

Please note: This is a translation of the paper delivered at the conference in June. The original version in Spanish has undergone subsequent revisions that are not reflected in this translation.

Anti-clerical, again:

The Catholic Church as an illegitimate political actor on sexuality and reproduction in Latin America

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In July 2006 the Colombian press reported on the inauguration of the yearly assembly of the Catholic Church. The title of the story was: “Gay Unions, the Church’s New Battle” and it covered bishops’ vocal opposition to the bill that proposed civil unions for same-sex couples. They brandished the usual arguments on natural law, God’s plan for mankind, harms to society, and the protection of marriage as an institution. At the assembly, the president of the Colombian Church spoke against the recent constitutional decision that had decriminalized abortion in some cases.² A few months later, in August, the Church publicly excommunicated the doctors who performed the first legal abortion in Colombia: it had been for an eleven year-old girl who had been raped by her stepfather. It didn’t ex-communicate the rapist though, and instead incited civil resistance among Catholic health service providers, asking them to refuse to practice legal abortions.³

These attitudes are typical of the Church in Latin America. In Argentina the Church has strongly opposed the distribution of condoms in AIDS prevention campaigns, as well as the 2002 law that allowed for the distribution of emergency contraception as part of a sexual and

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² EL TIEMPO (2006, 25 de julio). “Unión Gay nueva batalla de la Iglesia”.

³ EL TIEMPO (2006, 25 de agosto). “Menor Violada, Primer Aborto Legal.” EL TIEMPO (2007, 21 de marzo). “Cada Mes, Un Aborto es Legal.”

reproductive health program.⁴ In Chile it has consistently opposed the law that finally allowed civil divorce, and has also opposed the inclusion of domestic violence as grounds for divorce.⁵

Examples abound, all sharing the Church's radical opposition to practically every attempt in every country to expand sexual and reproductive freedoms through law and judicial decisions. The Church is against assisted reproduction, contraception, divorce, the recognition of civil unions, abortion, emergency contraception, the use of condoms – even for the prevention of AIDS and other STDs, civil unions or any rights for same-sex couples, as well as any form of sexual education that does not preach abstinence, condemn sex outside of marriage, and forego instruction on contraception.

How should constitutional theory understand these political opinions and activism? Is it legitimate in a constitutional democracy broadly defined as liberal? Can the Church be considered a legitimate political actor concerning sexuality and reproduction when it advocates against sexual and reproductive freedoms? How should the new liberal democracies in Latin America respond to the Church's political activism on these issues?

This article invites readers to consider the possibility that the Church might not be a legitimate political actor in the public forum on issues of sexuality and reproduction, and that citizens, believers and non-believers alike, who do not share the Church's convictions can ask the state to limit or exclude the Church's public interventions on these issues as well as their calls to civil disobedience. The argument for declaring the Church's illegitimacy is based on three main points: first, the Church does not accept or engage in reasonable deliberation in the

⁴ Dides, Claudia, Comp. (2004) *Diálogos Sur-Sur sobre Religión, Derechos y Salud Sexual y Reproductiva: los casos de Argentina, Colombia, Chile y Perú*. Universidad Academia de Humanismo Cristiano: Santiago de Chile, 2004. p. 128 y 130.

⁵ Dides, Claudia, Comp. p 147.

public forum; second, the Church's positions on sexuality and reproduction are discriminatory of women and homosexuals; and third, the Church's tremendous political power in the region is a threat to democratic processes.

The Church's (un) reason

In its political interventions the Catholic Church often uses secular arguments: for example, it increasingly claims that human rights are amenable to a Catholic tradition of natural rights dating back to Thomas Aquinas. It has even attempted to advance its own morality using secular arguments, such as in the proposal that families should be considered to have rights in the same sense that individuals and some other groups have rights.

However, the Church also often uses arguments that are germane to Catholic dogma, or links secular arguments to Catholic traditions, for example by defining natural law as part of God's creation and his plan for mankind. And particularly in its public intervention on sexuality and reproduction, the Church appeals to Catholic doctrine as articulated by its own hierarchies.⁶

Therefore the first point to consider when examining whether or not the Church is a legitimate political actor, is to examine whether or not it is consistent with the values of a liberal democracy to allow religious arguments in the public sphere, purely religious arguments that cannot be translated into secular terms. God's plan for mankind is a clear example of one such argument: to say for example that the authoritative reading of Genesis is a good reason to uphold the prohibition of divorce or of same sex marriage is another. Yet another example would be to

⁶ This is particularly clear in the case of abortion, where feminist Catholics argue errors in the official interpretation of scripture, but their position is excluded from a Church that has no democratic instances and where women are excluded from priesthood and therefore from the hierarchy.

quote the authority of the Pope as a source of knowledge about the morality of particular laws or judicial decisions.

