhausting permanent conflict potentially able to stress the internal and difficult equilibrium of both of them.

When the temporal affairs of the Church were conducted under the legal order of the States (especially after the storming of Rome and the loss of proper sovereignty) it seemed the end of the era of the concordats as source of law (Nenni 1971, pp. 16–17), but this point, highly debated not only in the academic community of the scholars, did not imply the failure of the instrument of formal, typical, agreements between the Church of Rome and the States. The concordats were raised again when Italy welcomed a reconciliation in 1929. The Italian regime adopted a confessional regulation in part due to the necessity of strengthening its consensus, but the bilateral way of establishing legislations concerning the Church and the single nation was well received also in the after-war constitutionalism that had theorized a sort of overruling of religiosity against every possible form of blasphemy and ontological indifference. The recognition of religious pluralism does not correspond with the zeroing of long assimilated beliefs (Fiala 2017, p. 191), relevant in public education, in family laws, and in the ideal construction of a certain notion of society. The secular State, where religions are not able anymore to discipline the attribution of political rights (Venter 2015, pp. 222–23), encouraged peaceful and often interested pacts in order to avoid conflicts and to preserve the public order and juridical directives.

We will analyze the legal drafting and the development of the concordats in the next part of the research, when, escheated the main data of the nowadays law of concordats' trajectory, the goal will consist of trying to distinguish styles of writing, contents, and contexts. By now, the most important element to remark on is that the constant use, although in different forms, of a source of law modeled on the paradigm of the concordat implies a strategy to enforce rules based on refined mechanisms of concessions and pretensions, agreement and distinction, between different jurisdictions: definitely, a monotheistic conception of the faith not responding to a rudely monistic conception of power.

This elaboration is itself a part of the Canon Law's resilience in its two-millennia history, across periods of bloody persecutions, institutional and imperial sanction (De Palma Digeser 2000), large-scale schismatic tendencies and intercontinental missionary proselytism (both of them from the East to the West, and vice versa), subterranean survival and public dismissing, anti-modernist reaction, and progressive transformation. The unity of the Holy Trinity and the plurality of jurisdictions and forms to regulate them seem *zenith* and *nadir* of the same ideal planet: to think the Absolute and the Unique while experiencing the difference.

The main reconstructive hypotheses emerging in the juridical debate can be roughly summarized in at least four different argumentative strategies to observe the relational property of Canon Law in order to underline its specificity even in the homologous field of the other internal confessional systems founded on the Christian revelation, as for instance established in the Constantinopolitan and Nicene Creed (Stephens 2015, pp. 121–22). Two of them consider the peculiar position of the person in the legally sanctioned structure of the Church; the last two directly concern the position of the Christian in front of rules and commands not coming from the express religious precepts.

A juridical doctrinal tradition identifies the unity of the Church in her hierarchical vertex—a theory of the papacy exposed since the thought and the works of Peter Damian (Cushing 1998, pp. 21–23) and Henry of Segusio (Rollo-Koster 2015, pp. 41–42). The communion with the Holy Father is both a fundamental rule of cohesion and an administrative premise. The First Vatican Council expressed the last step of this design to the point of declaring the papal infallibility in dogmatic terms. We just suggest that the position of the Pope, in the subsequent theological and juridical aftermath (Shinoda 2000, pp. 9–11), was considered even in the Middle Ages disputation related to the correct qualification of the temporal authority of the Church if directly or not directly practicing this attribution in regard to the civil, imperial, and royal powers (Musselli 1975, pp. 43–44).

The second approach, in contrast, emphasized the communitarian base of the ecclesiastical reality. This tendency emphasized, too, the exemplar relevance of the first communities, highlighting the absence of a formally established hierarchy and the completely free and common contribution of everyone. In their widest terms, exegetical positions like that cyclically emerge in the ecclesial debate, and a starting point for a satisfying mediation between different interpretations might be found in the current accent of the synodal nature of the function of the government in the intrinsic constitution of the Church (Ballano 2025; Palumbo 2022).

