

Article

Governance Systems in the Management of Multireligious Societies: The Spanish Model

Jaime Rossell 

Department of Public Law, University of Extremadura, 10003 Caceres, Spain; rosgran@unex.es

Abstract

This article addresses the need to rethink models for managing religious diversity in Europe, which, among other causes, has transformed into a multi-religious society, breaking with Christian hegemony as a result of the migration processes of the last century. The author proposes governance as an essential tool for managing religious diversity, understood as a style of government that promotes interaction and cooperation between the State and non-state actors, including religious denominations, in decision-making processes to regulate this phenomenon and enable individuals and the groups they belong to, to exercise their fundamental right to religious freedom. This approach seeks the social inclusion and effective participation of religious minorities to combat their marginalization and radicalization. To this end, we propose moving away from laicism positions that seek to exclude religion from the public sphere or from those that defend the political use of religion as an element of national identity, proposing instead a model of positive secularism like the Spanish one. Analysing the Spanish model, the article argues how the political participation of religious minorities through a model of religious governance in the management of religious diversity is crucial for building inclusive and safe societies where social cohesion and the full observance of religious freedom and other fundamental rights are achieved.

Keywords: religious freedom; governance; multireligious societies; secularism; cooperation; multiculturalism

1. Introduction

Since the middle of the last century, and as a result of, among other factors, the migratory processes that the EU has undergone, it has become a multi-religious society that has broken with Christian hegemony. This has led, in some countries, to a reaction from political groups that claim religion as part of national identity. As a result of this new reality, individuals and religious communities settling in Europe, exercising their fundamental right to religious freedom, have generated a series of new situations that have led several European countries to modify their national laws. In this regard, the use of religious symbols in public spaces, the recognition of the civil validity of religious marriages, the construction and opening of places of worship, religious catering and assistance in public institutions, religious education and the status of ministers of religion have become issues that have required the attention of legislators.

Within this context, the European Union (hereinafter EU) has long been working to establish a legal system that harmonises the laws of the different member countries. In this regard, the fundamental right to religious freedom, with all that it entails in terms of its exercise by individuals or groups and the presence of religion in the public sphere,



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cannot be an exception. This is especially true in a Europe that has changed its political and human configuration in recent decades, becoming not only a multicultural but also a multireligious society.

“The question in Europe today is not whether the right to religious freedom is guaranteed from a legal standpoint, but whether these religious groups, which are in the minority, are truly integrated into their host societies. Or whether, on the contrary, religious specificity, the religious element, has led to their social exclusion, as they perceive that their practices and beliefs are rejected by the host society, giving rise to situations of social conflict and radicalisation” (Rossell 2021, p. 150).

I have stated on other occasions and in relation to this issue that, although the EU is moving towards economic and political unity, it seems unlikely that it will achieve this in the legal sphere in the short term due, among other reasons, to its cultural and religious differences. Each country is a product of its own history and, as a result, is different from the other member countries. Religion has also been a unifying force in society for centuries, and today the emergence of new religious denominations poses numerous problems (Ferrari and Ibán 1997). In fact, the different religious denominations historically established in these countries no longer play the same role as before—this is the case with the Catholic Church and the Protestant Churches—and others that have burst onto the scene are beginning to take on great relevance, one of the most obvious examples being Islam (Vari et al. 2010). In this regard, and to prevent such incidents, several European countries have developed different models for integrating these communities, although these do not appear to have yielded the expected results, as we shall see below.

In view of this situation, we must add that religion is undergoing a process of marginalisation in many European countries, as it is considered irrelevant and even destabilising in the context of today’s societies, especially by political parties bent on establishing a kind of political religion, justifying it on the principle of neutrality. It seems that certain political groups, in some cases in charge of governments, want to impose secular values and morals that are contrary to religious values and, in the event of conflict, advocate for their supremacy over others.

In fact, in defending a supposed state neutrality in religious matters, it is increasingly common in some countries to require citizens who are also believers to practise their profession while renouncing their convictions by limiting their right to conscientious objection; or by prohibiting the use of religious symbols or their display in public spaces, claiming the need to respect the beliefs of others, which implies limiting the right of believers to publicly express their faith; or by denying the cultural and religious roots that are part of the identity of many countries (Pope Benedict XVI 2011). Christian morality itself, which for centuries was an element of identity in Europe, is being expelled “in the name of a supposed neutrality of the dominant power, which ends up imposing its morality on all areas of social life (so that). . . this obsession with the neutrality of political power leads to. . . the destruction of true community, which is founded on shared values, fostered and protected also by political authority” (Poole 2008, pp. 132–33).

In a thought-provoking report on religious discrimination in the workplace published in 2014, United Nations Rapporteur Heiner Bielefeldt stated that “in the context of freedom of religion or belief, the term ‘neutrality’ can have very different meanings. Sometimes it can represent a policy of non-engagement and non-recognition of religious or belief diversity and can even lead to the adoption of quite restrictive measures in this area. . . both in public institutions and in the private sector. On the contrary, he goes on to say, neutrality can also represent a policy of fair inclusion of people of diverse religious or belief orientations (. . .). In this positive interpretation, the principle of neutrality serves as an antidote to all forms of prejudice, exclusion, negative stereotypes and discrimination. It

provides an open and inclusive framework for the free and non-discriminatory expression of religious and belief diversity” (Combalía 2024, p. 6).

The Advocate General of the Court of Justice of the European Union (CJEU), Medina, recently expressed a similar opinion in response to a preliminary ruling requested by the court in relation to a labour dispute arising from an employee’s wearing of a headscarf. In her conclusions, the Advocate General refers to two possible approaches to the manifestation of religious diversity. The first approach, she states, would be the “normalisation of those differences in the workplace through a stricter scrutiny of prejudice. It departs from the assumption that differences arising from religion and religious beliefs are better addressed by the promotion of tolerance and respect, which in turn results in the acceptance of a larger degree of diversity. . . (The second perspective would be to consider that) differences arising from religion and religious beliefs are, within that context, considered to be better addressed in the workplace by promoting uniformity through the generalised prohibition resulting from an internal neutrality rule” (Medina 2022).

I agree with Combalía when she points out that accommodating neutrality with an increasingly pluralistic social reality provides an opportunity to adopt a conception of neutrality, not as the suppression or invisibilisation of religious presence in society, but as the acceptance, normalisation and inclusion of existing diversity. In this regard, it is also important to bear in mind that neutrality understood as the exclusion of everything religious is not truly neutral (Combalía 2024). And it is at this point that it is worth drawing attention to two ideologies that in today’s world deny or limit the fundamental right to religious freedom.

The first of these would be laicism, not secularism, which seeks to exclude religion from the public sphere, considering faith to be an exclusively religious element, and seeking to establish a kind of political religion such as Nazism and Communism. Pope Francis already warned us of the danger of this laicist movement in his address to participants at the conference ‘Rethinking Europe’ on 28 October 2017, when he pointed out that, “unfortunately, a certain secularist prejudice, still on the rise, is unable to perceive the positive value that the public and objective role of religion has for society, preferring to relegate it to a purely private and sentimental sphere. This also establishes the predominance of a certain single mindset, widespread in the international community, which sees the affirmation of religious identity as a threat to its own hegemony, thus ending up favouring a false opposition between the right to religious freedom and other fundamental rights”.