This is a central point for sexual and reproductive rights, since most Catholic opposition to these rights is based on arguments about revealed human nature and natural law, arguments that are based on scripture and authorized interpretations of it. Therefore for the Church human beings as creatures have a reason for existence and a special destiny revealed in scripture, a destiny that is not identical to the public values adopted by constitutions, a destiny that includes the valuation of salvation over any other public good, including of course freedom and the pursuit of happiness. Is this argument acceptable in the public forum? Is it acceptable in the advocacy for the adoption or repeal of laws applicable to *all* citizens? And if we reject these types of arguments, don't we then limit civil liberties and impose upon devout Catholic citizens a burden (of suppressing their deepest beliefs) that is not asked of other citizens?⁷

Rawls (1997, 1998) articulates a strong argument against the use of these arguments in political activism; in his version of political liberalism purely religious arguments are not acceptable in the public forum. His idea of public reason demands that citizens in a democratic constitutional regime treat each other as free and equal in a system of social cooperation, and that they be prepared to offer each other fair terms of mutual cooperation. This requires that the reasons they give in the public forum be comprehensible for all, and that they be impartially justified with reasonable arguments. This demand excludes faith-based arguments as well as arguments based on ecclesiastical authority, since these types of arguments are not comprehensible for all citizens, particularly not for those citizens who hold other beliefs as well

⁷ It is possible to argue that, given the Church's power and popularity in the region, it makes more sense to accept it as a political actor as long as it accepts the rules of the public sphere, especially religious pluralism. See Juan Marco Vaggione "Reactive Politization and Religious Dissidence: the Political Mutations of the Religious" en *Social Theory and Practice* Vol. 31 N.2 (Abril de 2005).

as for agnostics and atheists; neither are they impartial, since they are geared toward imposing Catholic religious views on the whole of the population. If religious citizens argue in the public forum for their convictions, they must do so in secular terms understandable to all, and based on shared ideas of the public good.

Habermas (1998, 2006) vigorously opposes precisely this demand made by Rawls, arguing that it burdens religious citizens unfairly. For Habermas, asking believers to translate their moral demands into secular terms in order to be acceptable in the public forum is to impose a burden believers cannot always comply with. In practice, it results in their exclusion from political discussions, impoverishing the same political debate that is critical for liberal democracies. Therefore, according to Habermas, secular citizens must allow religious reasons in the public forum, and they must make the effort to engage them and the moral intuitions they hold.

Even if we accept Habermas' arguments however, this still places a burden on religious citizens, similar to the one it places on all citizens who participate in the public forum: to respect others and the plurality of beliefs (including of course respect for those of us who believe that there probably is no God). In bringing their religious arguments to the public forum, Catholic citizens must accept that other denominations do likewise, as well as other non-religious belief systems, and that they can do so on equal footing. Habermas therefore both excludes a state religion and demands respect for the pluralism that is a pre-condition of the public forum.

Pluralism in a democracy presumes there are different groups that claim their interests are equal to the interests of other groups, and who demand recognition for their own interests on equal standing with the recognition of the interests of others. Therefore it supposes that

membership in a specific group gives citizens the same rights as membership in other groups does.⁸ Religious pluralism therefore demands at a minimum equal recognition of the beliefs of different religious groups (and, when applicable, of atheists, I would add) as long as the beliefs are compatible with liberal democracy. All belief systems therefore have equal standing on issues of worship, civil effects of religious marriage, tax exemptions, and the other rights and privileges assigned to cults and churches by the state. It also demands the same respect of atheist, agnostic and non-practicing citizens in their beliefs as well as their rights to association, reunion and diffusion of convictions.

If the Catholic Church accepted the value of pluralism it would have to accept the existence and equal standing of the moral interests of other religions and belief systems (including atheism) *vis à vis* the state. It would have to accept that non-Catholic citizens have the same rights to the same privileges accorded to the Church and to Catholics. A logical consequence of this recognition would have to be for the Church to accept that just as it considers divorce to be impossible, there are other religions as well as other belief systems that have different but equivalent beliefs, and that a pluralist state must respect these other opinions. When the Church demands respect for its own decision not to give Catholics divorces, it must respect the right of non-Catholics to get them; the same principle must apply to contraception, abortions and same-sex sex, since these prohibitions are purely religious. And if Habermas' point frees us from Rawls' demands on the types of arguments that are compatible with a public use of reason, it does not free us from the demand of respecting pluralism, that is, of accepting other values (religious or not) that are equally valid before the state in these matters – that atheists, feminists, Wiccans and western Buddhists have moral interests equivalent to the moral interests

⁸ Ernesto Laclau, Pluralism (En Clarke, P.B. & Foweraker, J. (Eds.). *Encyclopedia of Democratic Thought* . Kindle Edition. .

of the Catholic Church. This pluralism demands for example that the Church accept that while it can reproach Catholics for having abortions, and Catholic homosexuals for having homosexual sex, and can demand they do penitence, it cannot expect the law to adopt the same reproach toward all citizens regardless of their beliefs.

This type of pluralism however is deeply incompatible with the Catholic sense of religion and morality, which is by definition non-pluralist; it opposes any pluralism that is not directed to protecting the Catholic Church where it is a threatened minority. That is, the Church is only pluralist when it serves its interests, but when it is in the majority position, as it is in Latin America, it is aggressively anti-pluralist in moral and religious matters. Specifically, the Church is determined to be anti-pluralist when it comes to sexuality and reproduction; it insists in imposing its own religious reasons and conclusions to all citizens without considering whether or not there are other, equally valid, belief systems. And, when it can't prevail in the democratic process, it calls its believers to civil disobedience, an issue that has become for example a tremendous obstacle for the implementation of legal abortions in the region.

