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From Asset to Liability—Considerations on the Constitutionalizing of Religious Freedom Within the European Union Member States

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Abstract: This paper examines the usage of different phrases naming “religious freedom” in international treaties and European Union member states constitutional texts in order to identify traces of contemporary ideological polarization in relation to the main political ideologies, socialism, liberalism and conservatism. Considering the methodological approach, I theorize the meaning of “religious freedom” as the right to believe or not in a higher power or divinity, while also discussing the positive and the negative aspects of religious freedom together with the three major political doctrines. The results present clusters on the way each phrase used to name “religious freedom” is tied up with each of the three major political doctrines: freedom from/within religion (socialism), freedom of religion or belief (liberalism), and religious freedom (conservatism). The main conclusion of the paper is that within the contemporary political and administrative democratic spectrum, the three different phrases used at international level to name “religious freedom” and corresponding to socialism, liberalism and conservatism are describing religious freedom in a polarized manner, from liability to asset: in socialism as liberation from the negative and discriminatory power of religion, in liberalism as an civic attitude, while for conservatives religious freedom stands is coined a political value within the nation building process.

Keywords: religious freedom; socialism; liberalism; conservatism; political polarization



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1. Introduction

In February 2020, the International Religious Freedom Alliance was created at the initiative of the US Department of State, using the phrase that has been established in the American constitutional tradition “religious freedom” since the XVIIIth Century. Just a few months later, the name of the organization, which already includes more than 35 countries, was changed to International Religious Freedom or Belief Alliance ([International Religious Freedom or Belief Alliance n.d.](#)) by adding the term “or belief”, which is more accepted within the European contemporary political landscape. The change was made at the suggestion of several European voices, and the reason was that “freedom of religion or belief” is a phrase that includes agnostics, whereas in the case of “religious freedom” this is not necessarily obvious.

Beyond this anecdote, several alternatives in English are internationally established, as I will further explain by comparing the constitutional options of the European Union member states to name religious freedom. Among the EU member states only four countries do not have any reference to religious freedom in their constitution: Austria, Belgium, Czech Republic and Denmark, while the other countries have chosen different variations to name freedom of religion.

Recent constitutional theory highlights how diverse conceptual frameworks have contributed to political polarization in various contexts, with the constitutional language surrounding religious rights often reflecting ideological intentions that polarize the political spectrum ([Lupton et al. 2020](#)). This paper is based on a series of recent debates and scholarship

articles on religious freedom (Finke and Martin 2014; Hunter-Henin 2021; Kazyak et al. 2018; McLeay et al. 2023) depicting different meanings, but offering a limited understanding of how the phrase “religious freedom” is tied up with political ideological context.

The study underscores that religious freedom pertains to individuals, not religions or their institutions (Kerr 2022), emphasizing its universal applicability (Bielefeldt 2013). It reviews key legal instruments like the European Convention on Human Rights and the Universal Declaration of Human Rights, most of the European Union member states constitutions, highlighting religious freedom’s comprehensive scope, including worship, observance, and the education of children in line with parental convictions.

Recent scholarship in the field of constitutional theory has spotlighted the role of divergent conceptual frameworks in engendering political polarization across various national and regional landscapes. The terminologies employed in constitutions to articulate religious rights often serve as markers of ideological intent (McGinnis and Rappaport 2017), demarcating boundaries that exacerbate divisions within the political arena. Less scrutinized, however, are the myriad terminologies within constitutional documents that signal ideological predispositions toward the notion of religious freedom and their direct links to the polarization within democratic societies. The democratic paradigm prioritizes the promotion of religious interests (Kahn 2016), encapsulating them within the dual dimensions of negative liberties—safeguarding against interference—and positive rights to active participation (Levy and Razin 2012). This bifurcation ensures that religious freedom holds significance, not merely for the faithful, but for the very fabric of democratic governance.

The intricacies of the discourse on religious freedom intensify with the recognition that religions and beliefs transcend regional or national confines (Milbank and Pabst 2016; Pin 2014), instead presenting as phenomena that are both global in scope and more publicly visible than they were a few decades ago. Historically dislocated from within civil society, religious freedom has served as the foundational pillar for all other freedoms (McMahon 2009). Yet, in contemporary times, it appears increasingly at odds with the broader concept of freedom. Presently, religious freedom is often perceived merely as a subset of the general right to freedom of expression, practice, and worship (as explicitly stated in the constitution of Spain, Sweden, Luxembourg and others), albeit stripped of its spiritual essence, covering a broad ideological spectrum from asset to liability in governance. This dilution stems from a collective inattention to the evolution of rights and freedoms within modern societies over recent decades bringing more polarization in Western societies (Perry 2022).