The second ideology would be that of “religious fundamentalisms that defend irrational fideism and seek to impose their truth without respecting the fundamental right of every individual to seek that truth” (Salinas Mengual 2020, p. 213). The growth of this phenomenon occurs in a context in which different events in countries such as France, Austria, the United Kingdom, the Netherlands, Belgium, Spain and Germany show us, on the one hand, a society that is sometimes unable to tackle racist events or discriminatory situations and, on the other, how people belonging to this religious minority have no interest in integrating into the host society because they do not accept certain rules of coexistence, generating religious populism and, on more than a few occasions, causing them to become radicalised.

As De Diego points out, “religious populism, whether violent or not, is highly diverse, but its ultimate goals converge. It is about forcibly imposing a religious, rather than spiritual, practice, implementing a dogmatic moral system that is often linked to a corresponding ideological or political vision. To this end, believers feel chosen to convey a message of salvation to others who have not requested it or who are not interested in it by virtue of their freedom of conscience. However, both religious and ideological populists believe that the will of the people must first be fulfilled and imposed. . . This has caused notorious

problems within and outside Islamic communities, hindering coexistence and generating social unrest, especially in what we call the West. . ." (De Diego Gonzalez 2020, p. 20). For this reason, it has become an increasingly urgent necessity in Europe to design or construct a model of coexistence that ensures the full integration of all citizens and the groups to which they belong or are part of. The aim is to determine which model to define, in which the presence of religion plays a fundamental role in building an inclusive society in which the exercise of the fundamental right to religious freedom, both individually and collectively, is real and effective.

As I mentioned earlier, unlike what has happened in the United States of America, Western Europe has recently experienced a complex phenomenon of secularisation in which the role of religion has gradually disappeared from our society. The central idea of this secularisation movement was based on the premise that religion should be confined to the private sphere so that it would not influence the public sphere, which should be governed solely by rationalisation processes. It was therefore the duty of the State to prevent religion from spreading or interfering in the public sphere (Zamagni 2007, p. 26).

Curiously, this process of secularisation only took place on the European continent, most likely motivated by the historical processes experienced in different countries¹. During the 19th and mid-20th centuries, this model of secular state was able to practise this idea of separatism because the political actors operating in the public sphere, whether believers or not, had a common reference point of values rooted in the Judeo-Christian tradition.

As a consequence, I dare to defend the influence of religion in the formation of a set of fundamental rights that have human dignity as their cornerstone. "When we refer to rights as fundamental, we are referring to those that express one of the most dignified realities of the person, that define the human being as such, and that is none other than demonstrating their nature as a rational being. These are rights that arise from the individual's own innate rationality and conscience and that pre-exist the positive law of the State. Therefore, in the positivisation of these rights, although there is a philosophical basis for them, we must not forget that they also have a religious basis that is compatible. . . However, these freedoms (or fundamental rights) would never have any practical effect if they were not recognised by legal systems. For this reason, it is necessary for states to recognise or regulate these rights so that individuals can exercise them. The first formal recognitions in the Western world of the so-called rights of religious freedom, thought and conscience are contained in the American and French Declarations of Rights and today have been accepted by practically all modern states, which recognise their existence and whose mission is to guarantee and protect them through appropriate legal regulation" (Rossell 2020b, pp. 111–12).

Recent times have shown us how the processes of migration and globalisation that have taken place over the last century and continue today have given rise to new multi-cultural and multi-religious societies where there is no single answer as to what values should inform this new society and, therefore, what is the common good towards which it should strive. This sometimes leads to rights or freedoms being questioned on the basis of the exercise of religious freedom.

For this reason, we believe it is necessary to return to the idea of building a Europe with a soul, as Schuman argued when he pointed out that "European countries have been shaped by Christian civilisation, and this is the soul of Europe that must be revived" (Card. Poupard 2003, p. 31), and in which the Christian principles of solidarity and fraternity are present (Pope Francis 2013). We must be aware that Christian churches, Judaism and even Islam have an important role to play in this construction, although Christianity must play a fundamental role, for if anything identifies it, it is its respect for all religions.

2. The Need to Rethink Models for Managing Religious Diversity

“Cities are increasingly becoming the cradle of growing religious diversity. International migration and the mobilisation of religious identities in the global sphere contribute to increasing the visibility of religious communities in urban areas” (Griera and Burchardt 2016). This means that religion, given that individuals are believers as well as citizens, once again occupies a central place in the public sphere and becomes a fundamental tool in the construction of inclusive societies. Therefore, as some advocate, it cannot be relegated to the private sphere. And although there are some examples that show an interest in legislating on these issues related to the management of religious diversity and its presence in the public sphere, the truth is that there is no single, uniform EU policy, as there are no powers to harmonise the law on the management of religious diversity, the exercise of fundamental rights by citizens or communities, or the model of relations between the State and Churches (Relaño Pastor 2025).

In fact, Member States have autonomy vis-à-vis the EU with regard to the essential mechanisms for organising the protection of fundamental rights, as expressly stated in Article 51 of the Charter of Fundamental Rights, which states that “the provisions of this Charter are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers. . .”.

“In this regard, and as provided for in Article 17, paragraphs 1 and 2², of the Treaty on the Functioning of the European Union, the privileged position enjoyed by certain religious denominations has dictated the lines of each of the systems of ecclesiastical law in force in Europe, although the recognition of the fundamental right to religious freedom as the foundation of a democratic society³ and the adoption of constitutional principles such as secularism or state neutrality and equality and non-discrimination between religions has led to a change in the regulations that had been in place until then in most of these countries, without this leading to the disappearance of religion from the public sphere” (Rossell 2020b, p. 115).

If we disregard the peculiar situation of countries with ‘state church’ or ‘established church’ systems, and also the no less peculiar situation of France, which has made *laïcité* a kind of new confessionalism, the vast majority of European countries have adopted systems inspired by the religious neutrality of the state and—with varying degrees of explicit recognition—by the cooperation of the State with collective religious life; principles that, in turn, are linked to the search for effective protection of the religious freedom of individuals and groups on an equal footing before the law.

To address this new multi-religious reality, different models of secularisation have been adopted. On the one hand, there is the model of open secularism, which maintains the idea of managing religious diversity based on the neutrality of the state and which would be based on four principles: all men are equal from a moral point of view; there is freedom of conscience and religion; there must be a separation between church and state; and finally, the state must maintain a position of neutrality towards beliefs, whether religious or secular (Maclure and Taylor 2011). On the other hand, there is a model described as minimal secularism and restricted neutrality (Laborde 2017). In this case, the idea of compatibility with liberalism of a certain connection between the state and religion is defended. In this case, emphasis is placed on the need to defend religious freedom as an individual right, while allowing for the possibility that the state might treat religious denominations differently, for example, in terms of public funding and state aid, with the danger that these policies could privilege the majority denomination over minorities. In this model, for Laborde, the question “revolves around how a reasonable (and reasonably well-informed)

member of a religious community would understand the actions of public officials who undertake to work on matters of religious content” (Laborde 2017, p. 85).

But perhaps it is the model proposed by Modood and Sealy, called multiculturalised secularism, that comes closest to the system we advocate and that has, to a certain extent, been developed in Spain, as we shall see below. This model is characterised by the recognition that “religion has a public good dimension in civil society, and this may be supported by the state if it is judged to assist in bringing out the good. It does not promote the idea of political authority or autonomy in an anti-religious way, rather it allows organised religion and religious motives to play their part in contributing to the public good” (Modood and Sealy 2021, p. 10). Thus, in some cases, this model will require imposing uniform treatment to eliminate religious discrimination, while in others it may require recognition of certain religious advantages or needs for a particular group, which is ultimately the model that tends to prevail in many European countries.