Consider for example one of the more recent Church documents on these issues, revealingly called "*On some questions regarding the participation of Catholics in public life*" (2002). In it the Church insists that while there are political issues that are to be freely debated by the faithful (such as whether or not to invade another country or whether health care and education should be free of cost) there are some issues in which the Church is not willing to negotiate, because they refer to a truth that has been revealed in scripture. These issues are mostly issues of sexuality and reproduction, including gay marriage, abortion and assisted reproduction. In these cases the faithful are not allowed to support bills or laws that go against Catholic principles and are to advocate against them (like the Church does). If these laws are

passed, the faithful are called to civil disobedience. The document rejects the legitimacy of laws contrary to Catholic beliefs in these matters, and the obligation of obeying a national law that is not in accordance with Catholic natural law.⁹ This intransigent attitude does not even meet the Habermasian criteria for acceptable religious arguments in the public sphere.

The Church's intransigence often clashes against liberal democracy's own "non-negotiable" values, the ones that are theoretically the basis for our societies. For example, the Church opposes certain actions that cause no harm or negligible harm to others, and promotes an illiberal restriction of freedom in these cases. One example is the Church's opposition to assisted suicide which is even maintained in cases of non-Catholics who are terminally-ill patients voluntarily seeking to avoid extended agony before death. For the Church, these people, no matter what their belief system, cannot choose to die because choosing death is morally repugnant to the Catholic God.

Some people argue that the Church's intransigence is a matter of the past, and that the modern Church is pluralist and accepts religious freedom, and that it only means to further moral intuitions shared by many non-believers. These types of arguments tend to come from countries where Catholicism is no longer the majority religion or where the Church for other reasons is a weak political actor and therefore tends to be shy. However in countries where the Church represents the majority and has significant political clout, its non-pluralist stance is usually evident.

⁹ In fact the Church expressly denounces pluralism as a mistake, saying: "A kind of cultural relativism exists today, evident in the conceptualization and defense of an ethical pluralism, which sanctions the decadence and disintegration of reason and the principles of the natural moral law. Furthermore, it is not unusual to hear the opinion expressed in the public sphere that such ethical pluralism is the very condition for democracy."

It is true that during its more progressive period, during Vatican II under Pope John XXIII, the Church modified some of its historical rejection of other religions. This led many to hope the Church could adapt to “the spirit of the times,” the title of the most famous document to come out of Vatican II.¹⁰ However the Church of John XXIII died with him, and the Church today is led by Joseph Ratzinger, who among other things has dedicated his career to denouncing the theological errors of both Vatican II and liberation theology (another source of Catholic appeal for left-liberals).

Since Karol Wojtyla (John Paul II) became Pope (and Joseph Ratzinger his right-hand man) the dominant position in Rome is that of a traditional Catholicism defined by Emile Poulat as integral and intransigent Catholicism.¹¹ It is integral, because it encompasses all spheres of human life, and intransigent because it is set on not negotiating with other ways of understanding the world.¹² Integral and intransigent Catholicism has as its goal the folding of the political and social world into the revealed truths of the Church. And while this is true of all Catholic dogma, it is particularly true of sexuality and reproduction, which has become the privileged field of morality for the Church.

The Church uses sexist and homophobic arguments

Sexuality is a central field of morality for the Church because it must defend its view that men and women are different by nature, and that it is (implicitly) a hierarchical difference. The difference between men and women hinges on women’s particularity: we are defined by our loving nature, and our essence is to exist “for the other;” while originally (before original sin)

¹⁰ For the progressive version of the Church see Vatican II’s documents, especially *Gaudium et spes* (December 7, 1965) and *Dignitates Humanae* (December 7, 1965) where it accepts religious freedom for the first time.

¹¹ Arias, Ricardo (2003). *El episcopado Colombiano, intransigencia y laicidad* (1850 - 2000). Bogotá, UNIANDES/ICANH, 2003, 382p.

¹² Poulat Émile (1969). *Intégrisme et catholicisme intégral*. Paris: Casterman.

there was a mutuality in existing “for the other,” after original sin the capacity “for the other” in women was entangled with the consequence of sin which is domination by men, especially by our husbands. Redemption from sin comes hand in hand with the fulfillment of women’s call to motherhood and family life, defined as service and sacrifice.

Closely examined, women’s nature as defined by the Church is simply female subordination. While the Church today denies that female difference implies female inferiority, the reproduction of women’s ancillary roles in the Church and in society is a euphemism for their subordination. Furthermore, the Church has a special repugnance toward homosexual acts, which it considers morally aberrant, based on scripture. Therefore it defines people who have homoerotic desires as bearers of a particular tendency to sin, and officially seeks to exclude them (like women) from priesthood. It also says such people must be treated with compassion, and that they require special support from the Church so they do not fall from homosexual desires into homosexual acts which are evil *per se*.