2. Methodology

This paper is divided into four sections. First, I theorize the meaning of “religious freedom” as it encompasses multiple interrelated concepts, fundamentally anchored in the right to believe in a higher power or divinity (Grim 2008), while also discussing the positive and the negative aspects of religious freedom. Secondly, I theorize the meaning of the three major political doctrines used in this research to explain the main ideological approaches to religious freedom, liberalism, socialism and conservatism. Afterwards, I review the phrase used by national constitutions of each European Union member states together with the main international and European treaties that refer to religious freedom. The results present clusters on the way each phrase used to name religious freedom is tied up with each of the three major political doctrines.

The guiding hypothesis posits that mainstream interpretations of religious freedom vary in accordance with the ideological or doctrinal inclinations of the proponent. Employing a deconstructivist methodology rooted in Foucault’s assertion that all terms and concepts in the social sciences carry ideological implications (Foucault 2020), this study contrasts the diverse phrases employed globally to articulate “religious freedom”. The analytical framework is informed by the hypothesis introduced by Dutch scholar J. Temperman, a former member of the OSCE Panel of Experts on Religious Freedom, who has explored the conceptual nuances of religious freedom in his scholarly work (Temperman 2018).

This inquiry endeavors to map out the divergent stances on religious freedom within the global arena, focusing specifically on the interfaces between states, international entities, and the academic sphere with the concept of “religious freedom”, while deliberately sidestepping the dynamics between religious organizations and this concept. Thus, it eschews an examination of canon law in favor of a constitutional and legal-political analysis confined to the modern era.

The paper is rather theoretically-oriented as it distinguishes from an ideological point of view the doctrinal mark of each phrase naming religious freedom as compared with what political scientist often accept as the three major political ideologies: liberalism, socialism and conservatism. Nevertheless, the review of national constitution and European and international treaties serve as an example to further explain that the language employed at international level to name religious freedom is rather liberal in its intend and its coverage.

3. What Is Religious Freedom?

The term “religious freedom” encompasses a spectrum of interconnected yet distinct notions, fundamentally anchored in the liberty of belief—whether in a deity, deities, or some form of higher existential reality (Bielefeldt et al. 2022). Nonetheless, the ideological underpinnings often shape the specific terminologies employed, aiming to convey particular meanings to the target audience. An array of expressions is deployed to denote “religious freedom”, including freedom of, from, within religion, or belief.

Article 9 of the European Convention on Human Rights safeguards both the freedom of religion and belief, as well as the liberty to manifest these beliefs through worship, teaching, practice, and observance (European Convention on Human Rights 1950). Complementarily, Articles 10 and 11 uphold the rights to freedom of assembly and association, which are pivotal to exercising religious freedom. Similarly, Article 8 provides robust protection for the right to privacy and family life, limiting state intervention in these domains (Richmond 2017). Consequently, parents retain the autonomy to raise and educate their children in alignment with their religious convictions, provided such upbringing does not undermine the overall well-being or development of the child (Barker 2022).

The concept of religious freedom encompasses various rights, including the entitlement to engage in religious worship and perform liturgical acts that align with one’s faith teachings. Conversely, it also embraces the right to abstain from holding specific beliefs, to abandon previously held religious beliefs, and to not be coerced into renouncing one’s faith-based actions or practices (Stahnke 1999) (for instance, the act of worship upon passing a church for Christians or the wearing of a kippah for Jews). Moreover, it entails the freedom to discuss and elucidate one’s religious beliefs within public or social settings, as long as such dissemination does not verge into the territory of proselytism (Ramdass 2015).

A fundamental tenet of religious freedom is its establishment of the state’s role as a neutral (Temperman 2006) and impartial coordinator for the practice of diverse religions and beliefs. The liberal state (Plant 2013) delineates the parameters within which religious activities can occur, akin to how it regulates economic, cultural, and other societal spheres, thereafter abstaining from involvement in theological, canonical, or disciplinary matters, thus respecting the autonomy of religious institutions (Smet 2022). This principle mandates that democratic governments refrain from utilizing theological references (Smith 1991) in public policy-making (for example, avoiding scriptural justifications for promoting heterosexual family models) and instead, rely on legal and religiously neutral rationales that are universally applicable across all religious contexts.

Article 18 of the Universal Declaration of Human Rights (1948) and Article 18 of the International Covenant on Civil and Political Rights (1966) point to a standardized content of religious freedom at international level by using a consecrated definition framework, where freedom of “thought, conscience, and religion” is used as an inclusive phrase extending the meaning of religious freedom to freedom of thought and/or conscience. Furthermore, freedom to practice religion “individually or in community with others and in public or private”—clarifies and points out *expressis verbis* that freedom of religion is not

only about the privatization of religion (Stopler 2017) and covers all forms of association in the name of religious belief (e.g., prayer practiced in community), freedom “to manifest his religion or belief in worship, observance, practice and teaching”—covers the positive aspect of religious freedom (freedom to. . .), i.e., the right to act in accordance with religious belief, whereas freedom from “coercion”—to “have or to adopt a religion or belief of his choice”—covers the negative aspect of religious freedom as individual freedom guaranteed in the face of coercion (usually imposed by totalitarian or authoritarian regimes) to believe in a particular set of religious beliefs. Finally, freedom “to ensure the religious and moral education of their children in conformity with their own convictions” underlines the possibility for parents to socialize and educate their children in the spirit of their parents’ religious convictions (Lindkvist 2017).