To make this possible, the State must recognise religious denominations as valid interlocutors and cooperate with them to regulate matters of common interest and thus manage any conflicts that may arise in the legal system as a result of the exercise, by citizens or the religious groups to which they belong, of their fundamental right to religious freedom. In this way, and without losing sight of the neutrality that must govern the actions of the state, the exercise of this fundamental right will be favoured or promoted by establishing a regulatory framework within which citizens can also carry out their activities as believers.

“Sometimes, this state cooperation has resulted in regulatory bilateralism; that is, the state understands that the best way to determine the legal status of religious denominations—or, strictly speaking, some of them—is through dialogue that crystallises into a norm agreed upon by both parties, so that both are material and formal authors of the norm, and both are equally bound by it. This regulatory bilateralism, as is well known, has concordat roots dating back to ancient times and has been maintained—and even increased—in the present. In fact, the trend in Europe is to expand this concordat model—with the necessary adjustments—to other religious denominations. Sometimes, this dialogue and cooperation does not necessarily imply formal bilateralism in the production of regulations relating to the legal status of religious denominations, and may simply translate into unilateral state regulations that have been previously consulted and negotiated, which in theory are more conducive to maintaining the dogma of the state’s regulatory monopoly” (Martínez-Torrón 2023, p. 95). The idea behind these models of cooperation is to seek the complicity of religious denominations in the search for solutions when it comes to regulating matters of common interest.

However, I understand that this principle of cooperation with religious denominations to which I refer to needs to be developed from a new approach, since regulatory bilateralism will always exclude minorities that do not have sufficient entity or presence in the territory, while unilateralism in regulatory production, without prior consultation with those affected by the regulation, can lead to non-compliance. Perhaps for this reason, a model of intercultural secularism is currently the appropriate tool for seeking the social cohesion that will allow us to speak of a true integration of religious minorities into society, since if we analyse it, we see that this policy is basically based on three pillars:

1. Promoting equal rights among people, creating a direct link between the State and individuals.
2. Respect for fundamental freedoms.
3. The political participation of individuals belonging to these minorities in the regulation of matters that affect them as citizens but also as believers.

This last condition, the political participation of minorities, I believe, becomes essential to ensuring a collective identity, a sense of belonging to a community, and, ultimately, social cohesion, and therefore must become one of the objectives to be achieved. It will therefore be necessary to determine to what extent, through the participation of religious minorities in the public sphere, we can achieve their true integration, thus generating the desired social cohesion. In this scenario, we understand that governance, as a political model, becomes an essential tool.

3. Governance as a Tool for Managing Religious Diversity

When we talk about governance, we refer to a style of government characterised by a greater degree of interaction and cooperation between the state and non-state actors within decision-making networks. The emergence of these models is due to the crisis of political legitimacy of traditional parties, as well as new social complexities, which make it necessary to incorporate new actors into political decision-making. This is how democracy opens to a group of agents who had previously been silenced, breaking with centralism to consider the different possible levels of citizen decision-making (Natera 2004).

This model of governance refers to the structures and processes through which political, social and religious actors carry out practices of exchange, coordination, control and decision-making, but without this implying the end or decline of the state, since its function continues to be that of bringing together different interests around certain goals. This means that, to achieve their objectives, public authorities “rely less and less on their own resources and more on their action as a dominant element in coalitions with other states, transnational institutions or private sector groups, while retaining their distinctive identity and their own goals” (Natera 2004). This model encompasses modes of coordination and cooperation between the state and these actors, religious in this case, and includes mechanisms for regulation, but also for self-regulation of these groups.

“But this model will only be viable when there is a strong and well-organised civil society in which there are autonomous and skilled actors who can negotiate with opposing interests, both among themselves and with state authorities, representing different social demands and interests. It is not a question of having less state, but rather a better state. And to make this possible, the state must recognise the right of individuals and groups to participate beyond simple political representation, as this is sometimes not enough for some social actors to be heard” (Rossell 2021, p. 152).

No one doubts that, in most European countries, dialogue with the majority religious denomination has been taking place for centuries, as it has shaped part of their national identity. However, it is also necessary to highlight that the real challenge lies in giving prominence to religious minority groups that have settled in that territory with the intention of remaining there. The right to effective participation of religious minorities has been enshrined in various international texts⁴ and has even been expressly stated in Article 2⁵ of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities⁶.

The aim is to ensure the participation of minorities in public life, especially in relation to decisions that affect them, in order to achieve their integration⁷ so that “their contribution to policy-making and their participation (and use) of public services could be useful in combating their marginalisation and exclusion” (McDougall 2009) and at the same time contribute to greater stability and prosperity in states⁸ by involving them in decision-making and the monitoring and control of political actions. By involving religious denominations, which are private public actors, greater inclusiveness would be generated in that they would become jointly responsible for the measures to be adopted and their

followers, who are also citizens, would understand that this leading role is also part of the exercise of their citizenship.

However, for this participation to be genuine and effective, and therefore able to meet expectations, several requirements must be met:

- (a) First, States must recognise religious minorities as such and acknowledge the importance of their role as social actors.
- (b) Once this has been done, in order to make this participation possible, ‘a continuous and in-depth dialogue must be established to achieve the effective participation of women and men belonging to these religious groups, and this dialogue must be multidirectional: it must involve people belonging to religious minorities and majorities, and it must also take place between these people and the authorities,’ as McDougall pointed out in his report.
- (c) Furthermore, it must be an intercultural and interreligious dialogue in which not only leaders but also grassroots communities participate.

In this regard, the United Nations Independent Expert on minority issues, Rita Izsák⁹, noted in a 2012 report (A/67/293) that “the creation of institutional mechanisms that promote interfaith dialogue helps to build bridges between religious groups that may have become increasingly polarised and distrustful of one another. . . (That is why) emphasis is placed on the value of institutionalised dialogue mechanisms that are permanent, participatory and intercultural. These . . . not only benefit minority communities but are also essential for eradicating practices of exclusion and changing discriminatory attitudes towards minorities”.

This is not the first time that the EU has addressed these issues. In fact, in its White Paper on Governance, published in July 2001, it raised the need to seek greater involvement of social partners and civil society in general, through dialogue, in decision-making processes in order to give them greater legitimacy.

Within this dialogue with social agents, the role played by religious denominations themselves, holders of the fundamental right to religious freedom, becomes fundamental, as they also become the legitimate representatives of their faithful in those countries where they are established. This is the case of religious denominations such as Islam, which have recognised legal status but are minorities in those territories. This idea has been corroborated by the current Treaty on the Functioning of the EU or Treaty of Lisbon, which, in Article 17, paragraph 3, states that “recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations”.

“This idea of institutionalising dialogue between the EU and churches and religious denominations has its precedent in the policy advocated by Delors during his term of office, which sought to promote dialogue with representatives of different sectors of civil society, including religious denominations, whose important role in the process of European integration was recognised in the White Paper itself. The reason was that he understood that any process of political integration in Europe had to reflect the existence of common identity traits¹⁰, which could be identified by the EU institutions through contact and dialogue with the various social actors” (Rossell 2020a, p. 57). This strategy has resulted in various European Parliament resolutions in 2015 and 2016, which have led the Vice-Presidency of the Parliament to develop several initiatives for dialogue with religious denominations, including a number of seminars that have been held since then.