These beliefs are actually not very different from beliefs held by most people in a region probably more sexist and homophobic than its main religion is. As far as individual beliefs go, these are as deplorable as many other types of common prejudice in the region: the belief that Jews are miserly, blacks less intelligent than whites, indigenous peoples slovenly, Asians wily and lascivious, and so on. But when these ideas become a Church’s dogma, when they are part of its political program and motivate its activism, then they very possibly delegitimize it as a political actor, at least on issues that concern the population they subordinate or scorn.

Therefore it is plausible to argue that even if the Church accepted religious pluralism, the arguments it puts forth in the public forum, especially on issues of sexuality and reproduction,

are arguments that can not be legitimately made in a democracy, because they are arguments that radically discriminate against women and homosexuals, because they hold ideas that call for the subordination of women and the rejection of homosexuality as a normal part of social life. In an analogous matter, a collectivity's compromise with pluralism would not legitimate anti-Semitic or racist arguments – which is why the Klu Klux Klan in the United States and anti-Semitic parties in Europe are generally not legitimate political actors either.

Of course it is unfair to compare the Church to the Klan and to Nazi parties; the Church amounts to much more than its sexual prejudices, unlike these single-minded organizations. And in fact one can say that while these other organizations are defined by their hatred, the Church's own prejudices often seem secondary to its wider message. The Church is also an institution that holds many different postures and opinions, that allows for an important measure of internal debate and difference among national churches and individuals. It is also an institution that defends admirable values such as compassion for those in suffering (it is the Non-Governmental Organization with the most charitable works in the world), economic justice (it is one of the few institutions that has consistently denounced the injustices of capitalism), and civil rights (and the Church has often, if not always, been a refuge against state prosecution and a champion of the poor). At the same time, however, the Church's understanding of sexuality and sexual difference is profoundly sexist and heterosexist.

The Church's sexism and heterosexism, called the "sin of sexism" by feminist theologians, is based on an official interpretation of scripture that insists that biological sex gives men and women different identities and social roles. These roles and identities emphasize the female condition as a vocation of service, as existence "for the other." Feminine virtues, deemed essential to women, are defined as those springing from physical motherhood or from virginity

understood as spiritual motherhood. By emphasizing female nature as one of service, the Church insists implicitly on the naturalness of sexual hierarchy and difference.

Historically, even though the Church has on many occasions offered women refuge from oppressive social and family lives, it has nevertheless a long record of misogyny. Fortunately the Church has changed its (literally) medieval position on women, especially in the middle of the XXth century when Catholicism's *aggiornamento* raised so many hopes. For example, the Church stopped insisting on women's moral fragility, and on our need to submit to our husbands in all circumstances according to biblical teaching, and gave sexual equality greater emphasis, particularly in terms of salvation and creation.

The hopes raised by Vatican II, however, were soon disappointed. The Church hasn't accepted or even seriously considered having women priests or even recognized the full moral equality of men and women in the Church or in the world, to use their language. Since John XXIII's death, Church hierarchies, influenced by powerful organizations of conservative laity have done everything in their power to reverse what Joseph Ratzinger has called Vatican II's errors, and have called for a "restoration" of its "deformities."

As a consequence, the changes in the Church's discourse on sexuality have remained rhetorical. The Church for example has abandoned the demand that women submit to their husbands even when they are abusive, but still defines women in terms of our vocation to love and sacrifice and recommends that women forgive and stay married to wife-beaters. Likewise, while the Church has changed its stance on equality and mutuality between the sexes, accepting them as important principles while at the same time insisting women are different from men

because our biological calling is, as physical or spiritual mothers, to live for others (and while the Church doesn't say so, these others are mostly male) .

It is hard to understand how deeply sexist the Church is, and how sophisticated its rhetorical arguments are that allow it to claim equality while insisting on the theological consequences of biological sex. Some of its recent official documents shed some light on this point. In 2004 for example the Congregation for the Doctrine of the Faith (CDF),¹³ then led by Joseph Ratzinger, produced a letter called *On the Collaboration between Men and Women in the Church and in the World* (2004). While this document has no new doctrine, it is a useful introduction to Church dogma because it sums up the Catholic meaning of sexual difference, and its deep roots in Catholic understanding of the divine. It begins by insisting every sex has a particular identity and social role, and that forgetting this “calls into question the family” and “makes homosexuality and heterosexuality virtually equivalent.” It again defines feminine essence as “being for the other” and then explains its vision of the human person. These chapters link sexual difference to original sin and to its consequences, particularly to God's commandment to Eve: “your desire shall be for your husband and he shall rule over you” (Gen 3:16).

For the CDF, feminine subordination (to desire one's husband and be ruled by him) is the human tendency inscribed indelibly until the Day of Judgment by original sin. It is part of every woman and the sin she tries to overcome through faith, good works and grace. It thus appears that the domination of women is essentially a problem for women (God did not say to men as punishment: “and you will be jerks and try to rule over your women”). It is instead a

¹³ Formerly the Inquisition; its name was changed in Vatican II.

consequence of Eve's original sin, and therefore, although the document does not use that language, God's punishment.