Going instead to aspects concerning the Christian moral doctrines in measuring their cogency against other regulative systems, a typical theory of obedience starts from the hermeneutical reception of the Letter to Romans of Paul the Apostle (Blumenfeld 2001, pp. 209–11; Myers 2023, pp. 93–94). Human authorities like the Emperor are qualitatively different from the message of Jesus Christ: a good Christian, if possible, always avoids turbulences, tumultuousness, scandal. It is possible to be Christians even if dominated by an anti-Christian regime, and the worldly belligerency does not belong to them.

A different theory explicitly declares the opportunity of an active resistance against unfair secular powers (Dombrowski 2001, pp. 137–38). Behind this enormously general common acquisition, anyway, results may vary: many Christian scholars have prepared the theoretical basement of civil disobedience—a radical and constitutional institute that survived the institutional separation between Church and State. The most relevant differences in this doctrinal front do not imply the justification of a discrepancy between human and divine laws, but under what conditions the disobedience against the general rule is legitimated. Under and before this question, it is noticeable that the most important interrogative does not consist in how we eventually punish the legislator of a not religious

command but in how we can define this parameter of religiosity. Who establishes religious compliance in *civitate homini*? Knowing that a definitive, inter-confessional answer has never found univocal formulations, it is easier to understand the theological importance of private law inter-subjective relations: the ones opened to a peer composition under the law of God (Berger 2015, pp. 96–98; Calhoun 2021, pp. 136–37; D’Arienzo 2023; Mousourakis 2012, pp. 72–80).

3. Discussion

Scholars generally agree on the connection between Canon Law and contemporary private law: the connection is more recognizable when we talk about European civil law. Canonic rules, doctrines, and legal institutes guaranteed the prosecution of many elements taken from the longstanding experience of the Ancient Romans’ law, improving a religious declination of that cultural framework already started after the legislation of Constantine the Great and Theodosius the First (Russell 1992, pp. 22–23). It seems more controversial when we talk about public law and the apparent secular accent of present-day constitutionalism, which promised to be and to represent an undeniable and irreducible fracture between religious liturgies and State rules: the confessional belonging is not a requisite of the public capacity, and religious beliefs are part of an inner sphere, not an administrative one. If failed or not, if completely realized or merely inscribed into a constitutional proclamation, this promise is much clearer and opener than the strictly theocratic systems: they are properly founded on the holistic essence of religion and community.

It is not our scientific aim to clarify that this dualism is less sharp and hostile than it might appear (moreover, considering that the classic liberalism included national cults and churches in its own idea of statehood and admitting that we can historically count case studies of theocratic systems anyhow able to defend a certain level of religious freedom even for infidels). Nevertheless, the mutual relationships and tensions between the papacy and the empire were absolutely fruitful in shaping the modern concept of sovereignty, individuating the center of power in an institution, a legal person with a typical set of irrevocable attributions, not anymore depending on the specific features of the natural and individual person governing it. The apparently given-for-life pacification intrinsic in the recently freshened season of concordats is just the last sequence of a relationship, and it locally has always needed phases of disagreements, confrontations, negotiations.

The announced and non-occurring end of the concordats in the modern day was predicted after the Second Vatican Council when the ecclesiology seemed to turn into a more dynamic organization and into a basic framework of pastoral rules and customary habits. That typology of the church, anyway, did not intend to undervalue the juridical element of the faith: the focus was projected on renouncing past privileges, establishing a more concrete strategy to tackle secular social challenges and injustice. In less than three decades, the law of the concordats changed again, but demonstrating a vitality to date unknown: the Church became an ally of new democratic regimes, helping in shaping constitutional transitions, then the Church herself gained the perspective of having some qualified relationships with legal systems and worldwide States very far from her original, preferential, perimeter of Western and Southern Europe (Mancuso 2024, pp. 78–79; Zhuo 2018, pp. 197–205).

On the one hand, secular civil legislations needed to accept and to understand notions to apply rules from the concordats (for instance, the definition of ministries, marriage, clergy, basilicas) while still using the regulative semantics of the Christian cultural heritage (in succession laws, in the individuation of the legal relevance of personhood, in conceiving the legal relation between authorities of the same institutional level).