However, as I pointed out earlier, when seeking models for building inclusive societies, mechanisms for the effective participation of minorities should not be limited to the institutional representation mechanisms provided by political parties. Sometimes it is necessary to create consultative mechanisms in which not only the majority religious groups but

also minorities are represented. This is because “positive measures are needed to ensure consultation with religious minorities and their participation at all levels of society. The inclusion of religious minorities in consultative and decision-making bodies helps to ensure that their opinions, problems and concerns are taken into account” (Polo Sabau 2014), leading to greater integration of these groups and, ultimately, greater social cohesion.

4. The Principle of Cooperation and the Organic Law on Religious Freedom as the Basis for Governance in Spain

In Spain, with the advent of democracy and the enactment of the Constitution in 1978, there was a change in the way the State understood religion¹¹, which brought with it the recognition of a series of fundamental rights, including religious freedom. It is in this context that Spain has attempted to grant individuals and religious denominations a legal framework within which they can develop and exercise their right to religious freedom, in accordance with the aforementioned principles of state neutrality and equality and non-discrimination between denominations, creating a system of ecclesiastical law in which all individuals have their right to religious freedom recognised regardless of their beliefs and in which religions enjoy a similar status within the internal legal system (Murillo Muñoz 2025).

Along with the aforementioned principles, the major innovation in our constitutional text is the enunciation of the principle of cooperation, which gives meaning to our system of relations between the State and religious groups. Included in Article 16.3 of the Constitution, this is an instrumental principle, which must be interpreted in the sense that public authorities will not only perform a function that guarantees the areas of free immunity and repression of conduct that violates or interferes with the exercise of fundamental rights, but will also take on the task of promoting them (Celador Angón 2024). As a result, religious beliefs become an object of specific and privileged attention, and cooperation will be a delicate balancing act because, if the State does not want to behave in a confessional manner or discriminate against a citizen on religious grounds, cooperation with religious denominations must be carried out in such a way as to safeguard the freedom and equality of other religious groups and non-believers (Relaño Pastor 2009). At the same time, in order to remain faithful to this principle, it cannot consider religion as a mere matter of conscience belonging to the private sphere of the individual, but must value it positively by facilitating and promoting the conditions that enable both individuals and groups to exercise their right to religious freedom.

In this way, the State understands cooperation as a willingness to facilitate and promote the conditions that make the act of faith possible, as well as the various aspects or manifestations that derive from it. This willingness is expressed in the constitutional text with the aim of reaching an understanding with the collective subjects who hold the fundamental right to religious freedom, in order to regulate those expressions of religion that have legal significance in state law. We are referring to issues such as the teaching of religion in public schools, the use of religious symbols, the celebration of holidays, the financing of religious denominations, the opening of places of worship, the recognition of civil effects of religious marriages, etc.

“This is a consequence of the State assuming its duty to promote religious freedom and recognising religious groups as a sphere through which individuals can develop their religious freedom. The State will value religion positively, and the principle of cooperation will give specific and privileged attention to religious denominations, establishing a system of ‘positive secularism’, in the words of our Constitutional Court¹², without violating the principles of neutrality, equality, and non-discrimination” (Rossell 2017, pp. 68–69) and which resembles what Modood and Sealy have described as a model of multicultural secularism.

As Martínez-Torrón points out, some authors have defined this stance towards religion as “cooperative neutrality of the state towards religion, which differs from what in the United States has been called ‘benevolent neutrality’”¹³. This model of positive secularism or cooperative neutrality is, in my opinion, the one that European countries should adopt if we want inclusive societies in which citizens who are also believers feel part of that society. “A model that must be contrasted with that of secularism and which, unfortunately, defended by some political parties and social sectors, seems to be taking hold in part of our society and could end up becoming a kind of political religion” (Rossell 2024, p. 552).

Pope Francis had already warned us in October 2017 of the danger of this secularist movement in his address to participants at the conference ‘Rethinking Europe’ when he pointed out that, “unfortunately, a certain secularist prejudice, still on the rise, is unable to perceive the positive value that the public and objective role of religion has for society, preferring to relegate it to a purely private and sentimental sphere. This also establishes the predominance of a certain single mindset, widespread in the international community, which sees the affirmation of religious identity as a threat to its own hegemony, thus ending up favouring a false opposition between the right to religious freedom and other fundamental rights”.

This was also highlighted by Advocate General Sharpston of the Court of Justice of the European Union (CJEU) in the Bougnaoui case, when she had to assess whether or not the right to wear a veil in the workplace should be upheld, linking the individual’s religious beliefs to their personal identity. In this regard, the Advocate General pointed out that “to someone who is an observant member of a faith, religious identity is an integral part of that person’s very being. The requirements of one’s faith—its discipline and the that it lays down for conducting one’s life—are not elements that are to be applied when outside work (say, in the evenings and during weekends for those who are in an office job) but that can politely be discarded during working hours. Of course, depending on the particular rules of the religion in question and the particular individual’s level of observance, this or that element may be non-compulsory for that individual and therefore negotiable. But it would be entirely wrong to suppose that, whereas one’s sex and skin colour accompany one everywhere, somehow one’s religion does not”¹⁴. That is, religious status, although—unlike race—it can change throughout life, as long as it is maintained, forms part of personal identity and cannot be abandoned without betraying that identity (Rossell 2024, pp. 552–53).

For this reason, it is necessary to emphasise the need to guarantee all citizens the real and effective exercise of the fundamental right to religious freedom and to do so in such a way that it can coexist with the fulfilment of those obligations imposed on them as citizens by the legal system. It is evident that when this legal system has been built on the basis of coexistence in a religiously homogeneous society, compliance with it does not pose major problems for citizens. Conflict arises when the legal system does not contemplate the existence of other religious realities whose practice may conflict with the current regulations, by failing to consider certain specificities such as the celebration of religious holidays other than those established in the work calendar, the wearing of certain clothing, or the need to comply with religious dietary regulations.

Following the approval of the Constitution, Spanish legislators were aware that the religious reality of our country was changing and that, in the future, the presence of religions other than Catholicism would be an unstoppable phenomenon. While non-Catholic religious communities had already been established in our country during General Franco’s regime, their growth and the emergence of others had been a constant throughout all those years. It was necessary to build a system that, avoiding religious or secularist orientations, would establish a model in which freedom was the cornerstone. For this

reason, Organic Law 7/1980 of 5 July on Religious Freedom (LOLR) was enacted in 1980. This law established a new legal regime for religious denominations in our country. “There were basically three criteria established for the drafting of the bill. First, it should be a sober law with minimal intervention by the State. Second, it had to be a law with the same parliamentary consensus as that achieved in the Constitution, as well as the agreement and support of minority faiths, in particular the Jewish community, the Evangelical churches and the Islamic community. And third, it should adopt the ‘conventional model’ to develop the principle of ‘cooperation’ enshrined in Article 16 of the Constitution” (Nasarre 2020, p. 39).

With these objectives in mind, the legislator, through the LOLR, sought to regulate religious matters in areas that had not been covered at the time by the constituent assembly or that had been regulated in a manner inconsistent with the principles of freedom and equality enshrined in the Constitution. The application of the principle of cooperation was also designed, alternating between the possibility of legislating unilaterally and through agreements (Celador Angón 2025).