The CDF's document goes a step further and rejects feminist theologians' interpretation of Galatians 3:27-28, where scripture says that "in Jesus Christ there is neither man nor woman," an affirmation feminists theologians have interpreted to mean there is no sexual difference. While the Church in this document does not quote Ephesians where it says a woman's head is her husband as the counter-argument to Galatians, it does argue that the meaning of Galatians 3:27-28 is that "in Christ the rivalry, enmity and violence which disfigured the relationship between men and women can be overcome and have been overcome." That is, Christ is the end of the war of the sexes, and not of sexual difference, for that is so ontological that it is destined to last even after Resurrection. It is ironic to consider the contemporary implications of this argument. If Christ ends the war of the sexes and the enmity between men and women that is in other documents defined also as the result of feminist activism, Paul is sort of saying that Christ is the end of feminism. This is both a-historical and perverse.

In this document as in other recent documents of the Church, the dogma presented is that of a vision of sexuality feminist theologians have often critiqued as straightforwardly misogynous. The logic is complicated: for Catholicism, the body is the expression of the spirit, not something different from spirit but rather both body and spirit form the total human being (and remember Resurrection will be in the flesh). Historically, this is part of the rejection of Manichaeism as a heresy, and probably a good thing, at least for sex, since maintaining that sex is totally evil was declared heresy. But its consequences for women are that the possession of a feminine body entails the possession of a feminine spirit, defined by the qualities of being destined to be "for the other," signaled by the capacity for motherhood. This is true of men as

well of course, but women “are more attuned to these values” and are “the reminder and the privileged sign of such values.” The qualities associated with existence “for the other” are devotion, a vocation of love and service and sacrifice and other qualities intimately related to women’s privileged role in the family, especially as mothers and wives as it corresponds to western culture, the same qualities that have been used over and over again as arguments for our subordination. Not feeling these feminine tendencies then is to betray one’s own ovaries; not wanting to be “for the other” means not knowing how to be a real woman.

This is the same logic of *Mulieris Dignitatem* (1988), Karol Wojtyla’s well known circular letter, where he also insists on the existence of a feminine nature as something that can only be truly understood through the authorized interpretation of scripture. In this letter the domination of women is also the result of original sin, and even though, it says, it is understandable women want to be free of male domination (which is sinful), this cannot mean women can want to appropriate manly things. The letter doesn’t define what manliness is, but logic leads one to assume that if it is not explained, then it means those things traditionally associated with masculinity, such as the use of force, political and economic leadership, artistic vanguards and of course, Church hierarchies. As opposed to these manly things, the essence of women is to give love to others and our strength is to be conscious of this essence and basically want to do it.

The consequences of these ideas not only offend feminists, but actually harm women. A woman who wishes to exist for herself in solitude, a woman whose vocation is not service but political or intellectual leadership, a woman who excels at and enjoys competition in sports and arts, not to mention women who want a divorce from their husbands, a vacation from their kids,

o perhaps a wife of their own, are definitively not obeying their divine essence, their role, their feminine vocation to service and motherhood and heterosexuality.

God's plan seems to be seriously asymmetrical. Man is the measure of normal and there is little need to explain his special calling. Women on the other hand need accounting for: we are an "other" that needs definition and containment. We are the embodiment of difference, a difference that insofar as it is subordination is originated in divine punishment, and insofar as it represents a special potential for salvation, depends on service, on being "for the other," a situation that is not easily differentiated from the experience of subordination. This is a dogma that despite having many dissidents inside the Church, is still the official position of its hierarchies.

Another way of understanding the importance of the dogma of sexual difference is to unravel its metaphorical significance. The metaphor is that the relationship between men and women reflects and informs the relationship between God and man, and between Christ and the Church; sexual difference is the master difference on which these relationships are modeled. And they are, like sex, based on a hierarchical dualism: two extremes that capture experience, with one superior to the other. The Church understands the world through dualistic categories that are complementary but also hierarchical, such as good and evil, truth and error, spirit and matter, light and dark, God and mankind, virtue and sin, chastity and concupiscence, etc. God is on the side of spirit, light, truth, good and while mankind is on the side of darkness, matter, error, evil and sin; sexual difference places man on the side of God, and women on the side of matter, evil, sin, concupiscence, etc. etc.

The story doesn't end of course with hierarchical dualism, because this would place man in a no-exit situation, condemned to sin and therefore without redemption. But for the Church the sense of the world is that God as Jesus Christ redeems mankind from original sin: God loves men and wants to save them, and does so through his own kenosis or humiliation, by becoming flesh and taking the place of the other. The metaphor used in the Catholic tradition to understand this supreme love is both paternal love (we are the children of God) *and* heterosexual love. Thus the love of God for man is exemplified by the earthly relation between husband and wife, where the husband loves his wife and she loves him back. This tender love is hierarchical, as exemplified by the Song of Songs as well as by the Catholic interpretation of the meaning of the wedding at Canaan and of Paul's letter at Ephesus.