On the other hand, as already clear since the Council, the Church understood the globalization of communications far before many national States ([Comotti 2013](#), p. 20) and, in the public opinion, not only in culturally Christian societies, the Pope was figuratively considered as a peculiar political leader and thinker: not anymore convicted in temporal quarrels and disputes from a formal point of view (for instance, claiming the Donation of Constantine or the freedom of bishops' nominees, at this point a theme relevant only in States not recognizing ecclesiastical liberties), but always in the center of the scene during international crises. A pedagogic guide, an influent, respected opinion, a spokesperson for freedom, peace, and moral issues: all of those qualifications not immediately findable in a juridical, established rule but almost universally accepted as an unavoidable phenomenon of current times.

Considering that the purpose of this paragraph is to raise doubts about controversial and crucial points of view, the just-now exposed enlargement in the ecclesiastical perspective meets two penetrating and incisive objections, maybe not enough diriment to belittle the importance of Canon Law in accosting comparative law issues but so direct and effectively based to be carefully considered.

First of all, the pastoral and open side of the presence of the Church in secular opinions has shown off a less meticulous approach in internal reform legislations, risking to distract from issues more perceived by the worshippers and the devotees all over the world: the sacraments ([Falvo 2006](#), pp. 139–40), the administration of the Roman Curia ([Faggioli 2014](#), pp. 72–75), the educative role in front of a crescent uncertainty facing social transformation in health, sexuality and family ([Kupczak 2018](#), pp. 18–24), the rigorous theological structure of documents, declarations, encyclicals. Where is the balancing point between the exigencies of faith not spoiled and not divided from the present tense and the superior claim for the maintenance of a well delimited sphere of attributions, duties, and precepts?

If this first objection absolutely seems engaging, the second one is a logical corollary, though appearing weaker and less scientifically interesting cause of its prevalent generalist accent. The question results in these terms: is the Church becoming a non-governmental organization? Does the Church reduce the spiritual components inherent in her mission of salvation, changing her objectives in a barely (significant but) worldly current projection? Literally formulated with this derogatory intent, the dilemma reveals itself wrongly centered. The element to put aside in this skepticism drawn around recent methodological innovations is different: a militant witness of social justice is not artificially removed by a sincere look at faith, organization, and coherence ([Torrell 1994](#), pp. 95–96). The challenge is to keep that characteristic intuitive adaptability ([Berlingò 1995](#), pp. 22–23), always part of the Canon Law ontology, without indulging in deviations from the duty of evolving without betraying. As significantly demonstrated by the scholars we will consider in the next section of the research, it would be an incomplete overview to limit one-sidedly the confrontation between Canon doctrines and secular civil law. This study proceeds in the sense of underlining how many still useful legal lemmas have their basement in the influence of religious ethics, symbolically embracing scientific fields from the Private Law (contractual loyalty, jurisdictions based on the reparation of the torts and the legally relevant consideration of equity, legal subjectivity) to the Public one (for instance: the birth of a territorial declination of sovereignty against the original universalism, inscribed into the redeeming mission of the Church). The same methodological technique of mirroring remains useful as ever, even projected in the opposite way—the influence that secular constitutionalism had on typical Canon Law institutes ([Helmholz 2022](#), pp. 113–15). In this line of reasoning, without any presumption of exhaustiveness, the interreligious dialogue in its current configuration has a conceptual depth also taken from constitutional pluralism and the idea of a governable existence of the cultural differences ([Cole Durham and Thayer](#)

2022); the ecclesial codification adapted the most original juridical product of the bourgeois revolutions, also retracing the internal subdivision of arguments and institutions (Lesaffer 2009, pp. 458–59); the administration of ecclesiastical goods does not exclude the possibility of lucrative management (Torry 2014) anymore. States and Churches, laws and religions, communicate on both sides of the same coin.

4. Materials and Methods

Undoubtedly, the legal system inscribed into the progressive building up of the Canon Law order has constantly represented a significant paradigm for a comparison both confronting more generally Christian religious confessions and, unsurprisingly, the civil juridical models, too.

It will be important to try to retrace these two hermeneutical accepted hypotheses not in order to overrule one of them but in the spirit to underline elements still partially unexplored even in the specific field of legal studies: that way of creating ideal points of analysis could once more demonstrate the peculiar attitude of Canon Law in understanding how the jurisprudence, as a typical cultural product, maintains a specific link to ethical issues and practical, administrative, not only theoretical, necessities.