It is law with only eight articles, but despite this, its provisions set out and regulate the various manifestations of the right to religious freedom recognised for individuals and communities, which revolve around the individual and collective content of this right and the promotional role of the State; the limits to its exercise and its jurisdictional protection; the legal status enjoyed by religious entities; the possibility of signing cooperation agreements; and the creation of an Advisory Commission on Religious Freedom, which are necessary tools for establishing a model of governance for religious diversity.

5. Tools for Consolidating a Model of Governance

5.1. *The Register of Religious Entities*

“It is evident that all religious groups share the characteristic of associationism. Religions develop around the idea of community, and practically all of them engage in proselytism. At the same time, believers are individuals who join a religious community and live within it according to its principles. In fact, almost all the acts they perform in exercising their right to religious freedom are within a community of individuals, so it seems unusual to think that someone would exercise their right to religious freedom outside or on the margins of their community.

In this sense, if the individual’s right to religious freedom is guaranteed by the State, the State is at the same time guaranteeing that of the religious community. If the State allows believers to perform acts of worship, it cannot deny the denomination the right to organise them, as this would be contradictory. Therefore, if the legal system guarantees the exercise of the right to religious freedom to the individual in its essential content, it must do the same for all religious denominations” (Rossell 2017, p. 70). This means that religion cannot be confined to the private sphere but must also have a presence in the public sphere.

No one doubts that religious groups are recognised by most legal systems as subjects entitled to religious freedom, but it is a different matter for the legal system to recognise them as legal entities so that they can operate in legal transactions and be holders of rights and obligations. Once certain requirements have been met, registration in a Register of Religious Entities by a religious denomination or community automatically grants it a special status within our legal system: the category or status of ‘registered Church, Community or Religious Denomination’.

For legislators, this designation is the basic category that all religious groups must have within our system of State-Church relations. However, not all religious groups are automatically classified within this category. In accordance with the provisions of Article 5.2 of the Law, “registration shall be carried out by virtue of a request, accompanied by reliable documentation certifying its foundation or establishment in Spain, its religious purposes,

denomination and other identifying information, operating regime and representative bodies with an expression of their powers and the requirements for their valid designation.

Once obtained, the religious group enjoys a legal status that recognises a series of rights, such as the right to autonomy from public authorities¹⁵, and grants them a set of benefits that they would not otherwise have. In this way, the Register becomes a means of facilitating the exercise of religious freedom by religious denominations.

This Register, which is national in scope and based at the Ministry of the Presidency, Justice and Relations with the Parliament, was regulated by a Royal Decree in 1981¹⁶ and currently contains more than 17,400 religious entities¹⁷. Practice has shown that, after more than forty years, the regulation had become outdated and did not meet current needs, so it has been reformed by a Royal Decree that came into force at the end of 2015¹⁸ and offers greater guarantees not only to religious groups but also to the Administration and third parties acting in good faith” (Rossell 2017, pp. 72–73).

By creating this Register and following European Union guidelines, Spain has sought to give prominence to religious groups as representatives of the civil society to which they belong. “Not only to manage and respond to the demands of their faithful, but also to create a space of security and coexistence within the multi-religious society that it has become and which, unfortunately, suffers from the scourge of terrorism, the phenomenon of radicalisation and phobias against religions. Thus, the State’s recognition of the legal personality of religious denominations not only grants them rights, but also allows them to participate in political and social processes so that their contribution can be useful, among other things, in combating the marginalisation and exclusion of these groups from the dominant religion or preventing attacks against them through the adoption of legislative measures” (Rossell 2017, pp. 81–82). Once registered, religious denominations that have obtained the declaration of ‘notorious roots’ as provided for in Article 7 of the LOLR may sign cooperation agreements with the State. Similarly, once registered, religious communities become the necessary reference point for preventing believers from falling into processes of radicalisation and extremism because of doctrines that in no way correspond to the true religious message. The work of community leaders, in this regard, becomes an essential tool for achieving safe societies.

Sometimes, the organisational structure of some of these religious denominations makes their communities independent of one another or does not respond to a hierarchical organisational structure that allows their leaders to be clearly identified. For this reason, in Spain, the federation of these communities was encouraged, also recognising them as legal entities. In this way, the State could identify who the representatives of a particular denomination were in the territory, as has been the case with the Islamic Commission of Spain and the Federation of Jewish Communities of Spain (Planet Contreras and Lems 2024).

5.2. The Advisory Commission on Religious Freedom

It is evident that recognising the legal personality of religious denominations and, therefore, their role as interlocutors with the State is not sufficient to guarantee the effective participation of religious denominations in decision-making. It is also necessary to promote interfaith dialogue and institutionalise it with the public authorities. To this end, in our country, an instrument was created in which the administration and religious denominations were present and where issues of concern to both sides were discussed and measures taken.

In this regard, Article 8 of the LOLR provides for this dialogue with religious denominations through the creation in 1981¹⁹ of an advisory body called the Advisory Commission on Religious Freedom²⁰, which currently reports to the Ministry of the Presidency, Justice and Relations with the Parliament. This administrative body, last reformed in 2013²¹, is

composed on a parity basis and on a permanent basis of representatives of the State Administration, the Churches, religious denominations or communities or federations²² thereof, and persons of recognised competence in the field of religious freedom. It is responsible for studying, reporting on and proposing all matters relating to the application and development of the Law and, in particular and on a mandatory basis, for preparing and issuing opinions on cooperation agreements or conventions with non-Catholic religious denominations. This Commission, which was replicated by the Portuguese Religious Freedom Act in 2001, has become an effective instrument of dialogue between the Administration and religious groups (García García 2014).

It may act in plenary session, in standing committee, or create working groups which, under the leadership of the Committee Chair, will work on the issues assigned to them, with the possibility of including individuals from outside the Advisory Committee. Its functions include:

- (a) Knowledge and reporting on all issues affecting the development of religious freedom, in broad terms, so that the provisions of the previous rule are now defined more specifically:
 - To be informed of and report on the draft cooperation agreements or conventions referred to in Article 7 of Organic Law 7/1980 of 5 July.
 - To be informed of and report on draft provisions of a general nature affecting the application of Organic Law 7/1980 of 5 July.
 - To be informed of and report on draft provisions of a general nature affecting the application and development of agreements entered into between the Spanish State and religious denominations.
 - To examine and report on draft bills and any other general provisions of the General State Administration that regulate matters concerning the right to religious freedom. Art. 3, (a), (b), (c) and (d)
- (b) Issuing reports for declarations of well-established roots. Art. 3, (e)
- (c) Issuing reports on provisions issued by Autonomous Communities that affect religious freedom, which are submitted for consideration through the Ministry of Justice. Art. 3, (g)
- (d) Studying and presenting proposals to the Government on any measures it deems appropriate in the field of religious freedom. Art. 3, (i)
- (e) Prepare and submit an annual report to the Government on the situation of the right to religious freedom in Spain. Art. 3, (j)
- (f) Collect information from public administrations on actions related to the development and exercise of the right to religious freedom. Art. 3, (k)

The presence of religious denominations in an advisory body of this nature reinforces the idea already expressed in this paper and articulated by both Independent Expert McDougall and the United Nations Human Rights Committee in various documents, namely that it promotes greater integration of these groups and greater social cohesion. The interfaith dialogue and dialogue with the administration that takes place in a body of this nature can serve to resolve disputes and maintain stability in a multi-religious society. In fact, as an example of good practice, between 2015 and 2018 the Ministry of Justice published reports on the situation of religious freedom in our country, which contained the responses of religious denominations recognised as having deep roots to questionnaires prepared by the Deputy-Directorate General for Relations with Denominations. These reports have served as a basis, in some cases, for promoting legislative changes or helping to propose solutions to certain conflicts arising from the exercise of the fundamental right to religious freedom. As a result of the interfaith dialogue initiated within the Deputy-

Directorate, several documents have been drawn up setting out a common position on some of the attacks suffered by these denominations, such as the statement issued in February 2018 setting out a joint position on offences against religious feelings.