The Church's understanding of the spousal metaphor as a metaphor for God's love, and therefore as hierarchical, is pervasive. It is one of the main forms of understanding the both the relationship of Christ and his church, and Christian affective mysticism. In both cases Christ is the husband and the Church (or the mystic) is the wife who loves and is loved by a superior being. Therefore, sexual difference, like women's passivity and being "for the other," are essential for understanding God's relation to mankind: in a sense mankind is like a woman, the Church is like a woman, and so is the mystic. The word the bride of Christ for example is used to refer to the Church. It is therefore unseemly for the bride to decide she can do without a husband, or to trade him in for a younger one, or to refuse to serve him, because the husband represents Christ, the wife the human, the Church and the mystic, and their relationship a sign of salvational economy.

It is then fundamental for men and women to be different, and unequal: no matter how much a husband loves his wife, the spousal metaphor requires the masculine to be superior. This

may be the reason God chose to incarnate in a male body, and chose only men as his apostles (although the reason is generally defined as a mystery), and also the reason why women can't be Catholic priests.

Hierarchical dualism and its implications for salvational economy are revealed as well in the Church's interventions in politics, where one of its great recent enemies has been feminism. The Vatican's rejection of feminism is based on what is calls an equality that "misunderstands" natural law and natural reason. For example Cardinal Alfonso López Trujillo's letter to the bishops as the head of the Pontifical Council for the Family called *The Family and Human Rights* (2000), insists that the terms "reproductive rights" as well as the term "gender" are contrary to human rights correctly understood (according to the Church). He argues the word "gender", with its implicit affirmation that sexual roles are cultural rather than natural, reveals an ideology that aims to end the family, is anti-family and anti-life as well as "destroyer of nations."

Hierarchical dualism was ratified by Joseph Ratzinger's first letter as a pope, *Deus Caritas Est* (2007). It again returns to sexuality as a metaphor for God's love, and in Ratzinger in particular this is related to a profound rejection of homosexuality. If we consider that in this system the sexual act itself is metaphorical and represents the productivity of God's love, sexuality that is no longer patterned on a sacred model of hierarchical difference (i.e. heterosexual) is by definition sinful and anti-natural. This definition of sexuality entails therefore rejection not only of extra-marital sex, contraception and assisted reproduction, but also of same-sex sex.

The Church under Ratzinger is particularly keen on clarifying the evil nature of homosexual acts and in rejecting state recognition of rights for same-sex couples. Not all

national hierarchies agree, and some are more militant than others; clearly as in the case of women, the Church during the XXth century softened its position on homosexuality and has accepted there might be an inborn (not chosen) inclination toward same-sex sex, and even that merely feeling it is not a sin. But the Church insists while same sex desire is not *per se* a sin, it is a sinful inclination, an inclination toward evil, and of course having homosexual sex is a mortal sin.

The Church now considers that it should not “unfairly” discriminate against people for having these feelings, which presumes that there is some type of fair discrimination.¹⁴ Catholic catechism explains the situation more carefully: homosexual acts are contrary to natural law, and that even though people with these inclinations are to be treated with respect, compassion and delicacy, they are definitively to be called to chastity, because following on these desires is sin (CEC 2357-2359). The CDF’s letter on the pastoral care of homosexual persons, dated from 1986, even cites Sodom and Gomorrah as precedent of God’s opinion of gays and lesbians, as well as sections of Leviticus that say that homosexuals simply are not part of the chosen people. Scripture is then cited to condemn homosexual acts and insist that people with same sex desires live in chastity and penitence.

Today the Church goes beyond quoting Sodom and Gomorrah to gay people that ask Catholic priests for help. In a letter to the bishops called “*Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons*” (2003) the CDF has insisted that marriage is holy and that homosexual relations breach natural law. Therefore, it argues, laws that give legal recognition to same sex unions are to be rejected in every case. This is why the

¹⁴ For a detailed explanation see the Catechism of the Catholic Church (CEC,) the official guide to Church teachings, especially numbers 2357-2359.

faithful are under an obligation to oppose gay marriage, because, among other reasons, it is a threat to the common good since it endangers procreation and corrupts children. If such a law were to be approved, the Church warns, the faithful are called to civil disobedience because moral law is superior to civil law.

In the letter mentioned earlier, *On some questions regarding the participation of Catholics in public life* (2002), the CDF identifies same-sex marriage as one of the fundamental issues for Catholic political activism must take on politically. This has been taken on by the Church as one of the non-negotiable values for the Church, which include the opposition to legal abortion and the recognition and promotion of the legal recognition of the natural structure of family as the union of a man and a woman based on marriage.

¿In a liberal democracy, should these ideas about women and homosexuals be excluded from the public forum? And if they are, is that still compatible with tolerance to religious ideas? In order to argue that this exclusion is compatible with liberal democracies that respect religious freedoms, I want to develop one last argument: that the issue of Church power and influence in politics is best thought not as an issue of religious freedom or the freedom to hold offensive and even discriminatory religious views, but as an issue of power and of the need for the state to limit private institutions such as the Church in certain extreme cases.

The role of the State and the Church in liberal democracies

A major argument against the legitimacy of the Catholic Church in the public forum stems from the distinction between religious ideas in general and this Church in particular as an institution. When we consider the ideas themselves, we frame the debate as hinging on whether or not religious citizens need to use secular arguments, and whether or not they need to avoid

discriminatory remarks and arguments. But the problem of the Catholic Church is not exhausted with the debate on the types of ideas citizens can bring to the public forum, because it has an institutional dimension historically considered as an issue of separation of Church and State, where the Church is considered not from the point of view of beliefs but as a powerful institution that is not subject to democratic controls. In this sense the problem is similar to newer issues about the power of the media or of transnational companies.