Furthermore, in order to understand what a thing is, it is not enough to operate with positive definitions, but it is also necessary to define what that thing is not and especially what its positive limits are. Therefore, the Universal Declaration of Human Rights (art. 29 et cetera) shows that fundamental rights can only be limited in their external dimension (e.g., manifestation of religious belief), not in their internal dimension (e.g., having a religious belief). The internal dimension of religious freedom (*forum internum* (Kerr 2022)) cannot be limited or restricted in any form or under any circumstances. On the other hand, the external dimension (*forum externum* (Petkoff 2012)), i.e., the manifestation of religious freedom including in liturgical form (cf. the principle of “religious rites are religious freedom”) can only be limited with simultaneous (not selective) respect of the following conditions:

Restrictions on religious freedom must adhere to specific criteria to uphold the integrity of democratic legal systems (Nowak and Vospernik 2004). Firstly, such limitations must be explicitly “prescribed by law”, meaning they should already exist within national legislation prior to their enforcement. This ensures that the restrictions are known in advance, clearly defined, accessible to all, and devoid of any discriminatory intent or application (Finke and Martin 2014). This prerequisite for predictability mandates that limitations are grounded in existing law rather than a collection of arbitrary or discretionary regulations, and it should offer mechanisms for contesting decisions that infringe on religious freedom, distinguishing democratic governance (“rule by law”) from autocratic rule (“rule by law”) (Carothers and Dicey 1998).

Secondly, constraints must be absolutely necessary and proportionate to the objectives they seek to achieve. The burden of proof for such necessity rests with the state, which must base its rationale on objective and quantifiable evidence (e.g., the prevalence of infections that threaten public health) (Raiu and Mina-Raiu 2022). Imposing limits on religious freedom becomes an extraordinary political measure, justified only after all other administrative mechanisms have been explored to restore or ensure the common good.

Thirdly, any restrictions imposed must be nondiscriminatory in both their wording and application. This means the state is prohibited from employing religiously specific terms in the framing of limitations and must apply these restrictions uniformly across both religious and secular activities. This adherence to non-discrimination and state neutrality ensures the state’s role as a neutral facilitator of religious life, mirroring its involvement in secular societal domains without privileging or penalizing any religion.

Finally, the universal application of restrictions underscores the principle that the state’s regulatory actions in religious matters should mirror its approach to secular societal functions. Consequently, the state is not entitled to differentiate between secular and religious spheres (Lehmann 2013), reinforcing the notion that religious freedom is a universal right, not subject to state discretion.

In essence, the legal framework for restricting religious freedom is stringent: such measures are permissible only if they are legally established, necessary for the protection of public safety, order, health, morals, or the rights and freedoms of others, and applied in a manner that is non-discriminatory and universally applicable. The foundational principles include adherence to existing law and the necessity of such restrictions, ensuring that

any limitation serves the broader interests of society while respecting individual rights and freedoms.

4. The Positive and the Negative Side of Religious Freedom

As any other rights (Berlin 2002; Gray 1980), religious freedom has a positive, as well as a negative side. The democratic framework requires to balance the negative and positive dimensions of all human rights, necessitating an acknowledgment of the complex dual nature inherent to all fundamental rights and freedoms, as expounded by renowned XXth Century political theorists like Hannah Arendt (1990); Jurgen Habermas (1994), and Juan Linz (2000). These scholars illuminate that fundamental rights encapsulate both a protective aspect (freedom from state interference), while also an enabling aspect (freedom to engage in certain actions). For instance, examining the right to life through this lens reveals its bifurcated nature: its negative dimension safeguards individuals from state intrusion, categorically opposing practices like the death penalty or torture as antithetical to democratic principles. Conversely, the positive facet underscores an individual's entitlement to live under conditions that ensure safety, subsequently giving rise to derivative rights such as the right to a clean environment or access to healthcare.

In the realm of religious freedom, this dichotomy (Currie 1986) manifests as the right to independence from state-imposed religion (negative freedom) and concurrently, the state's obligation to foster conditions conducive to freely practicing one's religion or belief (positive freedom). The European context, with its rich Christian heritage, has historically facilitated the emergence of secular spaces through the demystification of the political sphere and the establishment of a "Church space" for free association. This evolution, as French political scientist Marcel Gauchet (1997) contends, gave birth to civil society through the delineation of religious and political spheres. Thus, civil society inherently encompasses religious bodies among a plethora of organizations, underscoring its nature as a domain of free association, religious freedom, and multicultural expression. This perspective underscores the imperative for governments and international bodies to recognize religious organizations as integral components of civil society (Wuthnow 2003), supporting their endeavors to fulfill their societal roles. Such an approach not only honors the complexity of religious freedom but also champions the pluralistic fabric that characterizes vibrant democracies.