5.3. Cooperation Agreements with Non-Catholic Religious Denominations

As mentioned above, as part of the new model for managing religious diversity, the Spanish State decided to establish cooperative relations not only with the Catholic Church, but also with other religious denominations through two different and, in some cases, complementary channels. This was achieved through the enactment of unilateral legislation but also—and this was the great novelty of our system of ecclesiastical law—through the signing of agreements. This possibility was included in Article 7.1 of the LOLR, establishing as requirements that the religious denomination be registered in the Register of Religious Entities and that, based on its scope and number of believers, it be recognised as having ‘notorious roots’.

The legal concept of ‘notorious roots’, although long undefined, was regulated in 2015 by Royal Decree 593/2015 of 3 July, which regulates the declaration of notorious roots of religious denominations in Spain. Currently, the following religious denominations have this status: the Catholic Church, the Federation of Evangelical Religious Entities of Spain (FEREDE), the Islamic Commission of Spain (CIE), the Federation of Jewish Communities of Spain (FCJE), the Church of Jesus Christ of Latter-day Saints, the Church of Jehovah’s Witnesses, the Federation of Buddhist Communities of Spain, the Orthodox Church and the Bah’a’i.

In 1992, agreements were signed between the Spanish State and the Federation of Evangelical Religious Entities of Spain²³, the Federation of Jewish Communities of Spain²⁴, and the Islamic Commission of Spain²⁵. These agreements created a specific framework of rights for religious denominations, in which the rights already enjoyed by the Catholic Church as a result of the agreements signed in 1979 were taken as an inevitable point of reference. In this regard, the text of the agreements offers the possibility of obtaining tax advantages; providing religious assistance in the armed forces, hospitals and prisons; the possibility of religious education being taught in schools; the feeding and slaughter of animals in accordance with certain religious rites; the civil validity of marriages contracted in a religious form; burial according to certain religious rites; and the establishment of religious holidays in the working calendar. However, all of this is subject to further legislative development, which in some cases already existed, while in others it has been developed or is pending.

Currently, under state legislation, religious marriages are recognised as civilly valid; ministers of religion have been integrated into the general social security system and treated as employees; religious assistance is recognised in the armed forces and prisons, although there is no financial commitment from the State to cover the costs; the right of access to public media is recognised; the same tax benefits and exemptions enjoyed by the Catholic Church are recognised, although a direct funding system has not yet been established; and in the field of labour, efforts are being made to ensure that collective agreements recognise religious holidays, weekly rest and the specific nature of celebrations such as Ramadan, in accordance with the provisions of European Directive 2000/78 on non-discrimination on religious grounds, which was transposed into our legal system through Law 62/2003, and by seeking to reconcile the interests of Muslim workers and the rights of employers by applying the principle of reasonable accommodation.

Furthermore, the need to develop legislation on certain matters, together with the specific nature of our political system, has meant that the system of agreements operates at various levels. Thus, the autonomous communities, in matters within their competence,

also have the possibility of signing agreements with these religious groups. In fact, in recent years, some communities, such as Madrid and Catalonia, have signed several agreements with religious denominations that already had agreements at the national level, in areas such as the conservation of historical and artistic heritage, religious education in schools, and religious assistance. Even local councils and other bodies dependent on the State have established agreements in areas within their competence.

And although it may seem that our system establishes a model in which only denominations with agreements obtain benefits over the rest, the legislator has also wanted denominations with well-established roots, but without agreements, to also be able to enjoy certain benefits. In this regard, the enactment in 2015 of the Voluntary Jurisdiction Law²⁶ reforms the Civil Code and allows religious marriages celebrated according to the rites of these denominations to be registered in the Civil Registry and therefore to have civil validity.

As a result, we can currently speak of five different levels of recognition of religious denominations within our legal system. First, the Catholic Church, which has signed cooperation agreements with the State that have the status of international treaties and is also explicitly mentioned in the Spanish Constitution. Secondly, there are the religious denominations registered in the Register of Religious Entities, which enjoy recognition due to their 'notorious roots' and have signed a cooperation agreement with the State. The third group would be religious denominations registered in the Register and with 'notorious roots'. The fourth group consists of religious denominations that are simply registered, while the fifth group would be those religious groups that are not registered in the Register of Religious Entities. In the latter case, if these groups wished to obtain legal personality, they would have to resort to the common legislation on associations that exists in our legal system.

5.4. *The Pluralism and Coexistence Foundation*

However, there is one last tool, created by the Ministry of Justice in 2004, the Pluralism and Coexistence Foundation, which reinforces the idea of minority participation in political and social processes and, therefore, in the management of religious issues. By including religious denominations with strong roots in the governing bodies of this Foundation, religious communities can take part in decisions that affect them. In this regard, the Foundation's aims are to promote religious freedom through cooperation with minority faiths, especially those with strong roots, and to be a space for research, debate and the implementation of public policies on religious freedom. All of this is aimed at normalising religious diversity and creating an appropriate framework for coexistence.

From this perspective, the Foundation's objectives are as follows:

In relation to religious minorities: Promoting the visibility and participation of minority faiths in social construction processes; encouraging dialogue between minority faiths and institutions so that their members can fully exercise their religious freedom; and promoting activities that foster knowledge, dialogue and rapprochement between faiths and between faiths and society.

In relation to society in general: To encourage the creation of an informed public opinion that is respectful of religious freedom, pluralism and processes for improving coexistence.

In relation to public administrations: Promoting social and institutional recognition of religious entities belonging to minority faiths and promoting attention to religious diversity in different areas of public administration.

As a result of its work, the foundation (<https://www.pluralismoyconvivencia.es>, accessed on 15 October 2025) has created an Observatory of Religious Pluralism in Spain and implemented a programme called 'Municipalities for Tolerance' which, together with

the Spanish Federation of Municipalities, helps local governments to manage religious diversity. Similarly, part of the Foundation's work is to offer a line of grants to both religious and academic entities to carry out research or training activities that advance the management of religious diversity in our country. In this way, work is being done to establish a network governance model by involving local councils in the management of religious diversity (Celador Angón 2023). Furthermore, through these initiatives, numerous local councils have been working for quite some time on programmes that seek to generate models for managing religious diversity, in which religious denominations play a leading role. This is the case in Bilbao, Vitoria, Fuenlabrada, Barcelona and Sabadell, among many others.

5.5. Other Tools for Consolidating a Governance Model

However, these measures alone are not sufficient to ensure effective participation by minorities in decision-making. One of the ideas put forward at the 2013 Forum on Minority Issues was that "States should consider establishing or facilitating the establishment of national and regional institutions to promote interfaith dialogue, as well as projects that foster a culture of understanding and a spirit of acceptance. The establishment of formal and informal institutions at the national and local levels and platforms for dialogue where representatives of religious groups meet regularly to discuss issues of common interest should be encouraged," promoting them at the community level and harnessing the potential of religious and political leaders to build tolerant and inclusive societies.