We can generally identify two ways in which liberal democracies have solved the old problem of separation of Church and State. The first is the model of state neutrality, best exemplified by the United State's First Amendment when it famously states its non-establishment clause whereby the State cannot favor any particular religion. The second is the French model of *laïcité*, the exclusion of religion from the public sphere, which in the former Spanish colonies of the Americas was most powerfully articulated in the Mexican 1917 constitution, a proposal that is often known under the name of anti-clericalism.

Certainly anti-clerical elements in Mexico can't be limited to the revolutionary constitution, since its 1857 liberal Constitution already had important limits on Church power, particularly regarding its property. But the 1917 revolutionary Constitution gave full expression to the Spanish and American tradition of anti-clericalism by going beyond limitations to Church property and establishing a series of measures that effectively prevented the scope of Church activity from overlapping with the scope of State activity. It not only established religious freedom and the lack of an official faith, it had an article (130) specifically dedicated to the separation of Church and State, whereby priests were prohibited not only from voting and being

elected, but also from criticizing laws, the authorities, or “the government in general.”¹⁵ These prohibitions of course echoed not only the liberal and revolutionary rejection of the Church’s very active participation in politics on the conservative side, but also the anti-clerical violence that had characterized some 19th century political conflicts.

Liberal thinkers in most Spanish-speaking countries defended these and less radical ideas about the separation of Church and State, but they did not result in Constitutional provisions, or if they did, these provisions where for the most part soon defeated. Instead regional constitutions tended to adopt the Catholic religion as the nation’s official religion, and the Church received a wide range of privileges including control of religious education in public schools, control of national registers of births and marriages, significant tax exemptions, and in some cases the administration of territories. It wasn’t until the late 20th century, with the new wave of liberal constitutions, that the region abandoned this scheme of cohabitation of Church and State generally in favor of the United States’ neutrality model rather than the more militant anti-clerical model of the Mexican constitution.

State neutrality has helped maintain the ascendancy of the Catholic Church as an institution in regional politics. Even if it is no longer the official religion of the State, the Church holds considerable economic and political power, and it is promiscuously close to ruling elites. This closeness is not only found in the overt closeness of the hierarchies, but also in the covert

¹⁵ Article 130 said: “Los ministros de los cultos nunca podrán en reunión pública o privada constituida en junta, ni en actos del culto o de la propaganda religiosa, hacer crítica de las leyes fundamentales del país, de las autoridades en particular o en general del Gobierno; no tendrán voto activo ni pasivo ni derecho para asociarse con fines políticos.” Article 24 said: “Todo hombre es libre para profesar la creencia religiosa que más le agrada y para practicar las ceremonias, devociones o actos del culto respectivo, en los templos o en su domicilio particular, siempre que no constituyan un delito o falta penados por la ley. Todo acto religioso de culto público deberá celebrarse precisamente dentro de los templos, los cuales estarán siempre bajo la vigilancia de la autoridad”

influence exerted through secret societies of conservative laity such as the *Opus Dei* and the Legionnaires of Christ. The ardent defense of religious and other freedoms allows the Church great room to maneuver under the protection allowed to civil entities. It is a power that is seldom spoken about, is deeply political, has no democratic controls, and no accountability. It often makes feminists and gay rights activists long for the anti-clericalism of the Mexican revolution.

But in spite of the evident political power of the Church, in spite of its evident lack of democratic controls and accountability, a return of anti-clericalism is hard to imagine in these new liberal democracies. How can a democracy exclude citizens and arguments from the public forum? Is not the Church part and parcel of civil society, and as such another political actor of a vibrant democracy? Excluding the Church from public life like the Mexican 1917 constitution did attacks an institution that is of central importance for the life of the faithful, and that furthermore has won the respect of many liberals for its defenses of the poor and of human rights, even if these are not consistent.

These difficulties are even greater when set against the backdrop of the revitalization of the political participation of religions and churches in Europe and in the United States.¹⁶ This revitalization is defended by liberal theories that argue that the neutrality of the State sets the frame for religious participation in politics, and that this type of Church State separation means that there is no need to exclude religious arguments from politics, and that these arguments are

¹⁶ Ver entre otros: Habermass, Jürgen (2006). *Entre naturalismo y religión*. Barcelona, España: Paidós. Rawls, John y Jürgen Habermas (1998). *Debate sobre el liberalismo político*. Barcelona, España: Paidós: Universidad Autónoma de Barcelona, Instituto de Ciencias de la Educación, 1998. Rawls, John *Liberalismo Político*. México: UNAM, Fac. de Derecho; Santafé de Bogotá : Fondo de Cultura Económica, 1995. Rawls, John (1997). The Idea of Public Reason Revisted. *University of Chicago Law Review*, 64. Berger, Peter L. (2000). *The Desecularization of the World: Resurgent Religion and World Politics*. Washington D.C., United States of America: Ethics and Public Policy Center and Wm. B. Eerdmans Publishing Co. Wolterstorff, N. & Audi, Robert (1996). *Religion in the Public Square: The Place of Religious Convictions in Political Debate*. Lanham, Maryland: Rowman & Littlefield Inc., 1997. Wiethman, Paul (2002). *Religion and the Obligations of Citizenship*. New York: Cambridge University Press.