The predominant narrative tends to emphasize the negative aspects of rights and freedoms, neglecting their positive dimensions. Hannah Arendt insightfully remarked that while liberties such as freedom from want and fear are fundamentally negative outcomes of liberation, they do not constitute the essence of freedom itself (Arendt 1990). True freedom, according to Arendt, lies in active participation in public affairs and engagement within the public realm. Her advocacy for positive political freedom—the liberty to act within the public sphere, contrasts with the limited scope of negative civil liberties, underscoring the necessity of integrating such freedoms within the framework of democratic construction. In this light, it becomes evident that the negative conception of religious freedom fails to acknowledge religion as a societal good, reducing it to mere sentiment or a private endeavor. This perspective inadequately addresses the needs and expressions of religious communities.

Therefore, a dualistic interpretation of religious freedom is encountered: the negative aspect, describing religion as a liability and representing liberation from state or authoritative imposition on religious practices, and the positive aspect, describing religion as an asset, embodying the liberties to worship, to associate freely under religious banners, to express profound religious convictions publicly, and so forth.

The facilitation duty is problematic in the present context, since state involvement with religious affairs may all too easily encroach upon religious autonomy, while the distinction between the negative and the positive side of religious freedom is sometimes blurred. As an example, informing parents about the option to opt-out of religious education classes represents the negative aspect, while informing them that one can opt-in for religious

education constitutes the positive aspect of religious freedom. Nevertheless, taken at face value, the ‘obligation to provide’ sounds like an impossibility in the present context—how can the state directly ‘provide’ religious freedom? A straightforward example is asylum policies (the state guarantees the right to life for individuals persecuted on religious grounds) or providing financial support for religious communities, repairing or building places of worship etc. Dutch scholar Jeroen Temperman also shows that article 20 of the International Covenant on Civil and Political Rights should be interpreted as introducing a new right, the right to be free from incitement of discrimination (Temperman 2019), which constitutes a blend approach between the positive and the negative side of religious freedom. With this dichotomy in mind, in the following section, I will analyze the presence of the negative and positive dimensions of religious freedom within the three major political doctrines: socialism, liberalism, and conservatism.

4.1. Socialist Label: Freedom from/Within Religion or Religion as a Impetus of Equality

Socialist-oriented doctrines privilege freedom of religion, especially in its negative dimension: religion is described as having already been historically relegated to the private sphere and as a problematic element, a social outcast, a refuge for the poor and uneducated, and as potentially discriminatory when it hinders access to equal opportunities. Socialism is based on the hypothesis of the final triumph of the secularization of Western societies. From Karl Marx to Antonio Gramsci, traditional socialist thought often describes religion as a tool of influence of the upper class and also, in most of its details, as a source of fundamentalism (Gierycz 2020).

For socialists, religion is rather a social (not civic or identity) phenomenon to be calibrated to the demands of secularism defined as an end in itself (Kuru 2007). At the same time, religious elements must be tempered at the social level to keep pace with a society swept by all sorts of inequalities and progressive imperatives (Finke et al. 2017). In the socialist logic, equality leads to freedom, in the sense of e-liberating society from the discriminatory potential of religion (Vickers 2008). For this reason, socialists use the phrase freedom from religion (including the more leftist version freedom within religion) rather than freedom of religion/or belief, a phrase enshrined in liberal political philosophy.

A socialist-oriented political regime will pay more attention to the way public equality bodies sanction discrimination based on religious traits (Popescu-Sarry 2023) and less to no attention for the positive side of religious freedom. Socialists also relativize religious freedom because they tend to oversee any social good produced by religion or the contribution of religion to the production of social capital (Ribberink et al. 2015). Paradoxically, socialism is more akin to conservatism than liberalism, focusing more on the institutionalized dimension of religion, i.e., the Church. The disputes between socialists and religion that were very pronounced in the 19th and 20th centuries were mainly aimed at the Church itself, described not as a place or institution in which religious freedom was exercised, but as an accumulation of power and resources (Comstock and MacIntyre 1976) which, in the logic of different variations of class struggle, oppressed the working class unable to free itself from social constraints.