"Promoting association among minorities and between them, and raising their profile, is one way forward. To achieve this, it is necessary for the State to recognise them, as has happened in our country with the Islamic Commission of Spain. This is a non-religious administrative body representing Islam throughout the country, which has become the interlocutor of the Administration for the development of the matters contained in the Cooperation Agreement signed in 1992. This dialogue that exists in our country, and which other democracies in our region lack, may explain why there is sometimes a lack of effective dialogue between the administration and religious communities in those countries. Between political leaders and the leaders of those communities" (Rossell 2021, p. 158).

However, this dialogue must be based on an unwavering position in both cases, namely the recognition and respect for the legal system that provides the framework for coexistence. "Effective dialogue is not possible without the recognition, by all parties, of the catalogue of fundamental rights recognised in international texts that refer to religious freedom, but also to freedom of expression, freedom of assembly, freedom of education, principles such as equality and non-discrimination, values such as solidarity and fraternity, and which have human dignity as their cornerstone.

To make this possible, we believe that, among other actions, the training of leaders, politicians and religious figures is essential for better management of religious diversity, as only through such training can effective dialogue be achieved that will enable feasible solutions to be found to some of the problems that arise" (Rossell 2021, p. 159).

The issue, therefore, focuses on the training of these leaders, not on their religious education, but rather on content related to our model of democracy and the set of fundamental rights and values that enable coexistence in our societies, allowing us to live in freedom. This training should enable them to participate in community affairs, cooperating in decision-making and assuming co-responsibility in the management of those decisions. For this reason, I believe it is necessary to involve higher education institutions and organisations, as is already the case in Spain²⁷, which should train the recipients of this education in fundamental values and rights and explain to them the rules established by the legal system so that citizens and the communities in which they live can exercise

their rights without limiting or harming those of other people in the society in which they live. “The challenge for universities, both public and private, today will be to achieve a university model focused on educating citizens, in which the construction of democracy and social participation will fuel a new way of seeing ourselves and relating to others and the world around us, while at the same time recognising, through dialogue and action, ways to improve the conditions of respect and appreciation of others in our society” (Alli Aranguren 2013).

Another example of interfaith dialogue, but in the private sphere, was the creation in 2004 in Catalonia of the Permanent Working Group of Religions. This group is composed of official representatives of the major religious denominations, and its functions include advising community and local authorities on the management of religious issues and promoting a culture of peace and tolerance among the different religions that make up the group. Among the activities they have promoted that exemplify the participation of religious entities in political processes is their work advising different political groups in Catalonia on the drafting of Law 16/2009 of 22 July on places of worship. Their role during the legislative process was fundamental in ensuring that the demands of religious groups were heard and, in some cases, incorporated into the text of the law. The goal is to export this approach to other regions so that these groups can work in a coordinated network.

Similarly, in February 2024, the Interfaith Dialogue Committee was created, representing different Christian denominations present in Spain. The purpose of this group is: 1. To promote dialogue and collaboration for the common good among the Christian denominations present in Spain on appropriate issues; 2. To ensure and work to guarantee the proper exercise of the fundamental right to religious freedom of believers; and 3. To contribute fundamental values to society, highlighting the capacity of the Christian faith to build bridges between people.

To achieve these objectives, the Committee will promote: 1. respectful, sincere, and constructive dialogue at the institutional level on the issues raised, with respect for the identity of each of its members; 2. the promotion of mutual understanding and/or the exchange of resources, where possible according to their own doctrines; and 3. joint cooperation in areas of common interest and in initiatives or projects that enable its members to give a common testimony of service to society. As an example of the activity carried out by the Committee, and in relation to the possible repeal of the offence against religious feelings, issued a statement in December 2024 that led to a meeting in June 2025 with the Director General of Religious Freedom, at which they expressed their concern that the legislative reform, under the guise of greater protection of freedom of expression, would undermine the fundamental right to religious freedom. Finally, the proposal to amend and abolish offences against religious sentiment has been delayed, with no indication as yet as to when it will be resubmitted by the Government. This is another example of the involvement of religious denominations in political processes.

6. Concluding Remarks

The current multi-religious society in which citizens and religious denominations operate, all of whom have the fundamental right to religious freedom, sometimes generates conflicts arising from the exercise of this right. Reconciling its exercise—with all that it entails in terms of respect for religious beliefs and practices—with the respect for other fundamental rights or the legal system in force in a given territory can generate tensions. The EU, and therefore Spain, must be aware of the need to adapt our legislation because, despite the attempts of some political parties to relegate religion to the private sphere by expelling it from the public sphere, religion and its manifestation in the public sphere are becoming an increasingly widespread demand among religious minorities. Conversely,

and in reaction to this phenomenon of restricting the presence of religion, there is a growing demand for religion as an element of national identity by some political groups who see the demands of these minorities as a threat, believing that they would be losing that identity.

This brings me back to the beginning of this paper, when I spoke of governance as a style of government, of good government, through which the political inclusion of minority groups who feel discriminated against by the public authorities because their demands are not heard can be achieved, resulting in a strategy that promotes their social inclusion. Through the political participation of these groups in decisions that affect the management of religious diversity, individuals and communities become participants in a project whose legal framework for coexistence they understand. A model of religious governance allows, on the one hand, an analysis of who the actors are that should be involved in this task and, therefore, a measurement of the degree of receptivity of the measures to be implemented to regulate religious diversity. On the other hand, it allows for the creation of more inclusive societies, as greater prominence is given to private and non-state actors in the creation of norms and measures that enable peaceful coexistence.

A system of governance that must be framed within a model of positive secularism, as our Constitutional Court calls it, in which citizens who are also believers consider themselves part of a society in which they can exercise their fundamental right to religious freedom without fear of persecution. This model must be contrasted with that of secularism, which is defended by some political parties and social sectors and seems to be gaining ground in part of our society, even at the cost of undermining our rights. This is causing religious groups to view others with suspicion, leading them to resort to ghettoisation as a defence mechanism and, in the worst cases, to radicalisation. The aim is to find solutions to the various problems affecting these minorities, avoiding tensions between groups that could lead to violence. The idea is that individuals can develop as believers in both the private and public spheres, without forgetting their status as citizens, with rights but also obligations.

“In this regard, Spain, in line with European Union guidelines, sought to give prominence to religious groups as representatives of the civil society to which they belong. Not only to manage and respond to the demands of their faithful, but also to create a space of security and coexistence within the multi-religious society that it has become today and which, unfortunately, suffers from the scourge of terrorism, the phenomenon of radicalisation and phobias against religions” (Rossell 2020a, p. 58). Clearly, much remains to be done, but the efforts made by the public authorities to develop and implement the tools I have referred to are remarkable.

I do not believe I am exaggerating when I advocate for the participation of religious denominations in political and social processes, so that their contribution can be useful, among other things, to combat the marginalisation and exclusion of these groups in relation to the dominant religion or to prevent attacks against them through the adoption of legislative measures. I also believe that religious denominations become the necessary reference point to prevent believers from falling into processes of radicalisation and extremism as a result of doctrines that in no way respond to the true religious message. The work of community leaders, in this regard, becomes an essential tool for achieving safe and inclusive societies.