The very first materials adopted in enhancing this kind of approach consist of a wider overview related to the experience of Christian confessions because, at a certain point of their own legal history, they expressed an undisputed level of similarities in the same stances concerning Canon Law or, at least, its scholars' reflections.

On the basis of the arguments already considered in the previous section, three different topics have gained common attention in the relationships between Canon Law and secularism: the reputation of modernization in the respective religious frameworks; the connection between politics and religions, analyzed by the point of view not of a public law legislator but in the significance of that connection also including a theological approach; the legal subjectivity and the fullness of normative attributions in the case of the belonging to the female gender or a religious minority (two understandable different concepts, but usually considered as a downgrade of capacity into the religious supremacist nets of rules). Although divided by different ages, geographical proveniences, even theological formation, and concrete, singular religious affiliation and initiation, the Authors selected to emphasize the intellectual interconnections between Canon legal tradition and secular civil liberties share undeniable commonalities. All three of them were thinkers able to implement bridges (and to create newer ones) between temporal affairs—and clashes—and spiritual values, preferring, to an imposed model of orthodoxy, the fertile and productive dialogue between cultural hemispheres usually not communicating (and frequently conflicting). All three of them represented, in their period, the possibility of a critical confrontation with the most engaging challenges of the time, promoting a mutual conciliation instead of a permanent tension. In the light of this nonconformist attitude of the three censused Authors, the parabola of the interreligious and ecumenical dialogue will ideally meet halfway: the relationship between the schismatic ecclesiastical movements and the continuity of an undivided scriptural common tradition (Webb 2024, p. 32), something opposing the draft of the Nineteenth Century statehood; the sense of cooperation and liberation carried out by the most progressive components of the Marxist parties (using the interpretation of the social doctrine of the Church as a theoretical lever), much deeper than the propagandistic anticlericalism (Boas 2007, pp. 81–82; Boer 2019, pp. 131–32); the female battle to recognize women's rights and full subjectivity even into the Abrahamic confessional legal orders (Haddad and Esposito 2001).

Our individuated case studies start with the work and thoughts of John Henry Newman (1801–1890). He was raised with an Anglican heritage, but he slowly accepted the

Roman Catholic faith, showing an increasing respect for the part of that theology more oriented to a reform perspective both in the strict field of the administrative Canon Law and in the largest sector of the relationships between national political authorities and the Holy See (Magill 2015, pp. 204–205). Benedict XVI opened a new and important chapter in the relationship with the Anglican Church (Ruggieri 2012), as symbolically John Paul II and Margaret Thatcher did, establishing a more open dialogue between the Roman Catholic Church and Great Britain (Jenkins 2003, pp. 52–53), but in the Nineteenth century the scenery was completely different and a respected personality, converted to the religion ideologically perceived as an enemy (the historical one), was inevitably considered problematic, divisive (Newman 1864). Newman has never dismissed his cultural roots and heritage, but quite paradoxically, he started to see them as a kind of conservative identity, perfectly inserted in that system of power, institutional attributions, and safeguard of undisputed privileges. While the Church of Rome was heavily tackling the unification of the reign in Italy, specifically afraid of the final fall of the temporal power (Tedeschi 2017, p. 129), Newman noticed in her cultural tradition a more composite atmosphere: there appeared a good variety of thoughts and lectures to an intellectual anxious to express his natural attitude in research and studies.

Newman wanted to inaugurate a different exploration of religiosity, accepting and then evolving the abused distinction between positive and natural religions: the element of the institution, where existing, cannot be artificially divided from the experience of mankind. The interiority of human beings is certainly an intimate sphere, but it does not mean that it is not possible to think about it (Newman 1903, pp. 389–447). He cleverly transferred the best sparks from the secular academies to the hypothesis of a radical and well built development of Canon Law, actively supporting the creation of new periodicals, reviews, and universities. He was an apologist, almost monastic in his devotion to a Christian-oriented reflection on life and politics, but a very modern species of apologist.