The new variant of European socialism available today in the political offer of many European political parties, translated in some places as neo-Marxism, describes religious freedom as competing with other rights and freedoms. Specific to socialist discourse is the rhetoric that a number of rights, especially LGBT rights, cannot be implemented because of too much and too intense promotion of religious freedom by the right wing movements and political parties (Kazyak et al. 2018). Thus, religious freedom is less important than LGBT rights or the imposition of sex education without parental consent, and the freedom of expression of Christians illegitimate when the arguments of those who do not share a particular religious belief must prevail. Socialism is rather interested in vulnerable and/or disadvantaged groups and their protection from discrimination: “The democratic foundation of religious interests therefore usefully insists that religious interests be recognized (although not necessarily upheld) under discrimination law beyond egalitarian concerns.

In so doing, the democratic approach will also avoid an impoverishment of the diversity of views and practices allowed in the workplace and broader public life” (Hunter-Henin 2021). Socialists are rather wary of religious organizations and their co-optation in public decision-making, translating religious freedom as e-liberation from the influence of (n.n. most likely harmful) religion.

4.2. Liberal Label: Freedom of Religion or Belief or Religion as a Civic Attitude

Liberalism is interested in promoting freedom, reason, toleration, individualism and reason, on the one hand, and a distrust of power and tradition, limited government, order and rule of law (not discretionary power), the consent of the people, on the other hand (Alexander 2015). Liberty can be restricted only for the sake of liberty itself (Rawls 2005), while freedom of conscience (often including religious freedom) can't be implemented without reliance on contestable values such as religion (Koppelman 2017).

Covering a broad spectrum from separation to recognition and establishment of religion by the state (Laborde 2013), political liberalism is often associated with political secularism (Arzheimer 2022) and mostly with the constitutionalizing of the concept of religious neutrality (Madeley 2003). Like morality, art, economics, etc., religion must be neutralized in relation to political power, the ultimate aim of which is to create an area of general freedom and well-being. Liberals thus seek to undermine the church by weakening its political power, while also creating space for it to express its own mission and vocation. In the traditional political liberal thought, the church is constitutionalized in a rather positive manner due to its ability to associate citizens in the name of a common faith, because of its moral force and because of the contribution of religion to strengthening citizenship. Just as culture is more vibrant the freer it is from the state, religion in turn is more beneficial to society the less the state interferes (McConnell 2013). For liberals, religion is about citizenship and civil rights, about freedom of conscience and association, and its value in society is that conferred by citizens spontaneously, not necessarily by religious denominations in an organized way.

Liberals value individual freedoms over socialist or organic group identities typical of conservatism. According to the liberal philosophy, religious freedom is more important than the church itself, and before worrying about good church-state relations they are concerned with boosting the negative side of religious freedom (Brathwaite and Bramsen 2011). Like any secular right, religious freedom is itself stripped of any spiritual dimension (Milbank 2017). It is, in fact, freedom first and religion second. It is freedom that is about religion, not religion as an instrument of freedom (conservatism) or religion as a barrier to freedom and equality (socialism). Liberalism politicizes freedom in order to depoliticize religion, keeps the state out of the privacy of faith and translates religious freedom into the freedom to practice religion without state interference (Blake 2007).

4.3. Conservative Label: Religious Freedom or Religion as a Political Attitude

Claiming tradition and resistance to change, a conservative government privileges the positive dimension of religious freedom, conceives inclusive public policies for religious communities, is particularly concerned with ecclesiastical historical monuments which by definition play a role as teachers of history and tradition, etc. Religion is mostly blended with culture, while restrictions imposed on religious culture are described as impunitive forms of restrictions on religious freedom (Abdulla 2018). It also includes religious values in the social, cultural and educational commitments of the state (e.g., the topic of the so-called traditional family, the presence of religion in public school curricula, etc.) (Mettang and Euchner 2023). Conservative attitudes also include the freedom of the Muslim population interested to wear specific religious clothing (Scott 2023) as well as religion being associated with right-wing populism as in Israel where religion functions as “both a positive content of the political community (the ethnos—the Jewish people—is conflated with the demos) and the demands for inclusion; and as the marker of a threat (non-Jewish citizens, asylum seekers, and allegedly disloyal secular elites)” (Ben Porat and Filc 2022).

Conservatives tend to deal directly with religious organizations as political partners in the Schmittian sense (Schmitt 2008) and harnesses their work and vocation not only in matters of public policy, but also in highly political issues such as the ongoing nation-building effort or the creation of international alliances. For conservatives, religion is not primarily a social phenomenon (as for socialists) or the secular materialization of the shared exercise of fundamental rights (as for liberals), but is above all political (Lienesch 1982). Religion is about (political) power relations in which religious freedom is deciphered by achieving welfare and freedom through religion.