protected by as part of the free market of ideas, freedom of association and freedom of political participation. From this point of view the Church is now part of civil society and can participate in it as well as any other non-governmental organization, without any threat to the neutrality of the State.¹⁷

It is not easy, however, to extend arguments that are based on the history of religious freedom in Anglo-America or in protestant nations in Europe to the Catholic Church in Latin American countries. Firstly because it is the religion of the majority, which adds concerns about the influence of a hegemonic religious majority that are for the most part not an issue or a minor one in these other traditions. Secondly because, while the non-establishment clause has 200 years of application in the United States, the Catholic Church's separation from the State in Latin America is recent and fragile. Thirdly because the economic and political power of the Church calls for reflection on the liberal goal of defending the individual vis-à-vis arbitrary power. This economic and political power responds not only to the fact that it is the religion of the majority, or to its extraordinary wealth, but also to the fact that the Church often has some type of corporate representation in decision making processes about public health and education.

Given this scenario, are democratic controls and the neutrality of the state strong enough to guarantee the individual freedoms of people who disagree with the Church's view of morality, particularly sexual morality? Shouldn't liberal democracies in Latin American countries consider more stringent controls on Church participation in politics, particularly in those cases where the Church is more intransigent? These questions, and the need to reconsider anti-clericalism as a liberal alternative, is particularly urgent in matters of sexuality and reproduction, where the

¹⁷ Casanova, Jose (1994). *Public religions in the modern world*. United States of America: The University of Chicago Press.

Catholic Church has the overt goal of intervening in national politics, especially in countries with Catholic majorities. The Church has even asked the faithful not only to oppose bills on same-sex unions, abortions, and contraceptive methods, but also to actively disobey those laws should they be passed.

If liberalism can be widely understood as setting limits to power, and if its evolution can be understood as the evolution of those limits in order to fulfill its promises of freedom and equality, then perhaps it is time to think about the power of the Church, and how to set limits on the threats it poses to those same individual freedoms and equality. It is especially time to think of the Catholic Church not only as a set of beliefs, protected by religious freedoms, but as a transnational institution with no democratic controls and a militant agenda that is based on a discriminatory theology. Generally, it is high time for liberals to better articulate the limits of powerful institutions that are independent of the state and have little or no democratic control, like multinational corporations; the Catholic Church is more like a multinational corporation of morality than like a small sect or cult with offensive views. The power of the Church and its political activism was precisely the motivation behind liberal anti-clericalism in previous times in our history, and perhaps it is time to articulate a liberal anti-clericalism for our times, as a rejection of the Church's repugnance of homosexuality and its discriminatory views of women.

Conclusion

Hispano-American liberalism has a vigorous history of confrontation with the Catholic Church, especially in the 19th Century; a confrontation it generally lost.¹⁸ It did, however, leave a legacy, or at least a rich literature as well as the influence of the Mexican revolution that rejects

¹⁸ Some of the great XIXth century liberals who wrote against the Catholic power of the Church are: José María Samper (Colombia); Francisco Bilbao (Chile); Victorino Lastarria (Chile); Francisco de Paula González Vigil (Perú).

the Church's earthly power; it also left reasons to believe liberalism contains the limitation of this power in countries where Catholicism is the majority religion and where the Church has been in close cohabitation with the state.

At the very least, the Church should at least not be considered a legitimate actor when it comes to sexuality and reproduction; not within a framework that accepts religious pluralism and asks its citizens to respect it; not within a framework that insists on the full equality of men and women and recognizes stereotypes as complicit with women's subordination; not within a framework that insists adults consensual sexuality is to large degree their own affair. Such a framework of liberalism requires that the State at least defend those of us who are not Catholic, or not believers, or have our own version of Catholicism, so we can freely choose the number and spacing of children we have, with whom we have or don't have sex, if we choose to marry and whom we want to marry and so on. The Church of course must have the freedom to direct the faithful to make decisions according to Catholic theology but it cannot advocate for the imposition of its own revealed truth of sexual morality on the population as a whole.

Additionally, when faced with a Church whose actual political power is hard to gauge and a Church that has given up on many of the modernizing principles of Vatican II, it is perhaps time to wonder about the position of defenders of liberal rights before the current Church. Anti-clericalism presents an option that goes beyond the role of religious ideas in the public sphere and grapples with the role of the Catholic Church itself as an institution that has only grown more powerful under the shadow of the neutral state. This is an urgent reconsideration when the Church insists in promoting its own sexist, homophobic, and by the way anti-scientific views of sexuality and reproduction. Perhaps it is time for the Church to leave our collective bed, where it entered uninvited and often hand in hand with the State. "Get your rosaries out of our ovaries"

chant feminists in different cities of Latin America, and perhaps it is high time liberals of all stripes joined in the chanting too.