It is easy to notice that a very interesting element in the theory of Newman (that we anyhow can consider partial, linked to a strict religiously connoted epistemology, heavily critical against the Anglican theologians, but too softly warned of the risks of the Roman Catholic anti-modernism) is a first approach on the changed political representative powers. His cleaving hostility to the settled Anglican privileges was in part a consequence of a rough opposition to a prig and prude church, too keen on defending an institutional shape of the parliamentary prerogatives (Alonso 2022, pp. 34–35). In his late works, however, it seems to emerge a different recognition of his own time: liberalism is hiding its limits and new social bodies want more power, even in the forms of a political revenge against decades of exclusion. The lack of moral sense (as the apologist Newman teaches to the theologian one) makes popular masses seriously defenseless: they still have not a constitutional kind of legal protection, but their increasing consistency makes them more maneuverable. The conservative doctrines of Newman appeared fairer than the enthusiastic liberal–capitalistic *right-wing* political economy (Kelly 2012). Even if it could appear as a strange resonance, the penetration of Marxist arguments in the best-learned theologies was an attempt to react to the same divide between representativeness and representation.

The second example consists in the political position of the German protestant author Paul Tillich (1886–1965): he has had a sort of influence in the works and the documents of the Second Vatican Council, though he is not a typical Canon Law scholar because his parabola was part of an existentialist witness of the connection between ethics and politics (Tillich 1959, 1995). His inspiration gave a new generation of theologians the shape of a moderate belief in the legal structures of the rule of law and of constitutionalism, uniting that heritage with more well-based attention on social rights, justified not by a barely secular argumentation but involving in his reasoning elements of pity, charity, and grace.

The political element does not concern the choice nor the support of a specific party; the interesting factor, from a legal point of view, moreover, consists in the dogmatic ideological transition. The church herself and at least three generations of Canon Law scholars between the Eighteenth and the Nineteenth centuries had a demolishing conception of the liberal statehood, even including the electoral procedures and the democratic statutes, usually considered a downgrade of the idea of the real (and the only) truth (Machen 2009, pp. 134–35). For the first time, the Twentieth century's progressive theology accepted the existence of free general elections and the importance of the specific legal protection of civil liberties (Tillich 1959). Religious hierarchies were much more uncertain and doubtful, but in the end, it appeared clear. Political participation became so popular that the mere hypothesis of permanently avoiding it could have seemed nonsense in a legal field already centered on the base of State laws. In 1917, the last border faded: after centuries of legal canon norms collected in a “combinatorial” source of law (Picasso 2001, pp. 93–94) as the *Corpus Iuris Canonici* definitely was (in part emulating the byzantine denomination of the *Corpus Iuris Civilis*), a unitary formal code was promulgated. The juridical secularism did not win in suppressing the connections between law and morality (it did not want to do that; it has just affirmed a new kind of connection between the two terms), but its types and methodologies were, willing or not, accepted by the ecclesial legislator.

On the other hand, the crescent interest of Canon Law and theology in battling in the context of some precise civil issues (economics, environment, international relationships) was an extraordinary result, finally matching the possible elements in common between the divine concept of justice and the social, human one: an opportunity for faith and release and redemption, too (Thakur 1996, pp. 43–44). Considering this purpose, even doctrines taken from the Marxist theory or typical liberal Authors and demands were not condemned (Pottenger 1989, pp. 78–80), finally describing an ecclesiology not closed to a broader and wider approach to the everyday needs of life.

Even due to unavoidable biographical reasons (periods, geographical contexts, global history phases), Tillich probably failed to see his best ideas and thoughts correctly implemented in the legal and theological debate. His death in 1965 came earlier than many of the most interesting civil movements of that decade. His themes were not extraneous in the construction of the Second Vatican Council ecclesiology (for instance, Hughson 2013, pp. 30–31): social justice absolutely had a key role both as a mass demand and as a strongly considered aspect to support an ecclesial reform (not limited to liturgy but actively involving the relationships between local churches and peripheral levels of the public administrations). The main heritage of Tillich has remained his timely opposition against Nazism and Fascism, including in this critique the so declining moral suasion of the Roman Catholic Church in preventing the instauration of authoritarian regimes (Stone 2024, pp. 36–37).