“If we achieve this type of participation, which is political, we will be able to instil in these people the idea of collective identity, of belonging to a community and, therefore, of social cohesion. In short, it is a question of trying to build a model of governance in the management of the religious phenomenon in which social partners can truly take part in the decisions that affect them and where religion has a real presence in the public sphere, thereby creating inclusive societies in which democracy is not threatened, values such

as solidarity and fraternity are consolidated, and human rights become a non-negotiable reality” (Rossell 2020b, p. 123).

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Notes

- ¹ While in the United States, as Hannah Arendt has explained, the American Revolution gave rise to the ‘principle of neutrality’ of the state towards religions, in Europe the French Revolution brought with it the ‘principle of separation’. The former assumes that the state does not take sides with any particular belief, but rather that religions are not only permitted but also favoured in their expression and operation. On the contrary, the ‘principle of separation’, a model whose greatest representative is France, advocates indifference towards religion, which translates into the exclusion of religions from the construction of public ethics, leaving that role exclusively in the hands of the state.
- ² “1. The Union shall respect and not prejudice the status under national law of churches and religious associations or communities in the Member States. 2. The Union shall also respect the status under national law of philosophical and non-confessional organisations. . .”.
- ³ The European Court of Human Rights itself, in several judgments, has clearly established that freedom of thought, conscience and religion is one of the foundations of democratic societies. In this regard, see, for example, the *Kokkinakis v. Greece* judgment of 25 May 1993, (§31); the *Metropolitan Church of Bessarabia and Others v. Moldova* judgment of 13 December 2001, (§114); the *Buscarini v. San Marino* judgment of 18 February 1999, (§34), the *Leyla Şahin v. Turkey* judgment of 10 November 2005, (§104); and the *S.A.S. v. France* judgment of 1 July 2014, (§124).
- ⁴ See Article 21 of the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights.
- ⁵ “1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) shall have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or discrimination of any kind.
2. Persons belonging to minorities shall have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities shall have the right to participate effectively in decisions taken at the national level and, where appropriate, at the regional level concerning the minority to which they belong or the regions in which they live, in a manner that is not incompatible with national law.
4. Persons belonging to minorities shall have the right to establish and maintain their own associations.
5. Persons belonging to minorities shall have the right to establish and maintain, without discrimination of any kind, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as cross-border contacts with citizens of other States with whom they are connected by national or ethnic, religious or linguistic ties”.
- ⁶ Adopted by the General Assembly in its Resolution 47/135 of 18 December 1992.
- ⁷ The 2001 Durban Declaration and Programme of Action and the Forum on Minority Issues, held periodically in Geneva under the auspices of the Human Rights Council, established this as well.
- ⁸ This was upheld by the United Nations Human Rights Committee in its General Comment No. 25 (1996), para. 12.
- ⁹ The mandate of this Independent Expert was established by the Commission on Human Rights in its Resolution 2005/79 of 21 April 2005. In 2014, she was appointed Special Rapporteur on Minorities, a position she left on 31 July 2017. She subsequently served as a member of the United Nations Committee on the Elimination of Racial Discrimination.
- ¹⁰ Delors takes up the thinking of Schuman, who introduced the idea of building a Europe with a soul, defending Christian civilisation as the mould in which European countries had originated and in which Christian principles such as solidarity and fraternity were present, updating it in such a way that it connects this thinking with the idea of a Europe that does not renounce its Christian heritage but also recognises the presence of other religious realities, as we cannot ignore the influence on our society of Judaism, from a historical perspective, and of Islam as a consequence of the migratory processes in our current society.

- 11 Although it is true that the 1953 Concordat was repealed as a result of the signing of the 1979 agreements, the fact is that the benefits enjoyed by the Catholic Church remained virtually unchanged. In fact, its explicit mention in the constitutional text shows how much it was on the minds of lawmakers, and the signing of those agreements just a few days after the Constitution was enacted suggests that the benefits the Catholic Church would enjoy were already planned.
- 12 STC 46/2001, of 15 February, FJ 4, states that “Article 16.3 of the Constitution, after making a declaration of neutrality (SSTC 340/1993, of 16 November, and 177/1996, of 11 November), considers the religious component perceptible in Spanish society and orders the public authorities to maintain “the consequent relations of cooperation with the Catholic Church and other denominations”, thus introducing an idea of positive secularism or laicism that ‘prohibits any kind of confusion between religious and state functions’ (STC 177/1996, of 11 November).
- 13 “The latter simply emphasises that the separatism implicit in the establishment clause of the First Amendment does not necessarily entail a deliberate exclusion of any relationship between the state and social expressions of religion, so that it is legitimate, and perhaps even obligatory, to extend to religious denominations and institutions the benefits that the state grants to other entities considered to contribute to social improvement. This fundamental idea of religion as socially beneficial is shared by ‘benevolent neutrality’ and ‘cooperative neutrality’, but the latter goes a step further and decides to establish active collaborative relationships with religion that can lead to bilateral sources: something that would be unthinkable in the current American legal and political culture” (Martínez-Torrón 2023, pp. 79–80).
- 14 Opinion of Advocate General Sharpston delivered on 13 July 2016. Case C-188/15 Asma Bougnaoui and Association de défense des droits de l’homme (ADDH) v Micropole SA.
- 15 Article 6 of the LOLR.
- 16 Royal Decree 142/1981, of 9 January, on the Organisation and Functioning of the Register of Religious Entities. This regulation was supplemented in some respects by others of equal or lesser rank, such as Royal Decree 589/1984, of 8 February, on Religious Foundations of the Catholic Church, and the Ministerial Order of 11 May 1984, on Publicity of the Register of Religious Entities.
- 17 This Register can be consulted on the website of the Ministry of the Presidency, Justice and Relations with the Courts at <http://maper.mjusticia.gob.es/Maper/RER.action> (accessed on 20 October 2025).
- 18 Royal Decree 594/2015, of 3 July, regulating the Register of Religious Entities.
- 19 Royal Decree 1890/1981, of 19 June, establishing the Advisory Commission on Religious Freedom. Subsequently, the Ministerial Order of 31 October 1983 on the Organisation and Powers of the Advisory Commission on Religious Freedom was enacted.
- 20 Article 8 of the LOLR.
- 21 Royal Decree 932/2013, of 29 November, regulating the Advisory Commission on Religious Freedom.
- 22 Currently, the Catholic Church, the Islamic Commission of Spain, the Federation of Jewish Communities of Spain, the Federation of Evangelical Religious Entities of Spain, the Orthodox Episcopal Assembly of Spain and Portugal, the Buddhist Union of Spain-Federation of Buddhist Entities of Spain, and the Church of Jesus Christ of Latter-day Saints (Mormons) are members of this organisation. The Bahá’í religion, which was recognised as having notable roots in 2023, is expected to join.
- 23 Law 24/1992, of 10 November, approving the Cooperation Agreement between the State and FEREDE.
- 24 Law 25/1992, of 10 November, approving the Cooperation Agreement between the State and the FCJE.
- 25 Law 26/1992, of 10 November, approving the Cooperation Agreement between the State and the CIE.
- 26 Law 15/2015, of 2 July, on Voluntary Jurisdiction.
- 27 Since 2017, the University of Zaragoza, in conjunction with the University of Extremadura and Rovira i Virgili University, has been offering a university extension diploma, which is currently a non-official master’s degree, entitled ‘Religion and Law in Democratic Society: Challenges of Coexistence in a Pluralistic Context’. This course, sponsored by the Islamic Commission of Spain, is attended by future teachers of religion, imams and leaders of Muslim communities.

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