If for liberals and socialists, religious freedom means more freedom than religion, for conservatives, religious freedom means more religion than freedom. Or in other words, religion is a tool for achieving and cherishing freedom. In a conservative paradigm, religious freedom has problems accommodating when it comes to religious minorities or behaviors not validated by tradition (Heineman et al. 2005). For conservatives, being religious is not just a civic attitude, a social label or a cultural option, but an attitude of political participation in the making of the nation that is in permanent need of landmarks drawn from tradition. In extreme cases, conservative and undemocratic governments act out of the public eye and strictly within the framework of power relations with religious organization in order to legitimize themselves politically (as in Russia (USCIRF n.d.) or in several Muslim states). Conservative approaches as the de-privatization of religion and its return to public life contribute to an instrumental use of religion to promote illiberal politics (Laruelle 2022), while religiously orthodox conservatives often affirm external and transcendent moral authority against cultural progressives (Perry 2022).

The conservatives often tend to use the term in plural form “religious freedoms”, which is contrary to international custom because religious freedom is a universalist right, applicable to all, not a right composed of several rights or freedoms. Moreover, if there were more than one religious freedom (e.g., freedom of worship, freedom to educate children from a religious point of view, etc.), this would mean that a conceptual divide would be imposed between the different types of religious freedoms and that, at the very least, some of them could be limited without taking account of the universalistic nature of religious freedom.

Moreover within a democratic and conservative environment, the positive dimension of religious freedom seeks to reinvigorate the integrative and communal nature of religion, encouraging religious organizations to engage in activities aligned with their theological and missionary calling based on the principle of subsidiarity (Matei and Dumitru 2020; Mueller 1943). It also aims to communicate that religion is a social construct that unifies rather than divides. In the context of today’s postmodern, post-secular, and post-democratic landscape, the conservative view tends to push for the recognition of religions or beliefs as societal assets by governments, warranting constitutional acknowledgment to foster a more robust democracy.

The aim is to reclaim the constructive facet of religious freedom by strengthening the partnership between the state and religious entities through diverse public policies in areas such as social, environmental, and educational initiatives. This includes establishing a stable framework for financial assistance to support the activities of religious organizations, intensifying efforts to improve religious literacy (Hannam et al. 2020), including professional training for career diplomats on state-church relations (Marchetti 2018), and advocating for the freedom of religious organizations to express their views on public matters. To sum up, for conservatives religious interests are not threats to be contained, but positive values—a ‘moral promise’ for democracy: “The religion clauses (...) are not only about protecting religious conviction, conscience, and conduct from intrusive government regulation. They also are about the inclusion of equals in the enterprise of self-government. That inclusion presents a central challenge to pluralist democracies, but also lies at the heart of their moral promise” (Cohen 2011).

Liberalism separates politics and religion, as well as church and state, considering all religious matters are to be locked within the private realm. Socialism suggests that both

the state and the church should be radically transformed up to the point when religion is emptied of its spiritual and transcendental core. Conservatism claims that religion should undergo no secularization and further play the role of traditional authority: “Conservatives look backwards, not forwards, and so look to the very traditions which liberalism and socialists put into question. This is why they are less securely secular than liberals or socialists. Even if a conservative is not religious, he tends to respect religion. Unlike the liberal or the socialist, who attempts to liberate man from tradition, the conservative seeks no liberation from tradition” (Alexander 2015). The socialist perspective often views religion as a potential impediment to equality, emphasizing freedom from religion (Tadros 2022). In contrast, the liberal view champions religious neutrality and the individual’s right to religious expression, and the conservative stance tends to prioritize religion’s political and identity aspects, highlighting its role in the nation-building process (see Table 1).

Table 1. Brief comparison of different ideological approaches to religious freedom. (author own processing).

	SOCIALISM	LIBERALISM	CONSERVATISM
	Freedom from/within religion	Freedom of religion or belief	Religious freedom
It is about the . . . dimension of religion	Social	Civic	Identity
Believes that the impact of religion in society is	Negative	Neutral	Positive
Focusing mainly on the . . . side of religion	Negative	Both negative and positive	Positive
Public policies are rather	Anti-clerical	Neutral	Pro-clerical
Sees religion as . . . for the polity	Liability	Both asset and liability	Asset

5. What Kind of Religious Freedom in European Constitutional Traditions?

A comparative overlook of the constitutional frameworks of the European Union member states reveals varied references to religious freedom, often blending it with the notion of freedom of conscience (Ventura 2020). In the following, I will review most of the European Union member states constitution in order to identify the main phases to name religious freedom. This review does not have the goal to create a full comparison between constitutions, as not all constitutional texts in force at this moment were written in a common timeframe, but during different stages of democratization. The purpose of this review is to identify any ideological patterns within the mainstream political orientation of the EU member states.

Bulgaria’s constitution (art. 37) emphasizes the inviolability of freedom of conscience and thought, advocating for tolerance among different religious denominations. The Croatian Constitution of 2010, under art. 40, unequivocally safeguards the rights to freedom of conscience and religion along with the liberty to manifest one’s religious or other convictions. In Cyprus the Constitution of 1960, revised in 2013, through art. 18, establishes a comprehensive framework for religious freedom, ensuring every individual the liberty to hold, profess, and practice their religious or other beliefs, both privately and publicly, with the additional right to alter one’s religious stance.