Three elements stood as undisputedly necessary and contemporarily almost ignored in the debate of the time: the contribution of the last thinker considered in our exposition will efficiently enlighten them with an original personal witness. It should be observed that the response of political radical parties was not more sensitive than the theology of the Council: both of them reached a transformation, but that transformation was an answer to fill an ideological delay, not enough forward-tackling to move up future changes in civil societies. The interfaith relationships were essentially considered inside the field of Christian churches; those relationships were promising anyway, though they did not realize an effective rebuilt unity. Minorities were defended into a general framework of equality, but the main formative agencies failed to embrace the various specificities. Ecumenical stances were more evolved than the interreligious ones; a reflection on gender

(and migrations) was not weak nor so frequent to stimulate a real, collective pronouncement (Miles 2010, pp. 7–19).

Our last testing workbench is the radical thought of the Methodist writer Georgia Harkness (1891–1974): the extraordinary defense of the female ordination (Harkness 1972) is, in our own view, not necessarily the most important aspect of her cultural elaboration. We suggest considering deepening the possibility of a comparative law approach, especially her contribution to the ecumenical relations and her tireless accent on migratory conditions and laws (seen in a peculiar eschatological way, but also tackling mainly secular effects). Female ordination has become a relevant protestant confessional feature, but if we read the theses of Martin Luther again, we will notice that his main disputation was about the concept of ministry, without considering in a specific light the element of gender in the development of his argumentation (Evans 2013, pp. 17–18). Canon Law scholars from many different ideological roots now express a common point of view in enlarging the role of women in the concrete existence of churches and dioceses, but they prefer to use categories quite different (for instance, the Institute of the Deaconship). The element of an intercultural reflection on the theological and juridical nature of migrations seems still more debated because it implies a more general social and political approach—a kind of division perceived, even in the religious public opinions, like a very delicate topic. Georgia Harkness provided the ideal space of an interreligious perspective (Harkness 1921) because the concept of the collective movement due to faith, peace, and other necessities is cardinal in the Monotheistic tradition (in the Jewish legal tradition, a rediscovering of the inner sense of the Exodus occurred; Muslim scholars have applied similar methodologies that think about the constitutive experience of the Hegira) considered in the entirety of those declinations (Jany 2020, pp. 54–56; Carré 2003, pp. 181–82).

5. Conclusions

The first paragraph of our analysis elected the religion and particularly the juridical system of the Roman Catholic Church as a precious term of comparison to adequately study the law: it could have seemed quite apodictic, but it made possible the underlining of how secularism has not beaten the influence of Canon Law in the formation of the jurist and in the representation of the positive rules (Joppke 2015, pp. 57–59). The second one offered a first list of arguments able to demonstrate the ongoing opportunity of a connection: the evolution of the concordats from the formal side of the matter and, probably much more relevant, the inclusion of already religious ideals into a wider concept of morals, in a substantial way. The third part was dedicated to some still important controversial points, suggesting the usage of historical episodes in the development of Canon Law to enlighten possible solutions based on tolerance and cooperation, facing today's demanding conflicts. The fourth paragraph deepened three key figures in renewing a common reform sensibility from an intercultural point of view, considering the contribution of theologians, philosophers, and activists emerging from Christian learning, formation, and education. The history of Canon Law was a fundamental trail for each of the three.

The thought of Christian theology and the full-scale enhancement of the Canon Law over decades, embracing larger hermeneutical possibilities without losing a typical element of sustainability and resistance, are undoubtedly the expression of a precise religious belonging. It now stands clear, anyhow, that their richness of arguments have the opportunity to still speak about the internal dissent in an organized community (if we check a soft balance between security, prevention, and free adhesion as the basis of participation), the dialogical method like a patient strategy to make nearer different positions in a system ordered on universal values (*salus animarum* or the salvation of souls), and the realization of the individual interests in a stable juridical platform. Modified in its human positive legal

configuration by the contact with secular cultures, Canon Law, on its own account, has influenced the various types and doctrines of secular constitutionalism, giving it legitimacy, requisites, and disputations to be solved. If the border is getting thinner, this does not mean we must orient ourselves in the direction of a new kind of confessional political argumentation, nor a theocracy corrected by a level of free market capitalism. Quite the opposite; this is one of the latest exits to operatively defend a principle of humanity in an exclusively performance-oriented social context and in the flagrant return of the prevarication as a public law interstate tool.

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