Estonia’s 1992 Constitution, art. 40 proclaims an inclusive right to religious freedom, explicitly stating there’s no official state religion, thereby ensuring individuals can freely affiliate with any religious or spiritual group, and practice their faith both privately and within communal settings, provided it does not contravene public order, health, or morals. The Finnish Constitution of 1999 in Section 11, addresses freedom of religion and conscience by granting individuals the right to profess and practice their chosen religion, articulate their convictions, and make decisions regarding membership in religious communities, emphasizing the voluntary nature of religious participation.

France's Constitution of 1958 (art. 2) underlines the secular (*laïque*) nature of the Republic, guaranteeing equality before the law for all citizens irrespective of their religious affiliations, and upholding a stance of respect towards all beliefs, underpinning the secular framework within which religious freedoms are protected.

The Basic Law (*Grundgesetz*) of the Federal Republic of Germany, established in 1949 (art. 4) enshrines the inviolability of freedom of faith, conscience, and the right to profess a religious or philosophical creed. It guarantees the undisturbed practice of religion and stipulates that no individual shall be compelled to perform military service that conflicts with their conscience, with further specifics to be determined by federal law.

The Constitution of Greece, revised in 2008 (art. 13) affirms the inviolability of freedom of religious conscience, emphasizing that civil rights and liberties are independent of an individual's religious beliefs. It guarantees the free practice and protection under the law of all recognized religions, while also setting boundaries to ensure public order and prohibit proselytism. It further outlines that religious ministers are subject to state supervision and obligations similar to those of the dominant religion and specifies that no individual is exempt from state obligations due to religious beliefs, with oaths only administered as defined by law.

Hungary's Constitution of 2011 (rev. 2016) in art. VII asserts everyone's right to freedom of thought, conscience, and religion, including the liberty to choose or change one's religion or belief. It allows for the public or private manifestation of religion or belief, individually or collectively, and the formation of religious communities with specific organizational forms as determined by a cardinal Act. It delineates the separate operation of the state and religious communities, with provisions for cooperation to achieve community goals, establishing churches with specific privileges and responsibilities.

Ireland's Constitution, enacted in 1937 (art. 44, Section 2) guarantees freedom of conscience and the profession and practice of religion, contingent upon public order and morality. It commits to not endowing any religion and prohibits discrimination based on religious profession, belief, or status. The Constitution of Italy, from 1947 (art. 19) secures the right for anyone to freely profess their religious belief in any form, either individually or with others, and to promote and celebrate rites publicly or privately, as long as they do not offend public morality.

Latvia's Constitution, as of 2014 (article 99) grants everyone the right to freedom of thought, conscience, and religion, establishing the separation of the church from the state. Lithuania's Constitution of 1992 (art. 26) protects the unrestricted freedom of thought, conscience, and religion, allowing every individual the right to freely choose any religion or faith and to manifest this religion or faith through worship, observance, practice, or teaching, whether in public or private.

The Constitution of Luxembourg of 1868, revised in 2009 (art 19), enshrines the freedom of religions (n.b. in plural form), their public exercise, and the expression of religious opinions emphasizing that such freedoms are safeguarded unless they culminate in criminal activity. Article 20 further declares that no individual is obligated to partake in religious acts or observe religious holidays against their will. Malta's Constitution, as amended in 1974, underscores the protection of freedom of conscience and worship, asserting that all individuals within Malta are entitled to full freedom of conscience and the liberty to practice their chosen religious worship. The Constitution of the Kingdom of the Netherlands, from 2018 (art. 6) guarantees every individual the right to freely profess their religion or beliefs, either alone or in communal settings, while also upholding their legal responsibilities.

Poland's Constitution of 1997 (art. 53) safeguards the freedom of conscience and religion for all, encompassing the liberty to profess or accept a religion by personal choice and to manifest this religion through various forms of worship, either individually or in groups, publicly or privately. It also protects the right to possess places of worship and to receive religious services anywhere. The Constitution of Portugal, revised in 2005

(art. 41) proclaims the inviolability of freedom of conscience, religion, and form of worship, emphasizing the unrestricted right to religious expression.

Romania's Constitution, revised in 2003 (art. 29) advocates for the unrestricted freedom of thought, opinion, and religious beliefs, ensuring no one is compelled to accept a belief against their convictions and highlighting the necessity of tolerance and mutual respect. Slovakia's Constitution of 1992 (art. 24) guarantees the freedom of thought, conscience, religion, and belief, including the rights to change one's religion or belief and to refrain from religious affiliation, alongside the right to publicly express one's thoughts. Slovenia's Constitution of 1991 (art. 41) ensures that religious and other beliefs can be freely professed in both private and public life, with no obligation to declare one's religious or other beliefs.

Spain's Constitution of 1978 (art. 16) secures the freedom of ideology, religion, and worship for individuals and communities, limited only by the requirements of maintaining public order as defined by law. Sweden's Instrument of Government, from 1974 (Chapter 2, art. 1(6)) articulates the freedom of worship, allowing individuals the right to practice their religion alone or with others. The Constitution of Russia, established in 1993 (art. 28) guarantees the freedom of conscience and religion, including the right to individually or collectively profess any religion or no religion, and to freely choose, possess, and express religious and other views. Ukraine's Constitution of 1996 (art. 35) affirms the right of every individual to freedom of personal philosophy and religion, underlining the broad spectrum of religious freedom acknowledged across these diverse national constitutions, each reflecting their unique legal, cultural, and historical contexts.

At international level, The Organization for Security and Cooperation in Europe (Kerr 2022), the United Nations (Wiener 2017), the European Union (Ventura 2020) use in most contexts, as well as in official documents, the most established and internationally agreed expression: Freedom of Religion or Belief, with the acronym FoRB. A blended approach on the way religious freedom is conceptualized is provided by the Organization for Security and Co-operation in Europe (OSCE) by remaining faithful to the liberal tradition and issuing public policy recommendations that encompass both the positive and negative dimensions of religious freedom (Ferrari 2020).

As can be observed from the comparative analysis above, constitutional texts predominantly contain references to religious freedom within a framework intended to encompass as many ideological options as possible, often associating freedom in the religious sphere with freedom of conscience. Nevertheless, three patterns emerge in naming religious freedom

- (a) excepting Bulgaria and Estonia, all European post-Communist constitutions (including Russia and Ukraine) have integrated during the 1990s and prolong afterwards a variant of the liberal phrase "freedom of religion and/or belief";
- (b) 22 of 27 EU member states constitutions include a reference to "freedom of religion/faith/belief";
- (c) only 4 countries out of the 27 EU member states have no mention of religious freedom at all in their constitutions (Austria, Belgium, Czech Republic and Denmark);
- (d) only 2 countries use the conservative phrase "religious freedom" (Cyprus and Estonia), while none a Socialist variant, although the secular foundations of the French Republic have deep socialist roots (Chanet 2009).

Therefore, the socialist phrase "freedom from religion" is not yet present neither in the European constitutional tradition, nor in international treaties, remaining an academic pursuit and an advocacy groups matrix (Bielefeldt 2013; du Plessis 2001; Sapir and Statman 2005). The conservative phrase "religious freedom" tends to be replaced by different liberal variants under the guidance of international organizations (Ghanea 2022).

Despite the fact that religious freedom appears ideologically connoted according to different political contexts, the most consensual references that correspond both to a consistent scientific expertise and to a moderate legal-political approach are those specific to the expression "freedom of religion or belief—FoRB", also officially accepted by the European Union more than a decade ago (European Union 2013). Despite ideological nuances, "freedom of religion or belief" emerges as the most consensual phrase, embodying

a universalist approach to religious rights, essential for understanding the multifaceted nature of religious freedom and its implications for democracy, equality, and societal inclusion and to avoid political and constitutional polarization.

6. Conclusions

The concept of religious freedom often undergoes ideological interpretations that vary with the context and the perspective of the issuer, covering a broad political spectrum from complete opposition to abortion or to LGBT rights to considering religion as the main obstacle in overcoming the social issues of the society (Huang 2020; Marchetti et al. 2022; Omer 2018; Sommers 2020). The legal-political ontology of religious freedom becomes problematic and tends to generate polarization mainly when we refer to its intersection with other rights and freedoms (Greenawalt 2006) and also in exceptional historical periods such as the recent COVID-19 pandemic (Dascalu 2020).

Considering the increasing potential of polarization of religion in contemporary democracies, I have analyzed in this paper the way the European political establishment, including EU member states constitutional texts, refer to religious freedom. The very choice of words disclose and illustrate different political intentions laid down by the architects of a certain political regime, covering a broad spectrum from a socialist perspective to a conservative one.

Therefore, in the socialist vision, religious freedom is negatively connoted, as a liability, and describes religion as a social phenomenon. In the liberal sense, religious freedom is presumed both negatively and positively, both as an asset and as a liability, being rather the foundation of a civic attitude of free expression. In conservative doctrine, religious freedom is an asset and a tool of nation-building with a rather political connotation.

There is a direct connection between the phrases used to name religious freedom and their ideological imprint, at least when referring to socialism, liberalism and conservatism. Therefore, at the international and European level, the expression of liberal origin “freedom of religion or belief” is the most widespread and increasingly consensual, covering an extensive area of the political center indicating an ideological relaxation of European democracies.

Further research on this topic should also include analyzing different official documents at a lower political and administrative level (national legislation, government executive orders, guidelines etc.) in order to identify a trend in redefining the nature of contemporary democracy through words.

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